

APPENDIX

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3 ("The Committee")

Thursday, 11 February 2021

- Membership:** Councillor Jim Glen (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki
- Officer Support:** Legal Adviser: Vivienne Walker
Policy Officer: Kerry Simpkin
Committee Officer: Cameron Maclean
Presenting Officer: Kevin Jackaman
- Parties Present:** Mrs Gosia Vasilev, General Manager and Designated Premises Supervisor
Anil Drayan: Environmental Health Service ("EHS")

APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF BASEMENT AND GROUND FLOOR 294 ELGIN AVENUE LONDON W9 1JS – 20/10761/LIPN

FULL DECISION

Premises

Basement and Ground Floor
294 Elgin Avenue
London
W9 1JS

Applicant

Mr Dragan Romanic represented by Mrs Gosia Vasilev, General Manager and Designated Premises Supervisor

Cumulative Impact Area?

The Premises are not located within the West End Cumulative Impact Area or the Special Consideration Zone.

Ward

Maida Vale

Summary of Application

This is a new application for a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises proposes to operate as an independent eatery, serving fresh food and coffee with an external seating area.

PROPOSED LICENSABLE ACTIVITIES AND HOURS

Sale by Retail of Alcohol (On and Off Sales)

On Sales

- Monday to Saturday: 10:00 to 22:30 hours;
- Sunday: 12:00 to 22:30 hours

Seasonal Variations: None

Off Sales Hours

- Monday to Saturday: 08:00 to 22:30 hours;
- Sunday: 10:00 to 22:30 hours

Seasonal Variations: None

Hours Premises are open to the Public

- Monday to Sunday: 07:30 to 22:30 hours

Seasonal Variations: None

Representations Received

- Metropolitan Police Service (Cheryl Boon) (Withdrawn)
- Environmental Health Service (Anil Drayan)
- Objector No. 1 (Withdrawn)
- Objector No.2
- Objector No.3

Summary of issues raised by Objectors

- The premises currently keep very long opening hours, far in excess of other restaurants in the area. The premises were granted longer hours by the Council, but have never kept those extended hours, and so, it is impossible to determine how this will impact local residents.
- The restaurant's kitchen faces behind the establishment and onto the rear yard of homes on Elgin Mews South. The washing of dishes and other kitchen activities conducted on the premises can be heard by homes on the Mews.
- The application had the potential to increase public nuisance, anti-social behaviour and crime in the locality.

Policy Position

- HRS1
- RTN1

SUBMISSIONS AND REASONS

The Presenting Officer, Mr Jackaman summarised the application to the Sub-Committee. He confirmed that this was an application for a New Premises Licence made on behalf of the Applicant Mr Dragan Romanic ("The Applicant"). It was confirmed that the Applicant since submitting their application amended the hours for the Sale of Alcohol On and Off the Premises from Monday to Friday 07:30 to 22:30, Saturday 08:00 to 22:30 and Sunday 09:00 to 22:30 to the hours mentioned above. It was confirmed that the Licensing Authority had received 3 local representations with one being withdrawn prior to the hearing. The remaining two local objectors did not attend the hearing. The Metropolitan Police Service had also made representations but, after agreeing the proposed conditions as part of the operating schedule with the Applicant, subsequently withdrew their representation. The Premises are located

within the Maida Vale Ward and are not within the West End Cumulative Impact Area or the Special Consideration Zone.

Mr Anil Drayan on behalf of the EHS addressed the Sub-Committee and stated that he was satisfied with the application and the conditions agreed.

Mr. Drayan stated that there is only one means of escape on the ground floor at the Premises, therefore, the maximum capacity for the Premises is sixty persons. He was satisfied that the use of the tables and chairs outside the premises could end at 22:30 hours, as it is a private forecourt. He stated that the Council normally allow outside licensed areas to operate until 23:00 hours.

Mr Drayan stated that regarding the noise complaint in the kitchen area at the Premises, he was pleased that the Applicant had agreed to monitor how they operate during the daytime and evenings, thereby minimising public nuisance. Mr Drayan advised that the reason why EHS had maintained their objection was due to the resident's concerns in relation to public nuisance and was present to help and assist the Sub-Committee in any questions they may have regarding the application.

Mrs. Vasilev, representing the Applicant stated that she had worked at the Premises for more than fifteen years and knew the area and customers very well. The business has been operating in the area for some twenty-five years. Mrs Vasilev said they are surrounded by other competitors and with the effect of COVID-19, this has had a detrimental impact on the business. She explained that the main purpose of the application was for financial reasons in order to help enable the Premises to survive during COVID-19 restrictions and long term.

Mrs Vasilev stated that during the twenty-five years the Premises have operated, they have had no complaints about noise from the kitchen at the Premises. She stated that she would be happy to meet with anyone who has concerns, but due to COVID-19 she was not able to do so at present.

Mrs Vasilev stated that she wanted to reassure the neighbours that it was not the Premises intention to bring nuisance to the area. Therefore, she has agreed to all the conditions and amended conditions proposed in order to mitigate the residents' concerns.

Mrs Vasilev explained the layout of the plan attached to the application and confirmed that there would be no service to customers in the basement area.

The Sub-Committee noted that licensable activities are to be carried out on the ground floor only and this is indicative of the Premises Plan.

The Sub-Committee sought confirmation from the Applicant as to how the Premises would implement condition 21 should the application be granted. Condition 21 reads *"when accepting delivery orders including alcohol, staff must remind the customer the premises operates Challenge 25. Customers will be asked to provide ID on delivery if they look younger than 25. Restaurant staff must notify delivery drivers if an order contains alcohol. Similar procedures shall be implemented in respect of online orders"*.

Mrs Vasilev responded that the Premises have contacted Deliveroo, who confirmed that their drivers do ask for identification on delivery. She also stated that for online orders, customers would be required to confirm that they were of the required legal age and entitled to buy alcohol before placing an order. At this point, Mr Drayan

confirmed that this type of condition was a standard condition requested by the Metropolitan Police Service.

The Sub-Committee was pleased to note that the Premises would operate as an independent boutique eatery.

Having carefully considered all the submissions made by all parties both orally and in writing, the Licensing Sub-Committee decided to **grant** the application subject to the amended conditions.

The Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives.

In reaching its decision, the Sub-Committee took into consideration all relevant matters which are not limited to the following:

1. The Premises had operated in the location for over twenty-five years and there was no history of any significant complaints associated with the Premises;
2. Mr. Drayan on behalf of the EHS stated that he had no objections to the application and had only maintained the representations to the Sub-Committee in accordance with the policy decision not to withdraw representations when there were representations by residents on an application;
3. The Applicant had shown a willingness to engage and work with all parties by amending their application by reducing the hours for the sale of alcohol and agreed to the conditions proposed by the Metropolitan Police Service and the EHS.
4. The Applicant demonstrated that they were a professional Operator that would run the Premises in an efficient and effective manner that would help promote the licensing objectives given the assurances and undertakings to work in collaboration with local residents and the Responsible Authorities.

In conclusion, the Sub-Committee was satisfied that, in all of the circumstances of the case, it was, appropriate and proportionate to **grant** the licence.

The application was granted as follows:

LICENSABLE ACTIVITIES AND HOURS

Sale by Retail of Alcohol (On and Off Sales)

On Sales

- Monday to Saturday: 10:00 to 22:30 hours;
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Seasonal Variations: None

Off Sales Hours

- Monday to Saturday: 08:00 to 22:30 hours;
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Seasonal Variations: None

Hours Premises are open to the Public

- Monday to Sunday: 07:30 to 22:30 hours

Seasonal Variations: None

The application was granted subject to the following conditions in addition to the Mandatory Conditions applicable to this type of application:

Conditions imposed by the Committee after a hearing

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of the Police or authorised officer throughout the entire 31-day period.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police Officer or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. The supply of alcohol for consumption on the premises shall only be to a person seated taking a table meal there and for the consumption by such a person as ancillary to their meal at all times.
12. The supply of alcohol for consumption on the premises shall be by Server, Waiter or Waitress service only at all times.
13. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke, shall not be permitted to take drinks or glass containers with them.
14. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
15. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue;
 - (b) all ejection of patrons;
 - (c) any complaints received concerning crime and disorder;
 - (d) any incidents of disorder;
 - (e) all seizures of drugs or offensive weapons;
 - (f) any faults in the CCTV system;
 - (g) any refusal of the sale of alcohol;
 - (h) any visit by a relevant authority or emergency service.
16. Notices shall be prominently displayed at all exits and the outside smoking area requesting patrons to respect the needs of local residents and to leave the area quietly.
17. Food and Non-Intoxicating Beverages, including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.

18. There shall be no self-service of Alcohol.
19. Sales of alcohol for consumption off the premises shall be in sealed containers only.
20. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables and ancillary to their meal.
21. When accepting delivery orders including alcohol, staff must remind the customers that the premises operate Challenge 25. Customers will be asked to provide ID on delivery if they look younger than 25. Restaurant staff must notify delivery drivers if an order contains alcohol. Similar procedures shall be implemented in respect of online orders.
22. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
23. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
24. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
25. All outside tables and chairs shall be removed or rendered unusable by 22:30 hours each day.
26. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
27. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
28. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
29. The capacity of the premises shall be limited to a maximum of 60 persons.
30. No deliveries to the premises shall take place between 23:00 hours and 07:00 hours on the following day.
31. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
32. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 21:00 hours and 07:00 hours on the following day unless placed out during the scheduled collection times.

This is the full decision reached by the Licensing Sub-Committee.

This Decision takes immediate effect.