



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 28 September 2015 at 10.00 am at Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor David Hubber
Councillor Lorraine Lauder MBE

OTHER S PRESENT: Leo Charalambides, legal counsel advising the sub-committee
Candido Rodrigues, premises licence holder, the premises formerly known as Banana's Bar
David Dadds, premises licence holders legal representative, the premises formerly known as Banana's Bar
Abilio Rodrigues, representative, the premises formerly known as Banana's Bar (observing)
Terry Isheroro, applicant's representative, Mama Leah's

OFFICER SUPPORT: Richard Parkins, licensing and environmental protection unit manager
David Franklin, licensing officer representing the council as a responsible authority
Debra Allday, legal officer (observing)
Debbi Gooch, head of litigation (observing)
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: THE PREMISES FORMERLY KNOWN AS BANANA'S BAR, (ALSO KNOWN AS PAZZIA RESTAURANT & BAR) 374 WALWORTH ROAD, LONDON SE17 2NF

The licensing officer presented their report. Members had questions for the licensing officer.

The premises licence holder and their legal representative addressed the sub-committee. Members had questions for the premises licence holder and their representative.

The Metropolitan Police Service representative addressed the sub-committee. Members had questions for the Metropolitan Police Service representative.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer.

All parties were given five minutes for summing up.

The meeting went into closed session at 1.53pm.

The meeting resumed at 4.150pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the council's licensing sub-committee, consider the proposed operating schedule and business plan submitted by the premises licence holder in view of a consent order made at the Magistrates Court on 10 June 2015. The matter was remitted back to the committee for reconsideration of its decision to revoke the premises licence on 1 October 2013 and 25 September 2014 following the applications for reviews by the Metropolitan Police made under Section 51 and 53C of the Licensing Act 2003 in respect of the premises known as Banana's Bar, (also known as Pazzia Restaurant & Bar) 374 Walworth Road, London SE17 2NF. Having had regard to all the evidence and relevant representations has decided it necessary for the promotion of the licensing objectives to:

Modify the conditions of the licence by removing conditions 290, 291, 303, 310, 312 313, 325, 342, 343, 840, 841, 842, 843 and 844.

The following conditions as proposed by the premises licence holder in their proposed conditions document shall apply: 1 (operating hours as amended below), 2, 3, 4, 5, 6, 11 (as amended below), 12, 13,14, 17, 18 (as amended below), 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30.

Condition 11 proposed by the premises licence holder shall be amended to read as follows: "The licensee shall maintain an incident log at the premises which will record all of

the following:

- i. Complaints received
- ii. Refused admissions
- iii. Ejections
- iv. And defect or fault which interrupts continuous recording of the CCTV
- v. Drunkenness,
- vi. Refusals to sell alcohol at the bar
- vii. Suspicion of possession or supply of drugs
- viii. Allegations of crime such as theft of phone or assault and any other crimes
- ix. Injury suffered by any person.”

Condition 18 proposed by the premises licence holder shall be amended to read as follows: “That at the designated bar area alcohol shall only be served to bon fide guests of the restaurant, waiting to be seated for a table meal.”

The following additional conditions agreed by the sub-committee shall apply:

1. That customers and staff shall not use the outside pavement area after 22.00 other than those who temporarily leave the premises to smoke. After 22.00 no more than five customers or staff shall be permitted to use a single clearly designated smoking area at any one time.
2. That customers and all staff shall not be permitted on to the first floor terrace to smoke or for any other reason at any time save for genuine emergencies.
3. That the licensing sub-committee require that the premises licence holder provides confirmation to the licensing authority that it has obtained the permission of the landlord to operate as a food-led rather than alcohol-led premises prior to the operation of the premises licence as amended.

The premises shall be licensed as below:

Licensable Activity	Monday to Saturday	Sunday
Sale and supply of alcohol (on the premises – no off sales)	09.00 to 23.00	09.00 to 22.30
Opening hours	09.00 to 23.30	09.00 to 23.00
That the provisions of the Live Music Act and the Deregulation of the Regulation of Entertainment are set aside (with the agreement of the premises licence holders). The provision for late night refreshment is withdrawn. The provision of the sale of alcohol off the premises is withdrawn		

Reasons

The reasons for this decision are as follows:

The licensing sub-committee (LSC) heard from the premises licence holder and their

representative who confirmed and accepted that the premises had been poorly run and that the restaurant option was a last chance for the premises licence holder to address the serious and accepted concerns regarding the operation and management of these premises.

The LSC heard that the consent order dated 10 June 2015 provided an opportunity for the elected members of the LSC to consider the restaurant option and did so in light of the grave concerns that continue regarding the operation of these premises at this location by these premises licence holders.

It was stated that the planning considerations, on-going issues concerning the construction and viability of the lease, the outcome of the various prosecutions under the Licensing Act 2003 and other local authority regulatory regimes and other outstanding matters under further regulatory regimes are all irrelevant and alternatively should carry little weight. The LSC consider that the conduct of the premises licence holders in respect of other local authority regulatory regimes and the relationship with its landlord is relevant to the assessment of whether these premises licence holders are capable of addressing the accepted and on-going grave concerns and improving upon the exceptionally poor management structure, style and execution.

The sub-committee were asked to consider the spirit of the consent order. The sub-committee take the view that the spirit of the consent order is two fold: Firstly to allow members rather than magistrates' to consider the restaurant option now presented to the LSC. Secondly to give the premises licence holders an opportunity to prove to the LSC that they can meet the standards expected and required of premises licence holders at this location.

The LSC are acutely aware that the premises licence holders have made representations and promises of managerial change and of change in respect of the operational style of these premises before. The premises licence holders have been previously given the benefit of the doubt and have been previously had the advantage of the requested last chance. It was with great disappointment that the premises licence holder is still unable to provide concrete details and concrete proof of previously requested information on Health and Safety, Fire Safety, Sanitary facilities and other associated regulated schemes.

Furthermore we have read a substantial body of evidence that the landlord is seeking to forfeit the lease and in particular that the lease as it currently stands does not permit a food led venue but in fact clearly requires that the premises is drink led. We are concerned that here again the premises licence holder has made promises that they will be practically and lawfully unable to perform.

During questioning the premises licence holder stated that the proposed DPS Mr Jose Eduardo Da Silva Goncalves would be responsible for the management of the premises and that he would be responsible for the hiring and firing of staff and that the premises licence holders would be engaged in the background. The LSC were surprised that this significant statement and position was not reflected in the business plan submitted by the premises licence holders. The LSC were equally surprised and concerned by the vague and unclear responses by both premises licence holders as to the exact nature of their involvement.

The LSC were persuaded that a restricted premises licence for the operation of a proper

restaurant was a valid response to the clearly documented and accepted issues at this premises. For the reasons above the LSC continue to have grave doubts as to the managerial competency of the premises licence holder but have reluctantly accepted that the premises licence holders ought to be given this yet further last chance to prove themselves. The LSC take note of the fact that both premises licence holders together and independently of each other seem capable of running and operating restaurants in other parts of the country. No evidence was submitted to counter this assertion and is accordingly accepted upon face value.

The LSC are particularly concerned as to the viability of the restaurant proposal with regards to the extensive evidence concerning the lease. The LSC request that the premises licence holders provide confirmation to the Licensing Authority that it has obtained the permission of the landlord to operate as a food-led rather than alcohol-led premises prior to the operation of the premises licence as amended by this decision.

The licensing sub-committee heard from the Metropolitan Police Service representative who gave evidence that they accept the restaurant option but have no confidence in the management of the premises licence holders. Along with the police the LSC are concerned at the lack of cooperation with the police and also the conflicting statements made to the police, the magistrates and now us. The LSC also note that other than the submissions made in accordance with the direction of the consent order no attempt has been made by the premises licence holders to engage with the police or other responsible authorities.

The licensing sub-committee heard from the licensing officer representing the council as a responsible authority which stated, as with the police, that the responsible authority has lost the confidence in the competency of the premises licence holders.

The LSC accepts the position of the responsible authorities but on balance has determined to restrict the hours of the proposed restaurant option and give the premises licence holders the opportunity to demonstrate its ability to operate a genuine restaurant at this location. The LSC are concerned that there are outstanding regulatory measures including health and safety and building regulations at this site and expect these to be addressed prior to operation. Crucially the LSC are also concerned that the relevant consents from the landlord have not been obtained and accordingly required confirmation that these too are in place prior to the operation.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate in order to address the licensing objectives.

Appeal rights

This decision is open to appeal by either

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application

Any appeal must be made to the Magistrates' Court for the area in which the premises concerned are situated. Any appeal must be commenced by notice of appeal given by the

appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

This decision does not have effect until either

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

The interim step of suspension is hereby replaced with interim steps which mirror and replicate the steps taken in this decision.

6. LICENSING ACT 2003: MAMA LEAH'S 660 OLD KENT ROAD, LONDON SE15 1JF

The licensing officer presented their report. Members had no questions for the licensing officer.

The applicant was unable to attend the hearing but they appointed a representative to speak on their behalf. The applicant's representative addressed the sub-committee. Members had questions for the applicant's representative.

The applicant was given five minutes for summing up.

The meeting went into closed session at 5.01pm.

The meeting resumed at 5.15pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the application made by Mr Tobi Raphael to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as Mama Leah's 660 Old Kent Road London SE15 1JF is granted as follows:

Licensable Activity	Sunday to Thursday	Friday & Saturday
Sale and supply of alcohol (on the premises)	12.00 to 22.30	12.00 to 01.00
Entertainment (live and recorded music)	10.30 to 22.30	23.00 to 01.00
Late night refreshment		23.00 to 01.00
Hours premises are open to the public	10.30 to 23.00	10.00 to 01.30

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form and conditions agreed by the applicant with the responsible authorities during the conciliation process.

Reasons

This was an application made by Mr Tobi Raphael to vary the premises licence granted under the Licensing Act 2003 in respect of the premises known as Mama Leah's 660 Old Kent Road London SE15 1JF.

The licensing sub-committee heard evidence from the applicant's representative (business partner) who informed the sub-committee that the premises wanted to extend their opening hours and business, at the request of their patrons. The premises frequently have bookings for birthdays, christenings and such like. Patrons have said that they would like to stay a bit later and that the variation would strengthen the business. He confirmed that they had conciliated with the responsible authorities and that were happy to implement the conciliated conditions

The licensing sub-committee noted that the applicant had conciliated with the Metropolitan Police Service, the environmental protection team and licensing as a responsible authority.

The licensing sub-committee noted the written representations from three local residents objecting to the application, one of whom had contacted the licensing officer complaining of noise nuisance on the night of 26 September 2015 at 01.15. In response to this the applicant advised that the premises had been closed at the time of the alleged incident and that a neighbouring licensed premises was known to play loud music. As the local resident had not contacted the noise team, this allegation could not be confirmed or denied.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate in order to address the licensing objectives.

Appeal rights

The applicant may appeal against any decision:

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a) That the licence ought not to be been granted or
- b) That on granting the licence, the licensing authority ought to have imposed different or additional conditions on the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the Justices' Clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

Meeting ended at 5.20 pm

CHAIR:

DATED: