

Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Wednesday 19 November 2014 at 10.00 am at Ground Floor Meeting Room G01C - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor David Hubber (Chair)
Councillor Stephanie Cryan
Councillor Maria Linforth-Hall

OTHERS PRESENT: Taskin Muzaffer, applicant, 58 Peckham Rye
Heath Thomas, legal representative
Suzannah Sandhu, local resident
Pippa Beazley, local resident
Sergio Soares, applicant, Pazzia Bar and Restaurant
Manuel Rocha, applicant's representative
Ian Clements, Metropolitan Police Service

OFFICER SUPPORT: Debra Allday, legal officer
Fabien Simms, licensing officer
Jayne Tear, licensing officer
David Franklin, licensing officer
Dorcas Mills, licensing officer
Sarah Newman, environmental protection officer
Farhad Chowdhury, health and safety officer
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members. In the absence of the chair, Councillor David Hubber chaired the sub-committee in his capacity as vice-chair of the committee.

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 CHERRY TREE, 31- 33 GROVE VALE, LONDON SE22 8EQ - TEMPORARY EVENT NOTICE

It was noted that this item had been withdrawn by the applicant.

6. LICENSING ACT 2003: 58 PECKHAM RYE, LONDON SE15 4RJ

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

The applicant addressed the sub-committee. Members had questions for the applicant.

The environmental protection officer addressed the sub-committee. Members had questions for the environmental protection officer.

The local residents objecting to the application addressed the sub-committee. Members had questions for the local residents.

The meeting went into closed session at 1.00pm.

The meeting resumed at 1.13pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the application submitted by Peckham Rye Limited for the grant of a premises licence issued under the Licensing Act 2003 in respect of 58 Peckham Rye, London SE15 4RJ be granted as follows:

Licensable Activity	Monday to Sunday
Recorded Music (Indoors)	09.00 to 01.00
Sale and supply of alcohol (on the premises)	09.00 to 01.00
Hours premises are open to the public	09.00 to 01.30
Late Night Refreshment (Indoors)	23.00 to 01.00

Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions and conditions derived from the operation schedule in Section M of the application form and shall be subject to the conditions agreed between the applicant and the environmental protection team:

1. That before the premises license can take effect a sound limiting device shall be installed and set, in conjunction with a qualified sound engineer, at a maximum volume and bass level which then cannot be exceeded; to ensure that any music, speech or song from licensed entertainment is not audible in nearby residential premises or will cause a public nuisance.
2. That the sound limiting device shall be maintained at the set level there-after.
3. That should there be any change to the equipment involved in the broadcast or limiting of sound from licensed entertainment that the sound limiter/s be re-set, in conjunction with a qualified sound engineer, to ensure that any music, speech or song from licensed entertainment is not audible at nearby residential premises nor will cause a public nuisance in the vicinity of the premises.
4. That all audio and musical equipment used in the premises, permitted under the Licensing Act 2003 or the Live Music Act 2012, shall be played through the installed sound limiting device.
5. That all speakers for the broadcast of sound within the premises shall be isolated from the structure of the premises by anti-vibration mountings or mats.
6. That all live music performances shall be acoustic, other than an electric keyboard with volume control or similar, to be used for accompaniment of an artist.
7. That no loud acoustic instruments, e.g. brass, drums or pipes, shall be permitted.
8. That during any regulated entertainment on the premises, permitted under the Licensing Act 2003 or the Live Music Act 2012, all doors and windows shall remain closed (except for access or egress).
9. That there shall be no more than six persons permitted outside on the frontage at any one time.
10. That the terrace are shall close to food and drink at 23.00.
11. That before the premises license can take effect self-closers, in accordance with BS 6459 Pt.1 1984, and acoustic seals and brushes shall be installed to both the acoustic lobby doors.
12. That before the premises license can take effect sound insulation to any plant, (air handling condensers, etc.) shall be installed to ensure the sound outputs are 10 dB(A) below the lowest L90 15 min relevant in the period the plant will be operational.

13. That any air handling plant to the kitchen shall be fitted with adequate filters to ensure any discharge to the atmosphere is adequately odour abated. The kitchen extract system shall meet the standard required by DEFRA - [Guidance on the control of odour and noise from commercial kitchen exhaust systems](#) (2011).
14. That notices shall be provided on all doors that patrons would use to exit the premises to request that patrons leave in a quiet and orderly manner that is respectful to neighbours.

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

15. That the applicant shall provide a telephone number for the local residents to contact a responsible member of staff at the premises, should there be any issues.
16. That external waste handling, collections, deliveries and the cleaning of external areas shall only occur between the hours of 06.00 to 20.00 Monday to Friday and 08.00 to 20.00 on Saturday and Sunday.

The following condition as proposed by the applicant shall also apply:

17. That save for pre-arranged bona fide private functions/events, which will be by ticket or invitation only, there shall be no more than 20 non-diners permitted to consume alcohol on the premises at any one time.

Reasons

The licensing sub-committee heard from the licensing officer who advised that since he had prepared the report it was discovered that the licensing unit had accidentally provided incorrect information in relation to the premises licence (number 10691) held by Mr and Mr Edumijeke at the address 58 Peckham Rye, London SE15 4RJ in that the licence was classified as being surrendered. This was an administrative error and in fact, it was suspended for non payment of licence fee.

The licensing sub-committee heard from the applicant and their representative who advised that in view of the licence being suspended (for non-payment of fee) the licence was still in existence and therefore, the sub-committee were obliged to grant the same licence as held by the previous licence holder. If the applicant had been made aware of the true position they would have applied to transfer the licence. In any event, the operation proposed at the premises was primarily a fine food eatery with a maximum of 66 covers and was not a vertical drinking venue.

The licensing sub-committee heard from the environmental protection officer who stated that the premises were in a relatively quiet parade of terraced shops with three floors of residential premises on the first floor above and adjacent. The officer's concerns related to licensing objective of the prevention of nuisance. It was accepted by both the environmental protection officer and the applicant that a number of conditions (as listed above) would satisfy the officer's concerns in respect of this application.

The licensing sub-committee heard from two other persons, one of whom represented another (who had submitted a written representation) who objected to the application as they were concerned that the operator of the premises selling alcohol would have an

adverse impact on the community relating to public nuisance and crime and disorder.

The sub-committee concluded that it had no alternative but to allow the application with the hours sought in view of the current suspended licence. The sub-committee were sympathetic with the concerns raised by the local residents but were satisfied that the conditions conciliated between the environmental protection team and the applicant would address these issues.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that it was appropriate and proportionate to attach these conditions 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 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.

7. LICENSING ACT 2003: PAZZIA BAR AND RESTAURANT 374 WALWORTH ROAD, LONDON SE17 2NF

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

The applicant and their representative addressed the sub-committee. Members had questions for the applicant and their representative.

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

The health and safety officer addressed the sub-committee. Members had questions for the health and safety officer.

Both parties were given five minutes for summing up.

The meeting went into closed session at 2.00pm.

The meeting resumed at 3.05pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the application by Sergio Artur Da Silva Soares for a grant of a premises licence issued under the Licensing Act 2003 in respect of Pazzia Bar & Restaurant, 374 Walworth Road, London SE17 2NF be refused.

Reasons

The licensing sub-committee heard from the applicant and his representative who advised that they had proposed to reduce the hours for licensable activities to 10.00 to 23.30 (Sunday to Wednesday) and 10.00 to 00.00 (Thursday to Saturday). Mr Soares advised that he had considerable catering experience and that he wished to turn the premises into a successful restaurant/bar. He had chosen the name Pazzia Bar and Restaurant as he wanted to model the business on the Pazzia Bar and Restaurant in Ashford, owned by Mr Rodrigues.

The licensing sub-committee heard from the representative from the Metropolitan Police Service who stated that the initial application mirrored the premises when it was known as Bananas Bar prior to the revocation and suspension of the licence. No control measures had been included in the operating schedule and the applicant had previously been employed by Messrs Rodrigues in the Bananas Bar venue. The officer also advised that the landlord to the premises, Enterprise Inns, had confirmed that no negotiations had been entered into regarding a transfer of the lease for the premises and that Enterprise Inns would not enter into any new negotiations regarding the premises until the conclusion of the appeal process, which would be in June 2015. The officer stated that since the lease with Enterprise Inns had a condition that it could not be sub-let any licence agreement between Mr Soares and Mr Rodrigues should be considered null and void.

The licensing sub-committee noted the written representation from the environmental protection officer.

The licensing sub-committee heard from the health and safety officer who advised that the applicant had failed to provide any suitable risk assessments to protect members of the public from risks relating to violence associated with the licensable activities, a suitable crowd management policy or information relating to capacity. In response to this the applicant stated that they would provide this documentation *when* they obtain the premises licence. The officer added that he would have public safety concerns if Mr Rodrigues was operating the premises in the background.

The licensing sub-committee were extremely disturbed with the licence history detailed on pages 65 and 66 of the agenda. It was also concerned given the history of the premises that the applicant advocated on behalf of Mr Rodrigues in calling the premises Pazzia Bar and Restaurant, based on Mr Rodrigues' business in Ascot (as apposed to Ashford referred to Mr Soares). The applicant stated that the premises would require a total refurbishment. However, paragraph 7 of the licence agreement between the applicant and

Mr Rodrigues clearly states "The licensee will leave the equipment, furniture and fittings at the end of the licence in the rooms or places in which they were at the beginning of the licence". More concerning, paragraph 12 of the licence agreement allows the applicant to "hire Mr Candido Rodrigues to market for its customers. The licensee will pay a fee for this service". When the applicant was questioned regarding the licence agreement it was noted that the applicant was unable to provide finer details regarding it and/or the general operation of the licence itself. The licensing sub-committee also questioned the need for the £28,000 annual rent being paid in cash.

The licence agreement is dated 24 April 2014 and the applicant had made a previous premises application on 28 May 2014. However, despite this, the applicant has failed to provide any documentation as requested by the health and safety team. The applicant's suggestion that this documentation could be provided after the licence is granted is both unprofessional and unacceptable.

It is noted that Enterprise Inns would not be willing to enter into any negotiations regarding the lease until the determination of the Bananas Bar appeal. Whilst this is not a consideration in respect of the licensing objectives it does call into question who the real personnel are behind this application. The licensing sub-committee are satisfied that notwithstanding this application, Mr Rodrigues would be the driving force behind the business.

It is for these reasons that the application has been refused.

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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.

The meeting ended at 3.15pm.

CHAIR:

DATED: