

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 5 August 2021 at 10.00 am at Online/Virtual: please contact [andrew.weir@southwark.gov.uk](mailto:andrew.weir@southwark.gov.uk) for a link to the meeting and the instructions for joining the online meeting

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**PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor Adele Morris  
Councillor Margy Newens (Reserve)

**OTHERS PRESENT:** P.C. Graham White Metropolitan Police Service  
P.C. Ian Clements, Metropolitan Police Service

**OFFICER SUPPORT:** Debra Allday, legal officer  
Titalope Hassan, legal trainee (observing)  
Andrew Heron, licensing officer  
David Franklin, licensing responsible authority officer  
Ray Moore, trading standards officer  
Paul Newman, environmental protection team officer

### 1. APOLOGIES

This was a virtual licensing sub-committee meeting.

The chair explained to the participants and observers how the virtual meeting would run. Everyone then introduced themselves.

Apologies were received from Councillor Sunil Chopra. Councillor Margy Newens was in attendance as the reserve member.

### 2. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed verbally, one at a time.

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

There were no late and urgent items of business.

**4. DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were none.

**5. LICENSING ACT 2003: LA CANTALETA,176-178 OLD KENT ROAD, LONDON SE1 5TY**

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

The applicant's legal representative addressed the sub-committee. Members had questions for the applicant (via their legal representative) and their legal representative.

The trading standards officer addressed the sub-committee. Members had questions for the trading standards officer.

The Metropolitan Police Service officer addressed the sub-committee. Members had questions for the police officer. The legal representative for the applicant had a question for the police officer also.

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

The licensing responsible authority officer addressed the sub-committee. Members had questions for the licensing responsible authority officer.

All parties were given up to five minutes for summing up.

The meeting adjourned at 12.17pm for the sub-committee to consider its decision.

The meeting reconvened at 1.10pm and the chair advised everyone of the decision.

**RESOLVED:**

That the application made by La Cantaleta Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as La Cantaleta, 176-178 Old Kent Road, London SE1 5TY be granted as follows:

## Hours

Alcohol	Sunday to Thursday: 12:00 to 22:30 Friday and Saturday: 12:00 to 23:30
Regulated Entertainment including recorded music and dance	Friday and Saturday: 12:00 to 23:30
Late Night Refreshment	Friday and Saturday: 23:00 to 23:30
Opening	Sunday to Thursday 12:00 to 23:00 Friday and Saturday 12:00 to 00:00
Additional non-standard timings for all licensable activities	The permitted hours may be extended until 03:00 on Christmas Eve and Boxing Day  On New Year's Eve from the end of permitted hours until the start of permitted hours on the following day

## 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 the following additional conditions agreed by the sub-committee:

- 1) That alcohol shall not be sold or supplied on the premises otherwise than to persons taking table meals, for consumption by such persons as an ancillary to a meal, except for a maximum of 25% of customers throughout the premises in the company of persons eating a table meal.
- 2) That Jonathan Giraldo shall be prohibited from being involved in the running of the premises licence or from entering the premises.
- 3) That alcohol shall be consumed only when seated.
- 4) That alcohol sales shall be by waiter service only.
- 5) That clear legible signage shall be prominently displayed where it can be easily seen and read, requesting that alcohol sold as 'off sales' should not be opened and consumed in the vicinity of the premises.
- 6) That the outside area shall be rendered out of use at 22:00.

The sub-committee also made the following recommendation:

- 1) That the premises shall endeavour not to use single use plastics where possible.

## **Reasons**

This was an application made by La Cantaleta Limited for a premises licence under Section 17 of the Licensing Act 2003 in respect of the premises known as La Cantaleta, 176-178 Old Kent Road, London SE1 5TY.

The premises were described in the application as a “Licensed bar/restaurant. Any off sales will only be limited to customers consuming alcohol in an area specified for this activity on the plan.”

The licensing sub-committee heard from the applicant’s representative who advised that according to Southwark’s statement of licensing policy the premises were located in a residential area. However, the Old Kent Road was a major thoroughfare in South East London. The premises had been operating under temporary event notices (TENs), each for a maximum of 21 days, running until 00:00, 01:00 and 05:00. No complaints had been received concerning any of the temporary events. Officers did attend during the course of the TENs, but no matters arose.

They advised that premises would be a food led restaurant. There was a maximum capacity of 100 seated patrons. A pavement licence had been issued and it was a condition that the outside table and chairs would be cleared and rendered out of use at 22:00.

Concerning the environmental protection team’s (EPT) assertion that noise from regulated entertainment would escape from the premises, no evidence had been produced by EPT demonstrating how the prevention of public nuisance licensing objective would be undermined.

During the discussion part of the meeting, the applicant’s representative agreed to amend the application to exclude live music.

Members were concerned that the premises intended to sell a specific South American spirit by the bottle as there had been issues involving a separate premises doing the same which prompted an expedited review of the premises licence. The applicant’s representative assured the sub-committee that the consumption from such sales would be supervised by the staff.

The licensing sub-committee heard from trading standards whose representation was submitted primarily under the prevention of crime and disorder licensing objective. The freehold owner of the premises 176-178 Old Kent Road was Mr Jayesh Patel who had recently had his premises licence subject to a review

application by trading standards. The review application also related to another unrelated premises of which Mr Patel was the freeholder. Both of these premises were known as problem premises. The proposed designated premises Supervisor (DPS), Rafael Valencia Arroyo had been present when the premises had been operating as a nightclub and outside the curfew hours specified in breach of COVID 19 Regulations in 2020.

The licensing sub-committee heard from the Metropolitan Police Service who advised that their representation was submitted on the prevention of crime and disorder licensing objective. They advised that the premises were located on a busy main road, but residential properties were situated directly above, opposite and surrounding the venue.

The police were of the view that the premises, as described in the application with a terminal hour of 01:30, would likely have a negative impact on local residents when patrons were leaving the venue. The officer stated the dispersal policy provided by the applicant was acceptable. Despite this, the officer requested that the applicant reduce the hours of operation to bring them in line with Southwark's Statement of Licensing Policy

The licensing sub-committee heard from the environmental protection team whose representation was based on the prevention of public nuisance licensing objectives and had regard to Southwark's statement of licensing policy 2021 – 2026.

The officer advised that the premises were situated in a residential area and under the policy and the appropriate closing times for restaurants; cafes, public houses, wine bars or other drinking establishments should be 23:00 daily. The application was in excess of the appropriate closing times within the policy for this area.

To promote the licensing objectives the officer requested that the applicant amend the opening hours to bring them in line with the Policy, and in turn the licensable activities, allowing half an hour drinking up time for 'on sales' of alcohol.

The officer stated that the premise at 176-178 Old Kent Road was close to residential addresses. The application included regulated entertainment of live and recorded music, dance performance, and anything of a similar description. The premises were not purpose-built to contain noise escape from these activities, and the applicant did not address this in operating schedule. The officer also referred to residential units on the upper floors of the premises and adjacent premises at 174 Old Kent Road and on East Street.

The applicant's offer of a dispersal policy would be the only measure that addressed noise and public nuisance caused by patrons. There was no indication of how the applicant proposed controlling amplified music or entertainment noise on the premises that would not to cause a public nuisance. The concern was that licensable activities beyond 23:00, including alcohol sales and consumption during early morning hours, would cause public nuisance. It was recommended that that should the sub-committee grant the application, a noise and insulation assessment

of the premises be submitted for approval, including any proposed mitigating works to improve sound insulation of the premises

The officer representing licensing as a responsible authority also referred to the recommended hours detailed in the Southwark statement of licensing policy. The officer stated that due to the limited information in the application, to promote the licensing objectives, he sought an accommodation limit for the premises, a written dispersal policy and to add a condition concerning signage being prominently displayed requesting off-sales not be opened and consumed in the vicinity of the premises.

The licensing sub-committee noted the contents of the representation submitted by Southwark's highways licensing and enforcement team (as an other person) who was not in attendance at the meeting.

Having heard about the breach in COVID Regulations where Rafael Valencia Arroyo was present, this sub-committee accepted that the breach was at the fault of his previous business partner, Jonathan Giraldo. Being satisfied he is no longer involved in the business or part of the premises operation, the sub-committee was satisfied that any concerns regarding this gentleman can be dealt with by way of a condition prohibiting him from the premises.

Members were reminded that major regeneration works would be undertaken on the Old Kent Road, including the construction of residential properties. Both existing local residents and those who come to reside in on the regenerated sites would be disturbed by the premises as described by the applicant.

During the discussion stage of the meeting, the members of the sub-committee enquired whether there were any conditions attached to the planning consent that could be considered as mitigating the concerns of from EPT with regard to the prevention of public nuisance). The participants at the meeting were informed that there were none although there was a condition that the premises could not operate beyond 00:00 hours on Fridays and Saturday and 23:00 hours Sunday to Thursdays.

Pursuant to Southwark's statement of licensing policy 2021-2026, the premises is situated in a residential area and the closing times recommended as appropriate within this area for restaurants, cafes, public houses, wine bars and other drinking establishments is Monday to Sunday: 23:00.

There are some areas within Southwark that maybe classed (according to the statement of licensing policy) as being in a residential area, but could also be considered as local centres/small shopping parades or a district town centre. Due to the regeneration in Old Kent Road, the sub-committee was satisfied that this postcode has been classified correctly. This is supported by the hours imposed by the planning authority.

The licensing sub-committee was also mindful of the agent of change principle.

While licensing and planning are two separate regimes, this sub-committee was somewhat limited on independent guidance regarding a residential area. The sub-committee did however exercise its discretion in allowing the premises to operate until 00:00 hours on Fridays and Saturdays,

Because the applicant sought non-standard hours for Christmas Eve, Boxing Day and New Year's Eve, the licence will attract Southwark's late night levy. If the levy make the operation of the premises not financially viable, the sub-committee suggests that a minor variation be submitted removing the non-standard hours.

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.

### **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. 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 to 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.

## **6. LICENSING ACT 2003: PASAJE PRIMAVERA, ARCH 146, EAGLE YARD, HAMPTON STREET, LONDON SE1 6SP - REVIEW**

It was noted that the legal representative for the premises had requested an adjournment for this item to 10am on Tuesday 10 August 2021. The licensing officer advised that all other parties were in agreement to this request.

The chair proposed that the meeting be adjourned to 10am on Tuesday 10 August 2021. This was seconded by Councillor Adele Morris.

**RESOLVED:**

That the meeting be adjourned to 10am on Tuesday 10 August 2021.

The meeting ended at 1.20pm.

**CHAIR:**

**DATED:**