

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 26 MAY 2022

SECTION 17 LICENSING ACT 2003: POLLO CHICKEN SANDWICH SHOP, 2 DACHELOR PLACE, LONDON SE5 7AP

1. Decision

That the application made by Base (Islington) Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003, in respect of the premises known as Pollo Chicken Sandwich Shop, 2 Datchelor Place London SE5 7AP be granted as follows:

Late Night Refreshment	Monday to Saturday: 23:00 - 00:00
Opening hours	Monday to Saturday: 10:30 - 23:00
Delivery Service Only	Monday to Saturday: 23:00 -00:00

2. Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operating schedule highlighted in Parts A, B, C, E, F, G, H, I, J, K, L, and M of the application form, the conditions agreed with the Metropolitan Police Service and the licensing authority during the conciliation process and the following additional conditions agreed by the licensing sub-committee

1. That no food for sale shall be picked up by delivery drivers from Pollo after 00:00
2. That all delivery vehicles shall be parked on Camberwell Church Street
3. That no delivery vehicles shall be parked on Datchelor Place or Mary Datchelor Close or anywhere within the estate behind the premises.
4. That the doors to Pollo must be closed to members of the public by 23:00.
5. That a litter pick up shall take place every hour from 10:30 until after the premises closes.
6. That a waste bin shall be placed directly outside of the premises for customer use, which must be removed by the public closing time.
7. That tables and chairs shall be removed from outside the premises by 22:00.
8. That a telephone number, which must be displayed within the premises, shall be made available for residents.

3. Reasons

The sub-committee heard from the licensing officer who outlined the basis of the application including the objections. The licensing officer explained that the Metropolitan Police Service and the licensing authority had withdrawn their objections to this application after the applicant had agreed, through conciliation to a number of conditions, which included reducing the hours of operation, provisions for CCTV, and conditions for the use of delivery drivers.

The licensing officer went on to explain that the environmental protection team and, a number of local residents, a local councillor and the local resident's association had objections which were not resolved through the reconciliation process.

The sub-committee heard from applicant's representative. He described the premises as a takeaway chicken sandwich business selling mainly chicken. He stated that the opening hours had changed through the conciliation process reducing the delivery service closing time from 05:00 to 02:00. He emphasised that the actual premises will close at 23:00.

He stated that there will be controls in place which will regulate where the delivery drivers will park which he suggested, would be on the main road. He stated that drivers will wait within the premises to pick up orders to reduce loitering. He said drivers will be given clear instructions to use their vehicles in a responsible manner and that parking for delivery drivers can take place on the main road by the owner's other business, Francesco Pizza restaurant. The pizza restaurant is a short walk away. He stated there would be a polite notice displayed within the premises of Pollo requesting customers not eat around the premises particularly in Datchelor Place. He said CCTV would monitor within and outside the premises. The representative went on to say they have tried to consider and address all the concerns raised.

The sub-committee heard from applicant. He stated that his premises would serve chicken, chips and salads as a takeaway service. He said that he had been communicating with the local residents and the responsible authorities. He confirmed that the tables and chairs are situated outside the shop and he had not applied for a pavement licence.

The applicant suggested that he would be amenable to having all online deliveries picked up from his other premises, Francesco Pizza. He said that he had informed the delivery drivers via his delivery application not to pick up deliveries from Pollo on Datchelor place. He confirmed that Pollo was currently operational until 22:00. He stated he/his staff currently take food for delivery from Pollo to Francesco Pizza as it was a short distance away. He said currently, no drivers enter Datchelor Place to pick up delivery orders from Pollo. He clarified that walk in customer can come to Pollo to pick up their food. He confirmed that after 23:00 the doors to Pollo would be closed to members of the public and for staff to prevent access and for safety reasons.

The applicant confirmed that Francesco Pizza has a licence until 05:00 but they closed at 02:00 and the current application for Pollo mirrors that of Francesco's Pizza.

The applicant was made aware of Southwark's policy in respect of single-use plastics and confirmed they would avoid using them wherever possible. The sub-committee

went on to remind the applicant of the need to apply for a pavement license for the placement of tables and chairs outside the premises.

The sub-committee heard from the environmental protection team officer in their capacity as a responsible authority. Their concerns regarded noise nuisance and the policy hours. The officer accepted that through the conciliation process, the concern regarding the policy hours had been address and so the outstanding issues related to noise caused by the delivery scooters and potentially the extractor fan. He raised concerns as to how the delivery scooters would be policed. The officer went on to say that he would raise an issue regarding the noise from the extractor fans with the planning team going forward. The officer confirmed that there had not been any noise complaints from Pollo or Francesco Pizza regarding deliveries.

The sub-committee heard from a local ward councilor. He stated that previously there had been many issues with cars and bikes using Datchelor Place which is a cul-de-sac for deliveries to and from premises along Camberwell Church Street. He stated that Datchelor Place is now pedestrianised. He raised concerns about persons loitering in the area and using the cul-de-sac as a meeting point. He pointed out that there was some confusion as to where delivery drivers would park to pick up deliveries. He said there was some ambiguity as to how the delivery service would work in practice as he believed the drivers would go directly to Pollo irrespective of any instruction given to the contrary.

The sub-committee heard from the resident's association and the local residents.

In essence, they stated there were approximately 24 shops that utilise a takeaway service on Camberwell Church Street. They were concerned that a licence could be granted for a business to operate well past a reasonable hour. They suggested that the applicant had previously operated his businesses until 02:00 without a licence in place. They emphasised that 02:00 is still the middle of the night for most people and is an unacceptable closing time.

They said that whilst there may not be registered complaints to the responsible authorities, their lived experience was one where they were kept awake by loiterers, were constantly picking up rubbish left in the cul-de-sac and often had to tell delivery drivers to be more considerate of the noise they make when parking on Datchelor Place. They said that residents were at risk physically and mentally by the on-going issues with the noise.

They said that on occasions, the table and chairs situated outside Pollo were not taken into the premises at 22:00 and that this has caused persons under the influence of alcohol to loiter and cause a nuisance as they would sit on and congregate at the table and chairs. They raised concerns about the enforceability of conditions and were concerned that enforcement would ultimately fall to residents as enforcement agencies, in their experience did not work outside normal working hours. They did not feel the proposed closing time was appropriate for Datchelor Place or the surrounding residential roads. They stated that residents had worked hard and invested their own money into turning Datchelor Place into a quiet residential area.

Further concerns were raised in relation to the extractor fan and potential fire risk to residents living above the Pollo. They stated that the business was essentially a chicken and chip shop that generates a lot of litter which had to be cleaned up by

residents. It was mentioned that the scooters would have oil spills on the pavement and the resulting mess was never cleaned up.

In making its decision the sub-committee had regard to the Southwark's statement of licensing policy 2021-2026 for a take away establishment and noted that the cumulative impact area policy did not apply in this case due to the premises not providing alcohol.

The sub-committee noted that all responsible authorities save for the environmental protection team had withdrawn their representations after the applicant had agreed to a number of conditions, in particular, that the applicant had voluntarily reduced his hours of operation initially proposed for the supply of late night refreshments.

The licensing sub-committee considered all of the objections put forward. The sub-committee formed the view that the objections put before it could be allayed by the applicant being made subject to the conditions, including the additional conditions agreed by the sub-committee, listed in the conditions section of this decision.

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

4. 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

Issued by the Constitutional Team on behalf of the Director of Law and Governance.

Date: 26 May 2022