



The Licensing Unit
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Metropolitan Police Service
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Our reference: MD/24/104

Date: 14/02/2024

Dear Sir/Madam

Re:- Costa Azul 102 Rockingham Street SE1 6PG

Police are in possession of an application from the above for full variation to their premises licence to extend their operating times for licensable activities. The venue describes itself as fully functioning Restaurant/Bar and Lounge and has requested the following hours which are outside the hours recommended in the Southwark statement of Licensing Policy for such a venue in the Elephant and Castle Major Town Centre Area

Open hours to public
Sun-Thurs-1100hrs-0100hrs
Fri-Sat-1100hrs-0300hrs

Supply of Alcohol on sales
Sun-Thurs-1100hrs-0030hrs
Fri-Sat-1100hrs-0230hrs

Late Night Refreshment
Sun-Thurs-2300hrs-0030hrs
Fri-Sat-2300hrs-0230hrs

Performance of Dance
Sun-Thurs-1100hrs-0030hrs
Fri-Sat-1100hrs-0230hrs

Recorded Music
Sun-Thurs-1100hrs-0030hrs
Fri-Sat-1100hrs-0230hrs

The venue currently has operating hours that exceed those recommended within the Southwark statement of Licensing policy for such a venue, and seeks to extend these hours even further to those that are in line with a nightclub.

The venue is accessed by patrons via a small footway that leads to either New Kent Road, Rockingham Street or Arch street, these streets are shrouded in residential buildings and have seen an increase in alcohol related crime and disorder at weekends and to extend the hours will only add to the antisocial behaviour endured already by local residents.

The applicant has provided a number of control measures to address the licensing objectives however Police feel that even with these and any further measures added the location is not suitable for such late operating hours. It should also be noted that the venue has been subject to a number of crime reports all of which the contributory factor appears to be over intoxication and there are also a number of calls to police regarding anti-social behaviour and though these cannot be attributed to the venue it does show that the area is already problematic.

The Metropolitan Police object to the granting of this variation to the licence under the Prevention of crime and disorder licensing objective. The hours far exceed those recommended within the Southwark Statement of Licensing Policy, and any extension to the already generous hours will only have a negative impact upon local residents in the form of anti-social behaviour.

Submitted for your consideration.
Yours Sincerely

PC Mark Lynch 2246AS

Licensing Officer
Southwark Police Licensing

To: Licensing Unit	From: Wesley McArthur wesley.mcarthur@southwark.gov.uk 020 7525 5779 (on behalf of the Licensing Unit in its role as a responsible authority)	Date: 10 March 2024
Subject:	Representation	
Act:	The Licensing Act 2003 (the Act)	
Premises:	Costa Azul, Unit 4, Railway Arch 102a, Rockingham Street, London, SE1 6PG	
Ref:	882420	

We object to the grant of an application to vary a premises licence, submitted by Amber J Restaurant Ltd under The Licensing Act 2003 (the Act), in respect of the premises known as Costa Azul, Unit 4, Railway Arch 102a, Rockingham Street, London, SE1 6PG.

1. Application history –

A premises licence application regarding the premises was submitted by Wilson Armijos on 08 October 2013. On application, Mr Armijos was also specified as the designated premises supervisor (DPS) regarding the licence.

The application was subject to representations submitted by the Metropolitan Police Service, this council's Environmental Protection Team, 41 local residents and a local councillor. Subsequent to these representations the application was determined by this council's licensing sub-committee at a hearing. The licensing sub-committee decided to grant a premises licence with operating hours that were reduced from what was originally applied for. The licensing sub-committee granted the following operating hours:

The sale of alcohol to be consumed on the premises:

Sunday - Thursday: 11:00 – 22:30
Friday & Saturday: 11:00 – 23:30

Live and recorded music & opening hours:

Sunday - Thursday: 11:00 – 23:00
Friday & Saturday: 11:00 – 00:00 (midnight)

During the hearing to determine the application the applicant made it clear to the licensing sub-committee that the premises were intended to be operated as a restaurant.

A copy of the Notice of Decision regarding the above is attached as appendix 1.

On 08 June 2021, an application to vary the premises licence was submitted. The application sought to add the provision of off sales of alcohol to the premises licence, to add the provision of late night refreshment at the premises on Friday and Saturday between 23:00 and 02:00 to the licence, and to extend the operating hours of the premises as follows:

The sale of alcohol to be consumed on the premises:

Friday & Saturday: to finish at 01:30

Opening hours:

Friday & Saturday: to finish at 02:00

The application was subject to representations submitted by this council's Licensing Unit and the Metropolitan Police Service.

Following discussions between the applicant, the Licensing Unit and the Metropolitan Police Service, the applicant agreed to earlier terminal hours regarding licensable activities and operating hours in respect of the premises.

The applicant also agreed to the inclusion of the following conditions in the premises licence:

- **360** Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking a table meal and by consumption of such persons as an ancillary to their meal.
- **361** The accommodation limit for the premises shall not exceed 70 persons (excluding staff).
- **362** The written dispersal policy shall be kept at the premises with the licence and made available for inspection by authorised council officers or the police. All relevant staff shall be trained in the implementation of the dispersal policy.
- **363** All 'off sales' of alcohol shall be provided in sealed containers and taken away from the premises.
- **364** That clear legible signage shall be prominently displayed where it can be easily seen and read, requesting that 'off sales' of alcohol are not be opened and consumed in the vicinity of the premises.

The premises licence was transferred to Amber J Restaurant Ltd on 18 August 2021. Mr Armijos remained the DPS of the premises.

2. The extant licence

The extant premises licence (licence number 875387) allows for licensable activities and opening hours as follows –

The sale of alcohol to be consumed on and off the premises:

Sunday - Thursday: 11:00 – 23:00
Friday & Saturday: 11:00 – 00:30

Live and recorded music & opening hours:

Sunday - Thursday: 11:00 – 23:00
Friday & Saturday: 11:00 – 00:00

Late night refreshment:

Friday – Saturday: 23:00 – 00:30

The opening hours of the premises:

Sunday - Thursday: 11:00 – 23:00
Friday & Saturday: 11:00 – 01:00

The premises are a restaurant.

A copy of licence 875387 is attached as appendix 2.

3. The variation application –

The purpose of the variation is described in the application as follows (verbatim) –

- “*Extend hours for Licensable activity.*”

The application seeks to newly allow for the provision of performances of dance at the premises, newly allow for the provision of late night refreshment on Sunday to Thursday and to extend the premises’ operation hours as follows:

The sale of alcohol to be consumed on the premises:

Sunday - Thursday: extended until 00:30
Friday & Saturday: extended until 02:30

NB – No extension of hours has been sought regarding alcohol off sales

Recorded music:

Sunday - Thursday: extended until 00:30
Friday & Saturday: extended until 02:30

NB – No extension of hours has been sought regarding the provision of live music

Performances of dance (new):

Sunday - Thursday: 11:00 – 00:30
Friday & Saturday: 11:00 – 02:30

Late night refreshment:

Sunday - Thursday: 23:00 – 00:30 (new)
Friday & Saturday: extended until 02:30

The opening hours of the premises:

Sunday - Thursday: extended until 01:00
Friday & Saturday: extended until 03:00

4. The Locale

The premises are located in a row of railway arches between Rockingham Street and New Kent Road in the Elephant and Castle area. The row of arches is classified as a part of Rockingham Street (and will be referred to hereafter as ‘Rockingham Street Arches’).

Elephant and Castle is a very busy area with a high volume of traffic, a mainline railway station, tube station and many bus routes. There are many licensed premises in the locale. There is a high volume of pedestrian traffic 24 hours a day and the area is a major transport hub.

Notwithstanding the above, Rockingham Street itself is quiet and receives minimal traffic in the evening or early hours of the morning. During the late evening and early hours of the morning, it receives minimal pedestrian traffic except for local residents.

The locale has many high-density residential housing estates / blocks in the immediate and wider vicinity of the premises, in all directions. A map of the local area, showing the proximity of the premises to local residential housing blocks, is attached as appendix 3.

Figure 1: View looking south down Rockingham Street arches (towards New Kent Road)



Figure 2: View from immediately outside the premises entrance looking south east down Arch Street showing Smeaton Court and other residences further away



Figure 3: View from immediately outside the premises entrance looking due north showing residential blocks on Rockingham Street



Figure 4: View from the north end of Rockingham Street Arches showing residential blocks as per Figure 3 above, Rockingham Estate and Smeaton Court



5. Statement of Licensing Policy (SoLP)

According to section 7 of this council's statement of licensing policy 2021 – 2026 (hereafter referred to as 'the SoLP'), the premises fall within Elephant and Castle Major Town Centre Area.

A copy of the SoLP is available via:

[Licensing and Gambling Act policy - Southwark Council](#)

The following closing times are recommended in our SoLP in respect of the type of licensed premises located in Elephant and Castle Major Town Centre Area as follows –

Restaurants and Cafe:

Sunday – Thursday: 00:00
Friday & Saturday: 01:00

6. Our objection

Our objection relates to the promotion of the prevention of crime and disorder, public safety and the prevention of public nuisance licensing objectives.

We say that the late night / early morning sale of alcohol and provision of entertainment is likely to have a negative effect on the promotion the crime and disorder, public safety and the prevention of public nuisance licensing objectives, and be detrimental to the quality of life for local residents.

Premises selling alcohol and providing entertainment late at night, or into the early morning, have increased risk factors. We do not think it is appropriate to allow premises to sell alcohol and provide entertainment in the early morning in an area with so many residential housing blocks in close proximity. We say that granting extended operating hours is likely to have a detrimental effect on the quality of life for local residents.

Premises selling alcohol and providing entertainment late at night / in the early morning often become hubs for crime and disorder, anti-social behavior and nuisance. Confrontations can often arise between customers who are intoxicated.

The operational hours suggested in the SoLP exist to protect residents in the borough.

The operational hours suggested in the SoLP were ratified by councilors at full licensing committee and we suggest that the licensing sub-committee adheres to this council's own policies, which we say have been applied for good reason.

We further add that full council assembly approved the current version of the SoLP, and have maintained the suggested operating hours four times in a row. This shows that there is still a need for the recommended hours to be given **considerable** weight in the determination of premises licence applications.

The premises already operates to the latest recommended closing times in the SoLP regarding Friday and Saturday. We object to **any** extension of the premises' operating hours on **Friday and Saturday**.

We would have **no objection** to the following extension of operating hours on Sunday to Thursday:

Licensable activities: to end at 23:30
Closing time: extended until 00:00

We note that the applicant has offered a schedule of conditions, which we welcome, however we seek clarification as to whether the schedule of conditions is meant to replace the existing licence conditions.

We would object to the schedule of conditions provided on application replacing the existing licence conditions in their entirety.

7. Temporary Event Notices (TENs)

We note that the applicant has stated that the premises has operated with extended operating hours under TENs frequently over the past 12 months without incident or complaint.

The TENs mechanism allows premises to be used for licensable activities for up to 21 days a year. This would mean that currently the applicant could only have extended operating hours under TENs on 21 days a year via TENs.

This application to allow for extended operating hours on 365 days a year.

This is an increase of 1638% on the number of days that TENs would allow extended operating hours at the premises. We say this is a huge difference, which would lead to a high increase in the likelihood of problems being caused by the later operation of the premises.

In addition to the above, it is very important to note that the TENs mechanism **is not** intended to be used as a precursor to premises licence, or premises licence variation, applications. It is not intended in the act that an applicant should use the fact that they have operated a premises without complaint under TENs to support a permanent premises licence application or application for a permanent variation to an existing premises licence.

It is not stated or implied in the Licensing Act 2003 itself, the guidance to the act issued by the Secretary of State under section 182 of the act, or suggested in Southwark Council's own SoLP that the prior satisfactory operation of premises under TENs should, or could, be used to support a permanent premises licence application, or an application for a permanent variation to an existing premises licence.

One of the important facets of the TEN mechanism is that it limits the risk posed by the provision of licensable activities at premises compared to the grant of a permanent premises licence in respect of the same premises.

We say that the prior operation of the premises under TENs should be given **minimal** weight in the licensing sub-committee's determination of this application.

We may present further submissions prior to, or at, the hearing to determine this application.

Yours sincerely,

Wesley McArthur
Principal Enforcement Officer



NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 13 JANUARY 2014

LICENSING ACT 2003: COSTA AZUL, RAILWAY ARCH 102A, ROCKINGHAM STREET, LONDON, SE1 6PG

1. Decision

That the application submitted by Mr. Wilson Armijos for the grant of a premises licence issued under the Licensing Act 2003 in respect of Costa Azul, Railway Arch 102a, Rockingham Street, London, SE1 6PG is granted as follows:

Licensable Activity	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Sale and supply of alcohol (on the premises)	11.00 to 22.30	11.00 to 22.30	11.00 to 22.30	11.00 to 22.30	11.00 to 23.30	11.00 to 23.30	11.00 to 22.30
Live music (indoors)	11.00 to 23.00	11.00 to 23.00	11.00 to 23.00	11.00 to 23.00	11.00 to 00.00	11.00 to 00.00	11.00 to 23.00
Recorded music (indoors)	11.00 to 23.00	11.00 to 23.00	11.00 to 23.00	11.00 to 23.00	11.00 to 00.00	11.00 to 00.00	11.00 to 23.00
Hours premises are open to the public	11.00 to 23.00	11.00 to 23.00	11.00 to 23.00	11.00 to 23.00	11.00 to 00.00	11.00 to 00.00	10.00 to 23.00
Non standard timings	None						

2. 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 conditions:

- a) Additional conditions developed through discussion with the applicant and responsible authorities and / or other persons as follows:
 - 1) That the premises shall operate a 'Challenge 25' policy whereby customers purchasing alcohol who appear to be under 25 years of age will be asked for an approved form of proof of age to verify their age. Approved forms of proof of age shall include a driving licence, passport or a Proof of Age Standards Scheme (PASS) approved proof of age card.
 - 2) That all staff involved in the sale of alcohol shall attend a training scheme which will include training in the 'Challenge 25' policy. They must obtain a certificate of competence. A record of their training, including the dates that each member of staff is trained, shall be available for inspection at the premises on request by the council's authorised officers or the police.

- 3) That 'Challenge 25' signage (in both English and Spanish) shall be displayed at entrances to the premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an 'Challenge 25' policy applies and proof of age may be required. This shall be maintained free from obstruction at all times.
- 4) That a register of refused sales of alcohol and if applicable, cigarette sales, which is clearly marked with details of the premises, address and name of licence holder shall be maintained in order to demonstrate effective operation of the Challenge 25 policy. The register shall be available for inspection at the premises on request by the council's authorised officers or the police.
- 5) That all staff are trained in their responsibilities under the Licensing Act 2003 and records of the training shall be kept and updated every six months. The training records shall be made immediately available to officers of the police and the council upon request.
- 6) That customers shall use no outside area after 23.00 other than those who temporarily leave the premises to smoke a cigarette. No more than five people at any one time.
- 7) That no drinks or food obtained from the premises will be permitted to be consumed outside the premises at any time..
- 8) That a personal licence holder is on the premises and on duty at all times that intoxicating liquor is supplied after 22:00 hours on Friday and Saturday nights until the terminal hour, and if not on the premises, will be contactable at all times and will leave a designated manager at the premises as a deputy.
- 9) That no spirits (liquids containing more than 20% ABV are to be sold by the bottle or half bottle.
- 10) That all spirits (liquids containing more than 20% ABV) should be sold in measures of 25ml or 35ml to a maximum of two measures per container / glass.
- 11) That alcohol shall cease 30 minutes prior to the terminal opening hour.
- 12) That SIA registered door supervisors, at least one of whom shall be a female, shall be employed at all times after 21.00 when the terminal opening hour is after 23.00.
- 13) That an identification scanning system specified to the reasonable satisfaction of police shall be installed and maintained at the premises. The system must be capable of: (1) storing information about banned customers and sharing such information with other venues that use the same system, (2) identify passports, driving licences and Proof of Age Standards Scheme (PASS) approved identification cards and (3) be able to identify forgeries of such documents to a reasonable standard. The system will be in operation in respect of all customer entries to the premises with no exceptions at all times after 18.00 when the terminal opening hour at the premises is after 23.00.
- 14) That any promotional material on or in any media shall state to the effect that there are no parking spaces available in the immediate vicinity of the premises. Any persons hiring and / or promoting events at the premises will be informed that that any promotional material on or in any media must state to the effect that there are no parking spaces available in the immediate vicinity of the premises.
- 15) That a sound limiting device (SLD) shall be installed at the premises and shall be calibrated to the satisfaction of the council's environmental protection team (EPT). All amplification equipment in regards to both live and recorded sound must be routed through the SLD. At

no time shall any such amplification equipment be operated independently of the SLD. The SLD shall be calibrated to the satisfaction of the EPT prior to any recorded or amplified live music being provided at the premises. Once calibrated, the control settings of the SLD shall not to be altered at any time except with the prior consent of the EPT. The SLD shall be accessible to the licensee and / or manager of the premises only and its installation be such that its control panel cannot be accessed by any other staff.

- 16) That the depositing of waste glass / earthenware into external waste receptacles shall not take place between 22.00 and 10.00 the following day.
- 17) That the mass depositing of waste glass / earthenware into internal waste receptacles shall not take place between 22:00 and 10:00 the following day. This condition allows the separate depositing of individual pieces of waste glass / earthenware into small internal waste receptacles throughout the operating hours of the premises.
- 18) That any doors at the premises leading directly to the outside of the premises will be fitted with door bottom and perimeter acoustic seals.
- 19) That a lobby entrance will be installed at the premises. The doors in the lobby entrance will be fitted with door bottom and perimeter acoustic seals.
- 20) That a comprehensive customer dispersal policy shall be written to the reasonable satisfaction of the council's EPT. All staff at the premises shall be briefed in regards to the dispersal policy. The dispersal policy shall be reviewed at any time that the operation of the premises changes and the policy shall be amended if necessary. A copy of the dispersal policy shall be kept at the premises and shall be made available to officers of the council or police on request.
- 21) That the details of a local cab company shall be kept at the premises and shall be provided to customers on request. If staff at the premises order a cab for a customer then those staff shall instruct the cab-driver not to sound their vehicle horn to attract attention, but to approach a staff member and let the staff member know that they are a cab that has been ordered by the premises.
- 22) That all doors and windows at the premises shall be kept closed when licensable activities are taking place at the premises.
- 23) That no additional amplification equipment may be used at the premises by performers of any description. Only the installed in house amplification equipment may be used in regards to any performance.
- 24) That performances of any description shall take place to the rear of the premises.
- 25) That on each day that the premises are in operation the alley way that the premises' entrance is adjacent to and the immediate vicinity of the premises shall be cleared of any refuse produced by or associated with the operation of the premises after the premises has closed.

3. **Reasons**

This was an application submitted by Mr. Wilson Armijos for the grant of a premises licence issued under the Licensing Act 2003 in respect of Costa Azul, Railway Arch 102a, Rockingham Street, London, SE1 6PG

The licensing sub-committee heard evidence from the applicant's representative who informed the sub-

committee that the application was in respect of a restaurant and was therefore not to be confused with a night club. The applicant's representative highlighted that they had taken on board representations by local residents and responsible authorities and made reference to the conciliation statement. He went on to say that the applicant had in excess of ten years experience of operating similar premises and emphasised the desire to work with local residents in order to reduce concerns in respect of potential nuisance and/or crime and disorder in relation to the premises.

The sub-committee also heard from the safer neighbourhood team who expressed concerns about street drinking and anti social behaviour in the area. However, the applicant and the police conciliated in respect of all the conditions proposed by the police, to be attached to the licence if granted.

The licensing sub-committee heard from the environmental protection officer who expressed concerns in relation to the premises being situated in the vicinity of a residential area. However, he suggested that reducing the proposed operating hours in addition to the installation of a sound limiting device, would assist in reducing the risk of nuisance.

The licensing sub-committee heard from other persons who live in the vicinity of the premises and the ward councillor who spoke on behalf of local residents. They expressed objections to the application due to being concerned about the likelihood of noise nuisance and increase in anti social behaviour in the area. In addition, concerns were highlighted in respect of the premises being in the vicinity of a residential area. The residents informed the sub-committee that there are existing anti social behaviour issues within the area and that they were concerned that the premises could add to these existing problems.

In summing up the applicant highlighted that any issues relating to anti social behaviour were already existent in the area and are not therefore related to his premises or patrons. On the contrary, he believed that his restaurant would assist in increasing the security within the area.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that it was appropriate and proportionate to attach these conditions in order to address the licensing objectives.

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) 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 the conditions of the licence, or ought to have modified them in a different way

May appeal against the decision.

Any appeal must be made to the magistrate court for the petty sessions 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 Legal Services

Date: 13 January 2014