

Email 01.02.2021

REP 1

Re Cock & Tails Limited
Merryn, The South Border, Purley, Surrey CR8 3LD

I live on the estate and wish to make an objection to the application for a new premises licence. My concerns are that the application does not fully promote the four licensing objective. Please note the following :-

1 The Application

There are parts of the form which are redacted in black. I believe that the public are entitled to know the name, licence number and date of birth of the DPS. This information is relevant as the DPS is the person who is accountable. Furthermore Section 17(5) of the Licensing Act 2003 require details of such person who has such an interest to be known. The consent form for the DPS is not disclosed on the council website.

2 Planning permission

The property is a residential property and does not have planning permission for this type of commercial use.

3 Covenants.

There are covenants on the Webb Estate preventing properties being used for commercial purposes. They must be used primarily as single private dwellings. This application breaches those restrictive covenants

4 Conservation area

The property is in a conservation area

5 Food Registration

The property is not registered under the Food Registration regulations 852/2009 with the Council. This is a requirement for the premises licence

6 No Plan

Section 17(3) Licensing Act 2003 requires the application to be supported by a plan. A plan is not attached to the application on the council website.

We have no information about the whereabouts of CCTV and the storage of the alcohol in the premises.

7 Prevent of Crime and Disorder.

The applicant mentioned a CCTV system. There is no plan attached of the CCTV system. The CCTV should be recording 24 hours per days, in good working order with suitable export method (CD/DVD/USB facility). Cameras should be on the entrances to capture full frame head shots

I believe that there is not enough protection from children under 18 clicking on website page using someone else's credit card stating they are 18 or over. There is no mentioned of a refusal's book or computer generated refusals recording system that can be examined on a regular basis and made available to a licensing officer, trading standards or the Police.

It is not clear who employs the delivery drivers. Are they employed by a delivery company (or by the applicant) and how is the noise of engines and loitering of drivers to be addressed. A condition should be added so that the application is mandated to give a direct telephone number of the DPS or a manager at the premises for residents in the vicinity. What is the delivery policy of the applicant. Will drivers swich off their engines whilst waiting?

No consultation has taken place with the Neighbouring police or the Webb Estate Limited who represent the residents in connection with this application.

8 Public Safety.

The sale and supply of alcohol is 7 days per week from 1200 hour to 1800 hours. During the Covid 19 pandemic more the more people with children are using the roads on the Webb estate to walk and cycle, especially at weekends. The sale at weekends between 1200 and 1800 hours will make residents and others using the South Border and other roads on the Webb Estate. I request the licensing team look at this concern. It is unclear as to the size of the vehicles or motorbikes couriers will be using on the estate.

There has been an increase in crime on the estate and this has been reported to the Police. It is a concern that if people know that a property is being used for the storage of alcohol, it will generate an unhealthy interest in the area and likely to increase crime.

9 Public Nuisance

The use of additional vehicles used by the applicant will cause nuisance on a residential estate with noise, pollution and loitering of couriers. The applicant states that the premises are located in a residential area and if business increases the number of pickup of stocks will increase to the detriment of the residential estate.

10 Protection of Children from harm

There are children living in the property where alcohol is stored. The applicant does not address this issue. How will they be protected from harm ?

How will the applicant deal with an adult ordering online and accepting deliveries for consumption of alcohol by children. The applicant is not a member of the Alcohol aware registration scheme (AWRS) promoted by the government to cover Section 190 cases.

11 Waste

The application offers no solutions to the accumulation and disposal of waste material from Merryn. Such material can be hazardous or an obstruction. Such material should be collected at agreed hours so as not to cause residents nuisance.

12 Control of Sales

This issue should be clarified. Boxes or containers of alcohol should be clearly marked and the Premises Licence should confirm the types of alcohol (with ABV or units) and the packs of alcohol that are being sold. Documented delegation of authorisation to sell alcohol should be maintained at the premises.

Email 08 02.2021

Thank you for your email. I wish to make further representations in connection with my objection for a new Premises Licence:-

1 You kindly send me a plan. The prescribed regulations state that the scale must be 1:100. The plan does not comply with his requirement.

2 With regard to the licensing objective of Protection of Harm to children, the licensing committee should be made aware of the fact that there is a school on the estate and children use the green for amenity purposes.

3 You have kindly send me details of the DPS (Mr Marcello Moscarello). The operating schedule states that the time for trading is 1200 hours to 1800 hours seven days a week. I have attached 8 documents to this email. Please note

A Mr Moscarello had had (Doc 1) 12 directorships. 10 companies (some registered at Merryn) have gone into liquidation or been dissolved. The remaining two are Gran Caffè Londra Limited (Reg No 07294658) and Gran Moda Limited (Reg No 08030243) which are licensed restaurants. It would be interesting to establish how many licensing establishments Mr Moscarello is the currently registered DPS of. This is not clear.

B One concern is that are other business Mr Moscarello connected with going to use Merryn on South Borders for the storage of alcohol in addition to Cocks & Tails turning the property into a warehouse. If that happens there will be more deliveries and surely premises licences of other properties would have to be informed of storage of alcohol at Merryn (such as Timo in Elgin Crescent).

C The Director of Cocks & Tails (Monica Dina Costa) is a director of two other companies. They both operate restaurants which sell alcohol and the same question could be raised.

D Mr Moscarello is to be the DPS at Merryn. The business will trade between 1200 and 1800 Hours. If you look at Document 5 you will see that Mr Moscarello is the DPS of Kitchen and Pantry at 14 Elgin Crescent, London W11 2HZ. This is now trading as Timo and the hours of trading are 1000 hours to 2300 hour Monday to Sundays. Apart from all the other companies Mr Moscarello is a director of or a DPS of, how can he possibly be at Merryn a DPS, whilst he is a DPS at other properties such as Timo in 14 Elgin Crescent.

E The DPS is accountable. At Timo 14 Elgin Crescent he received two warning from the council for breaches (See Doc 6 and 7) concerning licensing and one waste management enforcement warning (Doc 8). Are the licensing officers happy with the current licensing record of the DPS or does the application require a new DPS.

I am quite happy for you to release my address.

Email 08.02.21

Thank you for your email. Several other points I wanted to mentioned are :

1 The hours for the sale of alcohol on the application form are 1200 to 1800. The applicant's website states the hours are 9000 hours to 2000 hours Monday to Friday and 1100 hours to 1900 hours Sundays. I assume the website will be changing the hours.

2 During the summer 2020 residents on the Webb Estate received leaflets through their doors i(ncluding me) from Cocks and Tails Limited for the sale of alcohol online. Are the council aware of this. The website of the applicant is www.cockntails.co.uk. The applicant has stated in her recent email that since April 2020 gift boxes containing alcohol have been finished off from Merryn when the premises did not have a premises licence.

3 The website states that there will be "same day delivery" and "now serves nationwide". It further states that the "brand has expanded through the home counties". However, the applicant has informed residents on the estate by a recent email that it is small seasonal business involving no machinery with collections by DHL or parcel force.

Companies House

A3

Companies House does not verify the accuracy of the information filed
<http://resources.companieshouse.gov.uk/serviceInformation.shtml#compInfo>

①

PRIMADELL LIMITED

Company number 03436015

- [Officers](#)
- [Persons with significant control \(https://beta.companieshouse.gov.uk/company/03436015/persons-with-significant-control\)](https://beta.companieshouse.gov.uk/company/03436015/persons-with-significant-control)

Filter officers

Current officers

Apply filter

11 officers / 9 resignations

COSTA, Monica

Correspondence address

Role Active **Secretary**

Appointed on 30 October 2010

MOSCARELLO, Marcello

Correspondence address

Role Active **Director**

Date of birth

Appointed on 2 July 2001

Nationality

Country of residence **England**

Occupation **Director**

COSTA, Christina

Correspondence address

Role Resigned **Secretary**

Appointed on 2 July 2001

Resigned on 30 November 2010

SCALZO, Enzo Luigi

Correspondence address

Role Resigned **Secretary**

Appointed on 30 September 1997

Resigned on 13 October 1997

SCALZO, Nicola Domenica

Correspondence address

Role Resigned Secretary

Appointed on 17 October 1997

Resigned on 2 July 2001

TEMPLE SECRETARIES LIMITED

Correspondence address

Role Resigned Nominee Secretary

Appointed on 18 September 1997

Resigned on 30 September 1997

COSTA, Marco Roberto

Correspondence address

Role Resigned Director

Date of birth

Appointed on 2 July 2001

Resigned on 30 October 2010

Nationality

Country of residence United Kingdom

Occupation Company Director

SCALZO, Christopher Mark

Correspondence address

Role Resigned Director

Date of birth

Appointed on 30 September 1997

Resigned on 2 July 2001

Nationality

Occupation Film Industry Clerk

SCALZO, Enzo Luigi

Correspondence address

Role Resigned Director

Date of birth

Appointed on 13 October 1997

Resigned on 2 July 2001

Nationality

Occupation Caterer

SCALZO, Nicola Domenica

Correspondence address

Role Resigned Director

A-3

0

A3

Date of birth

Appointed on 30 September 1997

Signed on 13 October 1997

Nationality

Occupation Banker

COMPANY DIRECTORS LIMITED

Correspondence address

Role Resigned Nominee Director

Appointed on 18 September 1997

Resigned on 30 September 1997

Tell us what you think of this service(link opens a new window) (<https://www.research.net/r/S78XJMV>) Is there anything wrong with this page?(link opens a new window) (<https://beta.companieshouse.gov.uk/help/feedback?sourceurl=https://find-and-update.company-information.service.gov.uk/company/03436015/officers>)

Companies House

A3
② 0

Companies House does not verify the accuracy of the information filed
(<http://resources.companieshouse.gov.uk/serviceInformation.shtml#compInfo>)

T.M HOSPITALITY TRADING LTD

Company number 12025699

- [Officers](#)
- [Persons with significant control \(https://beta.companieshouse.gov.uk/company/12025699/persons-with-significant-control\)](https://beta.companieshouse.gov.uk/company/12025699/persons-with-significant-control)

Filter officers

Current officers

Apply filter

2 officers / 0 resignations

MOSCARELLO, Marcello

Correspondence address

Role Active **Director**

Date of birth

Appointed on **31 May 2019**

Nationality

Country of residence **United Kingdom**

Occupation **Company Director**

PARASCHIV, Nicusor

Correspondence address

Role Active **Director**

Date of birth

Appointed on **9 March 2020**

Nationality

Country of residence **England**

Occupation **Company Director**

[Tell us what you think of this service\(link opens a new window\)\(https://www.research.net/r/S78XJMV\)](https://www.research.net/r/S78XJMV) [Is there anything wrong with this page?\(link opens a new window\)\(https://beta.companieshouse.gov.uk/help/feedback?sourceurl=https://find-and-update.company-information.service.gov.uk/company/12025699/officers\)](https://beta.companieshouse.gov.uk/help/feedback?sourceurl=https://find-and-update.company-information.service.gov.uk/company/12025699/officers)

Companies House

A3

(3)

Companies House does not verify the accuracy of the information filed
(<http://resources.companieshouse.gov.uk/serviceInformation.shtml#complInfo>)

GRAN CAFFE LONDRA LIMITED

Company number 07294658

- [Officers](#)
- [Persons with significant control \(https://beta.companieshouse.gov.uk/company/07294658/persons-with-significant-control\)](https://beta.companieshouse.gov.uk/company/07294658/persons-with-significant-control)

Filter officers



Current officers

Apply filter

2 officers / 0 resignations

MOSCARELLO, Monica

Correspondence address

Role Active **Secretary**

Appointed on 24 June 2010

MOSCARELLO, Marcello

Correspondence address

Role Active **Director**

Date of birth

Appointed on 24 June 2010

Nationality

Country of residence **England**

Occupation **Director**

[Tell us what you think of this service \(link opens a new window\) \(https://www.research.net/r/S78XJMV\)](https://www.research.net/r/S78XJMV) [Is there anything wrong with this page? \(link opens a new window\) \(https://beta.companieshouse.gov.uk/help/feedback?sourceurl=https://find-and-update.company-information.service.gov.uk/company/07294658/officers\)](https://beta.companieshouse.gov.uk/help/feedback?sourceurl=https://find-and-update.company-information.service.gov.uk/company/07294658/officers)

MAISON SAGNE LIMITED (05954806)

Company status **Dissolved**

Correspondence address **Merryn, The South Border, Purley, Surrey, CR8 3LD**

Role **Secretary**

Appointed on **3 October 2006**

Nationality

TMC FILMS LIMITED (05282393)

Company status **Dissolved**

Correspondence address **Merryn, The South Border, Purley, Surrey, CR8 3LD**

Role **Secretary**

Appointed on **10 November 2004**

Nationality

Occupation **Director**

TMC FILMS LIMITED (05282393)

Company status **Dissolved**

Correspondence address **Merryn, The South Border, Purley, Surrey, CR8 3LD**

Role **Director**

Appointed on **10 November 2004**

Nationality

Country of residence **England**

Occupation **Director**

PRIMADELL LIMITED (03436015)

Company status **Liquidation**

Correspondence address

Role **Director**

Appointed on **2 July 2001**

Nationality

Country of residence **England**

Occupation **Director**

MOSCOS LIMITED (03508543)

Company status **Dissolved**

Correspondence address **Merryn, The South Border, Purley, Surrey, CR8 3LD**

Role **Director**

Appointed on **11 February 1998**

Nationality

Country of residence **England**

Occupation **Business Executive**



Companies House

A3

Companies House does not verify the accuracy of the information filed
(<http://resources.companieshouse.gov.uk/serviceInformation.shtml#compInfo>)

4

Marcello MOSCARELLO

Filter appointments

Current appointments

Apply filter

Total number of appointments 12

Date of birth

GRAN CAFFE LONDRA LIMITED (07294658)

Company status Active

Correspondence address

Role Active Director

Appointed on 24 June 2010

Nationality

Country of residence England

Occupation Director

MONEMI LIMITED (06514012)

Company status Dissolved

Correspondence address Merryn, The South Border, Purley, Surrey, CR8 3LD

Role Director

Appointed on 26 February 2008

Nationality

Country of residence England

Occupation Director

MAISON SAGNE LIMITED (05954806)

Company status Dissolved

Correspondence address Merryn, The South Border, Purley, Surrey, CR8 3LD

Role Director

Appointed on 3 October 2006

Nationality

Country of residence England

Occupation Director

A3



GRAN MODO LIMITED (08030243)

Company status **Active**
Correspondence address
Role Resigned **Director**
Appointed on **29 January 2019**
Resigned on **5 March 2019**
Nationality
Country of residence **England**
Occupation **Director**

CAFFE MODO LIMITED (08030241)

Company status **Dissolved**
Correspondence address **Merryn, South Border, Purley, England, CR8 3LD**
Role Resigned **Director**
Appointed on **13 April 2012**
Resigned on **6 September 2018**
Nationality
Country of residence **England**
Occupation **Director**

GRAN MODO LIMITED (08030243)

Company status **Active**
Correspondence address **Merryn, South Border, Purley, England, CR8 3LD**
Role Resigned **Director**
Appointed on **13 April 2012**
Resigned on **26 January 2013**
Nationality
Country of residence **England**
Occupation **Director**

CAPITAL WOOD COMPANY LIMITED (05007090)

Company status **Dissolved**
Correspondence address **Merryn, The South Border, Purley, Surrey, CR8 3LD**
Role Resigned **Director**
Appointed on **6 January 2004**
Resigned on **21 September 2007**
Nationality
Country of residence **England**
Occupation **Director**

[Tell us what you think of this service\(link opens a new window\)](https://www.research.net/r/S78XJMV), https://beta.companieshouse.gov.uk/help/feedback?sourceurl=https://find-and-update.company-information.service.gov.uk/officers/G_C2StWas4uVeQqKiz0_zHwu8v4/appointments [Is there anything wrong with this page?\(link opens a new window\)](https://find-and-update.company-information.service.gov.uk/officers/G_C2StWas4uVeQqKiz0_zHwu8v4/appointments)

The Royal Borough of Kensington and Chelsea
Decision of the Licensing Sub-Committee ("Committee")
7th March 2019

Kitchen and Pantry, 14 Elgin Crescent, W11 2HZ ("the Premises")

The Committee has considered an application for the grant of a premises licence under the Licensing Act 2003.

The Committee has considered the committee papers and the submissions made by all parties, both orally and in writing. **In summary, the Committee has decided, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives : -**

1. To grant the application for a premises licence for the sale by retail of alcohol for consumption on the Premises as follows:-

Monday – Saturday from 10:00 until 23:00
Sunday from 10:00 until 22:00

2. The opening hours of the Premises are as follows:-

Monday – Saturday from 08:00 until 23:30
Sunday from 08:00 until 22:30

3. The licence is subject to any mandatory conditions.

The licence is subject to the further conditions set out below.

The following conditions were offered by the Applicant in the Operating Schedule and proposed by Environmental Health (as amended during the hearing):-

- (1) Alcohol for consumption on the Premises shall not be sold on the premises otherwise than to persons seated at the tables, taking food there by waiter / waitress service and for consumption by such a person as ancillary to food which after 20:00 hours must be a substantial meal only.
- (2) On the Sunday and Monday of the Notting Hill Carnival the premises shall be closed.

The following conditions were proposed by Environmental Health and agreed by the Applicant (with amendments made by the Committee as discussed at the Hearing):-

1. The premises shall close, and all patrons to have left the premises, no later than 30 minutes after the end of the permitted hours for sale by retail of alcohol on the premises.
2. Rubbish including bottles or cans shall not be deposited outside the Premises between 23:00 hours and 07:00 hours the following day.
3. Refuse collections shall not take place between 23:00 hours and 07:00 hours the following day.
4. The external doors and windows of the Premises shall be kept closed after 20:00 hours except for immediate access and egress.
5. A litter sweep shall be carried out in the immediate vicinity of the Premises after the Premises closes to the public.
6. The forecourt and the pavement immediately outside the Premises shall be kept in a clean condition and clear of any grease or other stains caused by the operation of the Premises to the satisfaction of the Council's Director of Environmental Health.

The following conditions were imposed by the Committee

7. A maximum of 96 people including staff and performers shall be present on the Premises and forecourt at any one time.
8. A minimum of 7 members of staff shall be on duty in the Premises from 20:00 until the Premises close to the public.
9. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them, or obstruct the highway.
10. No alcohol shall be taken from the Premises in an open container.
11. All members of staff, who sell alcohol both initially and on an ongoing basis, must be properly trained to understand their responsibilities in relation to the current licensing legislation and the conditions on the premises licence. A record shall be kept both of the training given to staff members and an acknowledgement kept that staff members have been so trained, which shall be available for inspection by the Licensing Authority and the Police.

Procedural matters

12. The Chair of the Committee introduced the Members of the Committee who all confirmed that they had no declarations of interests.
13. The evidence before the Committee was comprised in the Report by the Director for Environmental Health (pp. 1-79).

14. The applicant, Delish by Linda Ltd was represented by Adriatik Munishi, Director, Tony Garwood, Advisor and Marcello Moscarello (the proposed Designated Premises Supervisor).
15. Keith Mehaffy, Senior Environmental Health Officer represented Environmental Health.
16. The Objectors, attending the hearing, were Councillor Nadia Nail, Althea Bunce, Roxanne Besse, Rebekah Danatanas and Mr Patel. There were 8 other representations made opposing the application (thirteen in total).¹
17. Mr Munishi asked for permission to submit further documents. One document submitted was a letter dated 4th March 2019 sent to residents from Mr Munishi. There were no objections to this letter being admitted. The Committee agreed to the letter being admitted. The letter was a letter from Mr Munishi addressed "Dear Neighbour" which he sent to objectors inviting them to contact him or to meet with him to discuss the application for a premises licence. The Committee ensured that all parties had a copy of this letter in front of them.
18. Mr Munishi also asked for permission to submit a petition which he said had been signed by residents and customers in support of the application. Councillor Nail and Keith Mehaffy objected to this late introduction of evidence. The Committee agreed that this evidence should not be admitted as the parties have not had sufficient time to consider the details and validity of such a document.

Applicant Submissions

19. Mr Garwood opened by explaining that the application for the performance of live and recorded music was not to enable the premises have rock music but simply to have piano music playing on around 3 days of the week and possibly only every 3 to 4 weeks. This would just be light piano music as people are enjoying their food. It would not be amplified live music. There would be no loud bass or guitar music. The application for the licence to serve alcohol would be strictly by table service only. There would be no customers standing at the bar drinking. Customers would have to be seated with a meal and served food and drinks at the table.
20. Mr Moscarello confirmed that the premises could not operate simply as a coffee shop as it would not be able to make enough money in this way. However, they do not want to become a bar or a pub. They do not want to disturb their neighbours and appreciate that they are situated next to a church and a nursery. These neighbours would not be affected by the evening trade and the sale of alcohol would be controlled to ensure this. Mr Moscarello also explained an attempt to contact residents had been made by the letter dated 4th March 2019 although they did not realise that residents were communicating through Councillor Nail and then did not have time to arrange to meet with her before today.

¹ Appendix D, pages 26-46. Report by the Director for Environmental Health to the Licensing Sub-Committee on 7th March 2019.

21. Mr Moscarello acknowledged that many of the representations made by objectors are in relation to the potential for an increase in litter. He explained that the premises had been trying to deal with problem of people waiting at the bus stop just outside the premises leaving litter. Under the new license staff would control this better. People leave litter on tables when waiting for the bus and sitting at the tables. Beggars sit down all day leaving rubbish behind. It is difficult to stop this at the moment because the staff are working behind the counter.
22. In a response to a question by the Committee, Mr Moscarello stated that the premises would operate with around 60 covers and this included the tables and chairs outside. Mr Moscarello also acknowledged that the permit or license for tables and chairs outside was due for renewal in August 2019. It was noted that the permission for the use of tables and chairs ceased at 8:00 p.m. On further examination and in response to questions by the Committee, Mr Moscarello and Mr Garwood together concluded that the maximum number of people, including staff on the licensed premises and outside on the tables and chairs would be 96. Alcohol would not be served at any time to people sitting outside at the tables and on the chairs on the forecourt. There would be no takeaway food sold to customers by way of a delivery service.
23. The legal advisor to the Committee advised that the application for the premises licence included off sales of alcohol which, if granted, would allow for alcohol to be served to people sitting outside.
24. In response to a question by the Chair of the Committee Mr Moscarello then confirmed that there would not be any off sales of alcohol and so no off licence was being applied for. Alcohol would only be served, within the premises, with light food until 8pm and after 8pm served only with a substantial meal.
25. The legal advisor noted that the premises are located within the footprint area of the Notting Hill Carnival. If the licence holder proposed to operate during this time the Committee would need to consider any relevant conditions which may need to be placed on the licence.² Mr Garwood stated that the premises would be closed for business during the Notting Hill Carnival.
26. It was noted that Keith Mehaffy had proposed a condition on the licence that refuse collections should not take place between 23:00 hours and 07:00 hours the next day.³ This condition was proposed to prevent noise nuisance. Mr Garwood thought that compliance with this may depend on the Council or the private company used to take the rubbish away.
27. Keith Mehaffy proposed to the applicants that live and or recorded music played only as background music would not be a licensable activity if it was only played between 08:00 hours and 23:00 hours. The application was for live and recorded music to be played from 7:00 hours until 23:00 hours. Mr Mehaffy clarified that if the music was not going to be played at a level above normal conversation then

² Section 23. RBKC Statement of Licensing Policy, as amended May 2018.

³ pages 25. Report by the Director for Environmental Health to the Licensing Sub-Committee on 7th March 2019.

that would not be a concern for Environmental Health. Further, he stated, it was not a licensable activity which needed to be regulated.

28. Mr Garwood confirmed that there was no intention to have live or recorded music which would be played before 08:00 hours or that would be played at a level of sound over and above normal conversation. On this basis, Mr Garwood confirmed that this aspect of the application would now be withdrawn.
29. The objectors asked the applicant some further questions. Ms Danatanas was concerned about the tables and chairs and how these would be managed as it would be difficult to bring the chairs in at 8:00 p.m. when the restaurant was still occupied inside. The applicant explained that the chairs can be turned upside down to be made unusable.
30. Councillor Nail asked how the applicant would monitor alcohol and anti-social behaviour. Mr Moscarello stated that alcohol would only be served with food and if management see a person who is drunk they will stop serving alcohol to that person. Mr Garwood stated that is the law and that they cannot serve drunk people. Mr Moscarello said this is not a place where people come in just for drinks only. Mr Garwood added that he supports the Pub Watch scheme and is currently looking for a scheme to join which is being brought into different areas. If any there are any reported incidents involving violence, drugs or if the licensee feels they need to bar someone, then they can bar them from all licensed places in the area.
31. Councillor Nail asked how the applicant is going to control anti-social behaviour outside. Mr Moscarello replied they would call the police.
32. Ms Danatanas stated it was unclear what the applicant intended the premises to be and that the proposal appears to be a bar with live music, totally changing the current function. Mr Moscarello stated it is to be an all-day dining and coffee shop with breakfast, lunch, afternoon tea, dinner and alcohol to be served with food.
33. Mr Patel asked how the applicant knows if someone is drunk. Mr Moscarello stated that he could tell if someone is drunk. Mr Patel also asked how he would manage smokers outside. Mr Moscarello there would be an ash tray on each table.

Environmental Health Submissions

34. Mr Mehaffy was aware that the premises had been operating as a restaurant for some years but only till 8 pm. Mr Mehaffy appreciated that the applicant had today confirmed that the application for live music was now withdrawn. Provided the playing of music was kept to a background level it would not be a problem. Mr Mehaffy's concern was how residents nearby would be affected after 8:00 p.m. It was noted that there would be no-one sitting outside after 8:00 p.m. The potential for any noise nuisance would be internalised from 8pm. It would benefit residents if the premises were required to close the doors and windows as conditions on the licence.

35. Mr Mehaffy went onto address concerns for the potential of noise nuisance occurring by activities outside of the premises. Mr Mehaffy was concerned about people smoking outside premises. He added that his main concern related to deliveries and collections to and from the premises. This concern was especially in respect of the depositing and collection of glass bottles or cans due to the noise. This can be a very noisy operation and would disturb residents. Mr Mehaffy proposed licence conditions of bottles and cans not being deposited or collected between 11pm and 7am the next day.
36. Mr Mehaffy concluded by expressing the view that the applicant would benefit by building a better relationship with residents. Mr Mehaffy was encouraged by the intention expressed by the applicant to join Pub Watch, which he said was a good incentive.

Objector Submissions

37. Councillor Nail stated that the premises are in a residential area. There is a flat upstairs, above the premises and a convenience shop next door. There are real concerns from residents, businesses, St. Peters Children Nursery and church and this licensing application does not meet the licensing objectives. The application should be rejected on the grounds of public nuisance. Sale of alcohol would result in concerns for public safety including the children going to nursery. There would be lots of people congregating outside the area, smoking and standing around. We feel it would be completely inappropriate to grant the application. The most important thing is for residents is to have peace and quiet and enjoy their businesses. Councillor Nail stressed they are not against businesses.
38. Mrs Bunce, lives in Kensington Park Road and is concerned about another alcohol license being granted in that area and about the management of the premises. Mrs Bunce stated that the way the application had been made, the applicant appeared to be making things up as they went along, and this had not left her with confidence in terms addressing concerns of residents.
39. Ms Besse stated that more restaurants trading at 11pm would exacerbate parking issues.
40. Mrs Danatanas stated her view that the applicant was not clear of the business model. Mrs Danatanas is particularly concerned about smokers outside, parking, crime and disorder. In the summer windows will be kept open making more noise and disturbance to people trying to get to sleep. Conditions applied to the licence are a good step forward, but Mrs Danatanas is still concerned.
41. Mr Patel stated that the points already made by the objectors were good ones. The concern of Mr Patel, from the standpoint of the business next door, is that the mood of the area would be changed if the license is granted.
42. Before closing the hearing, the Chair of the Committee asked the applicants if they would volunteer to conditions to keep the outside of the premises clear of litter and to keep the forecourt clean. Mr Moscarello confirmed they would do so.

Reasons

43. In making its decision the Committee has taken into consideration all relevant sections of its Statement of Licensing Policy ("SLP") and the Guidance. The Committee considers the following paragraphs of the Guidance and its SLP are particularly important, but it should be emphasised this is not an exhaustive list as the Committee has considered all relevant provisions of both documents. Relevant paragraphs are: - 1.9, 1.11, 1.12, 1.16, 1.17, 1.19, 2.1 – 2.10, 2.15 – 2.31, 3.11, 8.38 - 8.40, 8.41 - 8.47, 9.14 - 9.17, 9.26 - 9.30, 9.33, 9.37 - 9.40, 10.10, 10.13 - 10.15, 13.10, 14.10, 14.12, 14.13, 14.51-14.52, 16.5 and 16.6 of the Guidance and paragraphs 2.1, 2.4, 2.5, 2.7, 3.9, 6.1 – 6.3, 13.1 – 13.5 and 14.3 – 14.7 of the SLP.
44. The Committee considered all the representations made at the hearing and all of those made in writing by those people who did not attend the hearing. The most serious concerns raised related to the prospect of the venue becoming a live music bar with outdoor drinking. The Committee agreed that this was a scenario which would bring an increase in the potential for a high level of disturbance to residents in the immediate area. The Committee agreed that these concerns were valid particularly as the premises are situated in a residential area, near to a church and a nursery.
45. The Committee acknowledged that the applicants do not want to disturb their neighbours and welcomed the application for regulated live and recorded music being withdrawn. The Committee also welcomed confirmation from the applicant that there would be no off sales of alcohol. As the tables and chairs on the forecourt of the premises are not within the curtilage of the licensed premises this means that alcohol will not be served to customers sitting outside on the forecourt near the pavement and bus stop. The applicant understood this and withdrew the application for off-sales of alcohol.
46. In considering these concessions made the Committee was inclined to grant the application. The Committee felt reassured that the consumption of alcohol would be contained within the premises. It was important that the doors and windows be kept closed after 8:00 p.m. to contain the noise from within the premises. The applicant had been responsive to suggestions made and was prepared to amend the application.
47. However, the Committee felt that the concerns about litter in the immediate vicinity of the premises needed to be addressed. The committee felt it was appropriate for there to be a condition on the licence for a litter sweep to be carried out after the Premises closes to the public. The forecourt and pavement should also be kept clean. The Applicant agreed to these conditions being placed on the licence.
48. The Committee agreed entirely with Mr Mehaffy that there was a potential noise nuisance to residents when glass bottles and cans are deposited or collected. The Committee agreed that licence conditions of bottles and cans not being deposited or collected between 11pm and 7am the next day were appropriate due to the location of the premises.

A3
0

49. The Committee felt it was important to limit the number of people on the premises to the number of people that can sit down to receive food. It was important that the restaurant does not become a drinking bar and a limit on the capacity would assist in doing this. Customers must not be allowed to temporarily leave the premises (e.g. to smoke) taking drinks or glass containers outside. After 8:00 p.m. it was important to have a minimum of 7 members of staff to provide adequate management of the premises as management of these conditions could become more demanding after that time and the potential risk of noise nuisance to neighbours would increase.
50. The Committee also considered that the applicants do not have relevant experience in managing a licensed premise but appeared to be flexible and willing to learn. For the premises to operate successfully within the terms and conditions of this licence it was particularly important that all members of staff have suitable training. This training is needed in respect of obtaining an understanding of the licensing legislation and the conditions being placed on this licence.

Conclusions

51. The Committee considered that all the conditions added to the licence are appropriate and proportionate to promote the licensing objectives and to address the representations made.
52. For the reasons stated above the Committee decided to grant the application for a premises licence and attach the conditions specified in this Decision.
53. This licence becomes operational with immediate effect. If problems are experienced, then an application for a review of the premises licence can be made. If any of the parties are unhappy with the decision, they are entitled to appeal to the magistrates' court within 21 days from the date of notification of the full decision.

6 A3

APPENDIX D1

Environment, Leisure and Residents Services
Council Offices, 37 Pembroke Road, London. W8 6PW

Bi-Borough Executive Director for Environment, Leisure and Residents Services
Lyn Carpenter

Bi-Borough Director for Cleaner, Greener and Cultural Services
Sue Harris

The Manager
Kitchen & Pantry
14 Elgin Crescent
London
W11 2HZ



22 April, 2013

Our reference: TBLCH/12/111683
Please ask for: Neil Bates

Written Confirmation of Verbal Warning

**The Highways Act 1980 - Section 115K
Consent to Place Tables and Chairs on the Highway**

Please accept this letter as confirmation of the verbal warning given on **22 Apr, 2013** by **Neil Bates** concerning the breach of conditions (shown below) in relation to the consent, issued by this authority, to place tables and chairs outside your business.

Conditions Breached on 20 & 21 April, 2013:

**more tables and chairs than licensed
other items not licensed (5' advertising board, stools)**

You are required to comply with the conditions of the consent to place tables and chairs upon the highway. Further breaches of these conditions will result in more stringent action and may lead to the removal of your consent.

I trust you will give this matter your urgent attention. If you wish to discuss this matter further, please contact the officer shown above.

Yours faithfully,

Kenneth Thompson
Contracts and Enforcement Area Manager

7

A-D

APPENDIX D2

Environment, Leisure and Residents Services
Council Offices, 37 Pembroke Road, London. W8 6PW

Bi-Borough Executive Director for Environment, Leisure and Residents Services
Lyn Carpenter

Bi-Borough Director for Cleaner, Greener and Cultural Services
Sue Harris

The Manager
Kitchen & Pantry
14 Elgin Crescent
London
W11 2HZ



2 May, 2013

Our reference: TBLCH/12/111683
Please ask for: Neil Bates

Written Warning

**The Highways Act 1980 – Section 115K
Consent to Place Tables and Chairs on the Highway**

Further to being verbally warned on 22 Apr 2013, which was confirmed in writing to you on 22 Apr 2013, it was found that on 02 May 2013, your premises committed a further breach of the conditions relating to the placing of tables and chairs on the highway, as detailed below:

- Not configured as per plan**
- More tables and chairs than licensed**
- Other items not licensed**

Therefore a formal written warning is being issued to you. You are required to fully comply with the conditions of your consent forthwith. Any further breaches of your conditions will result in your consent being reviewed by the Regulation and Enforcement Sub-committee where your consent could be withdrawn

I trust that you will give this matter your urgent attention.

Yours faithfully,

Kenneth Thompson
Contracts and Enforcement Area Manager

Waste Management and Leisure Enforcement Process for Enforcing conditions in Tables and Chairs Licensing

1. Breaches of the Licence Conditions - if the Sub-Committee is minded to approve the application and authorise that a licence be issued, the Council's Waste Management and Leisure Enforcement Officers would closely monitor the situation and there is a clear and defined process as far as enforcement action is concerned.
2. Verbal Warning - If Enforcement Officers notice that there are breaches of the conditions of the licence, the matter would be formally brought to the attention of the premises in the normal way with a verbal warning advising that the licence conditions have been breached and requesting that remedial action be taken immediately. A letter would also be sent to the premises confirming the verbal warning. This approach would accord with the Council's commitment to the principles in the Good Enforcement Concordat.
3. Written Warning - If remedial action is not taken immediately, Enforcement Officers will issue a formal written warning to the premises that the licence conditions have been breached and that the requested remedial action in the verbal warning had not been carried out. Enforcement Officers will verbally advise the owner that a formal written warning would be sent.
4. Reporting breaches to the Regulation and Enforcement Review Committee or Sub-Committee - The head of Waste and Street Enforcement and his Enforcement Officers will liaise with the Director of Transportation and Highways on any breaches of licence conditions. If there are any further breaches of a licence, following the written warning, the Director of Transportation and Highways would report them to the next Regulation and Enforcement Review Committee or Sub-Committee for review of the licence.
5. Withdrawal of the Licence - Should the Committee decide to withdraw the licence, the applicant will be given seven days' notice in writing. Upon withdrawal of the consent the applicant shall remove the amenities from the public highway and, in default, the Council may remove the amenities and recover from the applicant its costs in so doing.