

BEFORE A LICENSING SUB-COMMITTEE OF

LONDON BOROUGH OF HACKNEY

The Premises at

Railway Arch 322, Andrews Road, London, E8 4RP

SUMMARY OF PREMISES LICENCE APPLICANT'S SUBMISSIONS

v.03.02.2023

1. This is an application for a new premises licence, to enable the sale of alcohol to take

place in a premises trading as a Delicatessan shop, and café /bar, therefore allowing

the sale of alcohol for both on and off the premises.

2. The application also seeks the provison of Regulated Entertainment to be granted

along with Late Night Refreshment for the hours the premises is to remain open

beyond 23:00. This permission was originally sought for every day of the week, but as

you will see from these submissions, that a reduction in the trading hours have been

agreed and so these permissions are only to apply on Friday Saturday and Sunday.

Full detail of the changes and new hours are set out in detail within these submissions.

3. The premises is mainly food led for both on and off sales, with alcohol sales ancillary

to the main food.

4. One Vyner Street Ltd, is to be the premises licence holder. The companies registered

address is listed as 1 Vyner Street, London, England, E2 9DG, and the business has

been operational since 2011. There are three listed directors of the company, namely

Ibrahim Mitshel Matahat, Paolo Mozzato, and Stephen Sinclair.

5. The DPS of the premises is to be Stephen Sinclair, one of the Directors of 1 Vyner

Street Ltd

6. The premises is to trade as a mixed use delicatessen, café/ bar, allowing customers to

purchase goods to consume both on and off the premises. They are also seeking to

make use of two small outside areas for the use of their customers during certain

times.

7. In addition the applicant has also requested permission to hold events at the premises on an ad hoc infrequent basis. These events are culturally based,

and would comprise of educational talks on various subjects, book signings etc. The premises will not and cannot operate as a club, (see proposed conditions). It is for the purpose of the events that the premises is seeking to utilise the later hours applied for.

8. The application initially received three objections from the responsible authorities, namely the Licensing Authority, the Police and the Environmental Health Authority.

9. The application also received a number of objections from interested parties, who are mainly residents from the accommodation near to the premises.

10. It would be helpful at this stage to list the conditions that were offered in the original application to ensure the Licensing Objectives are fully promoted. These conditions are as follows:

11. Conditions offered in the operating schedule of the application:

a) The premises will operate to a high standard, and will do so should this licence be granted in terms of the sale of alcohol. All staff will be fully trained on induction in their responsibilities with regard to the sale of alcohol, and will be retrained every six months, with recorded training records kept for inspection.

b) Training to Include:

preventing underage sales of alcohol

preventing proxy sales of alcohol to underage persons

preventing sales of alcohol to a person who is drunk

- c) The premises will close 30 minutes after the licensing activities have ceased, to

allow customers to finish their drinks and food and leave in a quiet and orderly

manner

- d) The premises shall install and maintain a comprehensive CCTV system.

every All entry and exit points will be covered enabling frontal identification of

person entering in any light condition.

- e) The CCTV system shall continually record whilst the premises is open for

licensable activities and during all times when customers remain on the premises

and will include the external area immediately outside the premises entrance.

- f) All recordings shall be stored for a minimum period of 31 days with date and time

stamping.

- g) Viewing of recordings shall be made available immediately upon the request of

Police or authorised officer throughout the entire 31-day period.

- h) A staff member from the premises who is conversant with the operation of the

CCTV system shall be on the premises at all times when the premises is open.

This staff member must be able to provide a Police or authorised council officer

copies of recent CCTV images or data with the absolute minimum of delay when

requested.

- i) An incident log shall be kept at the premises, and made available on request to an

authorised officer of the Council or the Police. It must be completed within 24

hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

- j) The approved arrangements at the premises, including means of escape

provisions, emergency warning equipment, the electrical installation and

mechanical equipment, shall at all material times be maintained in good condition

and full working order.

- k) The means of escape provided for the premises shall be maintained unobstructed,

free of trip hazards, be immediately available and clearly identified in accordance

with the plans provided
- l) All emergency exit doors shall be available at all material times without the use of

a key, code, card or similar means.
- m) All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
- n) No noise generated on the premises, or by its associated plant or equipment, shall

emanate from the premises nor vibration be transmitted through the structure of

the premises which gives rise to a nuisance.
- o) Notices shall be prominently displayed at all exits requesting patrons to respect

the needs of local residents and businesses and leave the area quietly
- p) Notices shall be prominently displayed at any area used for smoking requesting

patrons to respect the needs of local residents and use the area quietly.
- q) All waste shall be properly presented and placed out for collection no earlier than

30 minutes before the scheduled collection times

r) No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (08.00) hours on the following day

s) A Challenge 25 proof of age scheme shall be operated at the premises where the

only acceptable forms of identification are recognised photographic identification

cards, such as a driving licence, passport or proof of age card, or Military ID with

the PASS Hologram.

t) A record shall be kept detailing all refused sales of alcohol. The record should

include the date and time of the refused sale and the name of the member of staff

who refused the sale. The record shall be available for inspection at the premises

by the police or an authorised officer of the Council at all times whilst the premises is open.

12. As you can see from the above, we have a number of robust, responsible conditions which will ensure that the licensing objectives are not undermined in any way by the grant of this application.

13. None of these conditions have been added since the application was submitted, and have been available to view on the council website since the 10th December 2022.

14. However, as mentioned we still received three responsible authority objections, namely from the Licensing Authority, the Police, and the Environmental Health Officer. As a result a site visit took place on the 25th January with the Police and Licensing Authority, where a number of additional conditions were agreed.

15. The additional conditions agreed are as follows:

a). Hours of operation:

The applicant has agreed the hours from Monday to Thursday to be:

08:00 to 23:00, with the premises to close at 23:30.

Friday and Saturday to be:

08:00 to 01:00, with the premises to close at 01:30

And Sunday:

10:00 to 00:00 with the premises to close at 00:30.

b). As far as the two outside areas are concerned, we agreed the following hours:

The side area to be:

08:00 to 22:00 Monday to Saturday and

10:00 to 22:00 on Sundays.

The area immediately outside the front entrance to be:

Monday to Thursday:	08:00 22:00
Friday and Saturday	08:00 to 23:00
Sunday	10:00 to 22:00

c). Due to the hours above I have included a dispersal policy for the business. (see attached).

d). No more than 5 customers at any one time to use the designated smoking area outside the

premises once the outside areas are closed to the public.

e). All alcohol to be served to customers sat at tables.

f). All alcohol to be via water/ waitress service.

g). Events will be of cultural nature, such as educational talks, presentations etc.

h). The premises cannot operate as a bar.

i). The premises cannot operate as a club.

j). Signage to be displayed outside reminding customers to have respect for neighbouring

properties when using the outside areas.

k). The business is to be food led.

l). On a yearly basis all staff shall be given refresher training on the legislation relating to

sales of alcohol to underage persons, drunken persons and how to deal with people

incapacitated by drink or drugs. Such training shall include first aid and any welfare

training such as WAVE (or as amended). Records of the training to be kept at the

venue and made available to police or authorised officer immediately upon request.

Any new staff will be trained on appointment.

16. The applicant also agreed a number of additional conditions with the Environmental

Health Officer.

These are:

a). The Licensee shall ensure that all relevant staff are fully trained and made aware of

the legal requirement of businesses to comply with their responsibility as regards the disposal of waste produced from the business premises. The procedure for handling and preparing for disposal of the waste shall be in writing and displayed in a prominent place where it can be referred to at all times by staff.

b). The Licensee shall ensure that any contract for general and recyclable waste disposal shall be appropriate in size to the amount of waste produced by the business.

c). The Licensee shall maintain an adequate supply of waste receptacles provided by his

registered waste carrier (refuse sacks or commercial waste bins) in order to ensure all

refuse emanating from the business is always presented for collection by his waste

carrier and shall not use any plain black or unidentifiable refuse sacks or any other

unidentifiable or unmarked waste receptacles.

d). In order to minimise the amount of time any waste remains on the public highway in

readiness for collection, the Licensee will ensure the timeframe within which it may expect its waste carrier to collect is adhered to.

e). The Licensee shall instruct members of staff to make regular checks of the area

immediately outside the premises and remove any litter, bottles and glasses

emanating from the premises. A final check should be made at close of business.

f). The Licensee shall provide a safe receptacle for cigarette ends to be placed outside for

the use of customers, such receptacles being carefully placed so as not to cause an

obstruction or trip.

g) The current trade waste agreement/duty of care waste transfer document shall be

conspicuously displayed and maintained in the window of the premises where

it can be conveniently seen and read by persons standing in Railway Arch

322.

This should remain unobstructed at all times and should clearly identify:-

the name of the registered waste carrier
the date of commencement of trade waste contract
the date of expiry of trade waste contract
the days and times of collection
the type of waste including the European Waste Code.

17. As a result the Environmental Health Officer has now withdrawn their representation.

18. The Police have also agreed to withdraw their representation.

19. The Licensing Authority have maintained their representation due to the requested

hours falling outside the Licensing Policy Framework Hours.

20. We are therefore left with the representations from the interested parties, who are

largely local residents residing near to the proposed premises.

21. The representations focus on the following concerns:

- 1. The requested hours of operation are a problem. Too late in the evening, leading to public nuisance issues.**
- 2. A concern over off sales being available until 01:30 am.**
- 3. Objections to the use of the outside space, due to the potential for public nuisance by way of noise.**

4. **The grant of Regulated Entertainment by way of live and recorded music is a problem due to the potential of public nuisance by way of noise.**
5. **The provision of live and recorded music to be available in the outside space.**
6. **The use of the premises for many large events, whether in house or via third parties.**
7. **Concerns over the dispersal of customers at the end of the evening.**
8. **There are already three other licensed venues in the near vicinity.**
9. **There is a fire risk.**

22. In response to the above the applicant would say this:

a). The requested hours of operation are a problem. Too late in the evening, leading to public nuisance issues:

After extensive consultation with the Licensing Authority and the Police, the applicant has taken note of the concerns that have been raised in relation to the proposed hours of trade, and have agreed to significantly modify the hours requested for licensable activity. As per 14 a) and b) above, the modified hours are now as follows:

a). Hours of operation:

The hours from Monday to Thursday to be:

08:00 to 23:00, with the premises to close at 23:30.

Friday and Saturday to be:

08:00 to 01:00, with the premises to close at 01:30

And Sunday:

10:00 to 00:00 with the premises to close at 00:30.

b). As far as the two outside areas are concerned, we agreed the following hours:

The side area to be:

08:00 to 22:00 Monday to Saturday and

10:00 to 22:00 on Sundays.

The area immediately outside the front entrance to be:

Monday to Thursday: 08:00 22:00

Friday and Saturday 08:00 to 23:00

Sunday 10:00 to 22:00

This is a significant reduction in the original hours proposed in the application, and are

now acceptable to the Police, and for a request for an exception to be made to the council

policy framework hours. The use of the outside areas will cease at 22:00 hours for most

days of the week, with only the area directly outside the front entrance to be permitted to

remain trading until 23:00 hours on Friday and Saturday nights. Both outside areas are

limited in space so therefore have limited capacities whilst open.

b). A concern over off sales being available until 01:30 am:

The premises will not trade as a typical off sales premises, such as a Convenience Store or Supermarket. The retail side of the business is a delicatessen and bakery. The premises also sells “natural wines”, and want the opportunity to offer, where demand dictates this range, along with a small selection of bottles beers, for customers to purchase and take home with them. This would also be applicable to customers who dine at the premises and consume a bottle of wine with their meal, who may also want to take another bottle home with them. For this to happen, off sales are required on the licence.

c). Objections to the use of the outside space, due to the potential for public nuisance by way of noise:

You will note from point a) above that the hours requested for the use of the outside space has now been dramatically reduced, with the majority of permitted hours to cease at 22:00. Given the location of the premises, (near to the railway line), the potential of public nuisance to be a factor over and above the normal background noise in the area at these times will be negligible. Space in both outside areas is limited, reducing the number of customers who may make use of this space. The only area to be utilised beyond 22:00 hours on Friday and Saturday, is the space outside the front of the premises, which is in full view of the staff within the premises, and also far enough away from nearby residential properties not to cause a noise nuisance. All patrons using any of the outside areas at any time of the day/evening will be monitored by staff. Any customer who does cause a nuisance in either of

these areas, by way of noise etc will be asked to leave the premises immediately. Further there are to be no speakers used for the outside areas, so no music, either live or recorded, (see point d) below) will be played in either of the outside areas.

d). The grant of Regulated Entertainment by way of live and recorded music is a

problem due to the potential of public nuisance by way of noise:

Given the way Regulated Entertainment is dealt with by the Licensing Act 2003, this issue only arises for the following times on the revised application:

Friday and Saturday 23:00 to 01:00 and

Sunday 23:00 to 00:00

Therefore Regulated Entertainment is required for 5 hours per week, given a licence for the sale of alcohol is granted. Any music, either recorded or live will only be used as to enhance the event that is taking place, such as the educational talks, book signings that have been mentioned earlier in these submissions. There are offered conditions that ensure these premises cannot be run as a bar, nor as a night club. The applicant has no intention of doing so, but possibly more importantly the residents have protection should the current applicants decide to sell the premises in the future. No prospective buyer would be able to run these premises as a bar or a club, as the licence currently stands. If this was their intention, then they would have to make an application to the council to have these conditions removed from the current licence, thus ensuring the future control of this licence remains with the council.

The conditions that ensure this is the case are shown above as:

14 h) and i)

h). The premises cannot operate as a bar.

i). The premises cannot operate as a club.

e). The provision of live and recorded music to be available in the outside space:

I refer to earlier answers given. There is to be no live or recorded music played outside.

f). The use of the premises for many large events, whether in house or via third parties:

The events that can be held at the premises are educational talks, book signings etc, and not music led events as highlighted by the objections. Indeed similar events that have been held at the applicants second venue have included the Mayor of Hackney as one of the guests. The applicant has been very clear on this point with the conditions they have agreed with the responsible authorities. These conditions specifically state the premises cannot operate as a bar, nor can it operate as a night club. The conditions go further to state the premises are food led. Alcohol, is ancillary to the main purpose of the premises which is food sales, both for the on and off sales element. The agreed conditions go further in confirming that all alcohol served on the premises will be by waiter or waitress service, and all alcohol is to be served to customers who are sat at tables. Any music at the premises, either live or

recorded, will be purely as ancillary to the event being held, as a way of enhancing the presentation that is taking place on a particular evening.

The relevant agreed conditions are as follows:

h). The premises cannot operate as a bar.

i). The premises cannot operate as a club.

e). All alcohol to be served to customers sat at tables.

f). All alcohol to be via water/ waitress service.

g). Events will be of cultural nature, such as educational talks, presentations etc.

k). The business is to be food led.

g). Concerns over the dispersal of customers at the end of the evening:

The applicant has provided a dispersal policy (attached), to show a clear policy on how they will deal with the quick and efficient dispersal of their customers at the end of the evening. The premises are not large, and therefore will have a limited capacity, due to the size of the venue. The maximum capacity based on the demand for a popular event would be set at 90, but this would only be during a well supported event, (example, architectural talk). Outside of events the attending numbers will be lower, (around 50 to 60). The dispersal policy will ensure these numbers of customers leave the premises quickly in an orderly manner. It is also not envisaged that all customers will leave the premises at the same time with a staggered dispersal taking place each night.

h). There are already three other licensed venues in the near vicinity.

The conditions offered in the original application, and the subsequent agreed conditions with the responsible authorities show that these premises will not add to the existing impact of anti social behaviour, and public nuisance which as been highlighted by the representations. The profile of the typical customer who is likely to attend the premises for the events described will not be your typical customer who is on a night out around various pubs. Outside of these events the premises will operate predominantly as a restaurant, with the conditions that have been offered. These premises will not add to the problems highlighted by the representations, should this licence be granted.

Further, need is not a consideration in determining a premises licence application.

i). There is a fire risk:

As the committee are well aware, one of the responsible authorities who receive a copy of the application are the fire authority. They, having considered the application have raised no concern re any fire risk to these premises should this licence be granted.

23. In addition to the above, should the business be sold in the future, any purchaser would have to operate under the same conditions on the licence as specified here, should this application be granted. So for example, should someone purchase these premises in the future with the intention of operating a bar, they would have to apply to the London Borough of Hackney to vary the licence, to have these conditions removed. At this point the authorities,

and potentially the Sub Committee would have the discretion on whether to grant or refuse the variation.

Therefore there is long term protection for the council with this application.

24. Summary:

The applicant has submitted a comprehensive operating schedule with a number of offered

robust conditions to ensure that none of the four Licensing Objectives are compromised in

any way.

As a result, the Police who are the main custodians of the Prevention of Crime and Disorder

objective support the application.

The Environmental Health Team, the main custodians of the Prevention of Public Nuisance

objective, also support the application.

We are left with an objection from the Licensing Authority, due to the fact that the amended

hours still fall outside of the framework hours for the council. The applicant believes that

this particular application shows an exception to the policy can be applied to this application

for the following reasons:

The application is food led.

The premises has a limited capacity

Events will be of a cultural/ educational nature.

Reduced trading hours agreed from the original application.

Clear dispersal policy in place.

All service by waiters or waitresses.

All customers to be seated in order to be served alcohol.

The late hour only to be used for organised events as described above.

It is clear that the country faces challenging times ahead. Many established businesses are

closing down, many jobs have been, and many more will be lost in the coming months to the

detriment of local communities and major cities alike. Here we have a business that, despite

the economic uncertainty, is willing to invest in the local area, and not only provide a service

for the local community, but also to provide local jobs for local people. No one can predict

with any certainty how long the country will suffer the current economic situation.

Businesses that are still willing to invest in the area in these difficult times are in need of

support and encouragement.

The propriety of taking into account the wider economic impact of licensing decisions was explicitly recognised by the Court of Appeal in the leading case of *Hope and Glory* [2011] EWCA Civ 31, when Toulson LJ observed [at 42]:

“Licensing decisions often involve weighing a variety of competing considerations: benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the

lives of those who live and work in the vicinity, and so on.”

For these reasons, the sub-committee is invited to grant this licence, with the additional conditions in these submissions to those originally offered in the operating schedule.

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09 February 2023