

Decisions of the Licensing Sub-Committee

8 March 2021

Members Present:-

Linda Freedman
Val Duschinsky

Barry Rawlings

Also in attendance

Apologies for Absence

1. **APPOINTMENT OF CHAIRMAN**

RESOLVED that Councillor Barry Rawlings be appointed Chairman for this Licensing Sub-Committee meeting.

2. **ABSENCE OF MEMBERS (IF ANY)**

None.

3. **DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)**

None.

4. **LICENSING SUB-COMMITTEE HEARING PROCEDURE**

The Chairman explained the procedure that would be followed for the meeting.

5. **REPORT OF TRADING STANDARDS & LICENSING MANAGER - TASTE OF VENEZUELA, 8 NETHERCOURT AVENUE LONDON N3 1PT**

The sub-committee considered an application for a New Premises Licence for **Taste of Venezuela, 8 Nethercourt Avenue, London, N3 1PT** ("the Premises").

6. **MOTION TO EXCLUDE THE PRESS AND PUBLIC**

RESOLVED that the parties be excluded from the meeting, together with the press and public, in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings and Regulations 2005).

Prior to exclusion, parties were notified that the decision of the Sub-Committee would be announced within 5 working days.

7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION

The Sub-Committee deliberated in private session, accompanied by the Officer from HB Public Law and the Governance Officer.

8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE

This is an application for a licence made under section 17 of the Licensing Act 2003 in relation to **Taste of Venezuela, 8 Nethercourt Avenue, London, N3 1PT** (“the Premises”).

The application is for the supply of alcohol for consumption off the premises from Monday to Sunday 10:00 hours to 18:00 hours.

Given the current COVID 19 pandemic, the licensing Sub-Committee was held by way of a virtual meeting using Microsoft Teams. Submissions were made by Mr Renzo Cafagna of Taste of Venezuela and South America Ltd, the Applicant company; Mr Zekiel Cudjoe for the Licensing Authority; and, Mr and Mrs Lewis who had made representations in opposition to the granting of the licence.

Representations were received from three other members of the Public. They did not attend the hearing. No representations were received from the Police due to the Applicant having agreed a number of conditions with them prior to the hearing.

Mr Cafagna submitted that all alcoholic products would be sold online, there would be no collections in person from the Premises and that the address of the Premises would not be disclosed. He explained that he was already making and selling food, but that this was done from a commercial kitchen in Central London and not in the Borough. Only a limited number of items were stored at the Premises. These were ingredients which were collected for delivery; customers did not attend to collect them in person.

In answer to questions, Mr Cafagna confirmed that his landlord was aware of the business he was running and was amenable to it. Mr Cafagna said his tenancy of the Premises would continue until August 2021, but was hopeful that it would be extended beyond this. He said he had been making some improvements to the Premises in the expectation that he would be able to stay for longer. Mr Cafagna also confirmed that he did not use the rear access to the Premises and had no intention of using it.

Mr Cafagna gave a slightly confusing answer about whether or not the Applicant company was live or dormant. He appeared to say that the company was live but also that he intended for the company to become live if the licence was granted.

Mr Cafagna explained that he was not expecting there to be more than 10 collections of alcohol from the Premises per week, and that he thought that there would not likely be more than 3 to 5. He said he had a driveway and that delivery drivers used that.

The Sub-Committee heard from Mr and Mrs Lewis. They explained that the rear access to the Premises was shared and was a right of way only. The right of way was only for

access to gardens and garages. As the Premises did not have a garage, they said Mr Cafagna should not be using it.

Mr and Mrs Lewis also explained that they considered Mr Cafagna's use of the Premises to be illegal. Mr Lewis read from the deeds about the type of business that could be run from the Premises and said that Mr Cafagna's use was a change of use for which planning permission was required.

It was further submitted that, in any event, Mr Cafagna did not have any sort of catering licence and was therefore not permitted to run a commercial kitchen in the Borough.

Mr and Mrs Lewis spoke at length about the nuisance they said was being caused by Mr Cafagna's two dogs which Mr and Mrs Lewis said were guard dogs and not family pets. It was said by Mr and Mrs Lewis that the dogs barked and whined for a large part of the day and were kept in a shed. Mr and Mrs Lewis said that they had called the RSPCA a number of times over their concerns for the welfare of the dogs but the RSPCA had not taken any action. Mr and Mrs Lewis said they feared the noise from the dogs would prevent them from using the garden in the summer. They said the dogs had barked for 7 hours on Sunday.

Mr and Mrs Lewis said that the number of deliveries and collections to the Premises were far higher than Mr Cafagna had claimed and that they had never seen delivery drivers use the driveway of the Premises. Mr and Mrs Lewis explained that there was pressure on parking on Nethercourt Avenue due to its proximity to the tube station and the deliveries and collections at the Premises were exacerbating this situation.

In response, Mr Cafagna said that the dogs were family pets and were not guard dogs or for breeding. He also said that he was applying to change the deeds to allow the use of the Premises for his business.

Mr and Mrs Lewis strongly urged the Sub-Committee not to grant the application and to refuse the request for a licence.

The Sub-Committee carefully considered all the arguments that they had heard, as well as the documents that they had read. The Sub-Committee resolved to grant the Application as sought.

While the Sub-Committee were concerned about the representations made by Mr & Mrs Lewis, the Sub-Committee noted that these were all concerns about things that were happening now, when the Premises had no licence. The Sub-Committee were not satisfied that there was any evidence that granting a licence would cause the licensing objectives to be undermined.

The Sub-Committee were also of the view that a number of issues raised by Mr and Mrs Lewis and the other members of the public who had made representations were not matters that could probably be considered by the Sub-Committee in an application of this nature.

For example, while the Sub-Committee had heard and read arguments relating to what was set out in the deeds of the Premises and whether or not there needed to be change of use, these were planning issues which the Licensing Sub-Committee could not determine. The Sub-Committee could only consider whether allowing the sale of alcohol for consumption off the Premises would cause the licensing objectives to be undermined.

The Sub-Committee were not without sympathy for Mr and Mrs Lewis, and their concerns about planning breaches and a precedent being set. However, these matters needed to be raised with the Council's planning department or planning enforcement team. The Sub-Committee considered that Mr and Mrs Lewis may wish to pursue this matter with them.

Parking is not a licensing consideration and in any event the Sub-Committee were not satisfied that the delivery or collection of items to the Premises would cause the licensing objectives to be undermined.

While Mr Cafagna's dogs were clearly a contentious issue there was again no evidence that any alleged nuisance that the dogs may have caused would have any impact on the licensing objectives. The Sub-Committee considered that if the dogs continued to cause an alleged nuisance then Mr and Mrs Lewis may wish to contact the Council's noise and nuisance team. They may also wish to contact their ward councillors for advice.

The licence is therefore granted as applied for and subject to the conditions agreed between the Police and the Applicant. The Sub-Committee impose no further conditions.

Right to Appeal

Any party aggrieved with the decision of the Licensing Panel on one or more grounds set out in schedule 5 of Licensing Act 2003 may appeal to the Magistrate's Court within 21 days of notification of this decision.

9. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT

None.

The meeting finished at Time Not Specified

(a) F
I
E
L
D
-
I
T
E
M
-
N
U
M
B
E
R

(b) F
I
E
L
D
-
I
T
E
M
-
N
U
M
B
E
R