

THE LONDON BOROUGH OF CAMDEN

At a hearing of **LICENSING PANEL E** held on **THURSDAY, 24TH NOVEMBER, 2022** at 10.00 am in a remote hearing held via Microsoft Teams.

MEMBERS OF THE PANEL PRESENT

Councillors Meric Apak, Richard Olszewski and Nanouche Umeadi

The minutes should be read in conjunction with the agenda for the hearing. They are subject to approval and signature at the next hearing of Licensing Panel E and any corrections approved at that hearing will be recorded in those minutes.

MINUTES

1. ELECTION OF CHAIR

The Principal Committee Officer opened the meeting and invited nominations for the election of Chair of the Licensing Panel.

RESOLVED –

THAT Councillor Meric Apak be elected Chair of the Panel for the 2022/23 municipal year.

2. GUIDANCE ON REMOTE HEARINGS HELD UNDER THE LICENSING ACT 2003 AND ASSOCIATED REGULATIONS

RESOLVED –

THAT the guidance on remote meetings be agreed.

3. APOLOGIES

There were no apologies.

4. DECLARATIONS BY MEMBERS OF STATUTORY DISCLOSABLE PECUNIARY INTERESTS, COMPULSORY REGISTERABLE NON-PECUNIARY INTERESTS AND VOLUNTARY REGISTERABLE NON-PECUNIARY INTERESTS IN MATTERS ON THIS AGENDA

There were no declarations of interest.

5. ANNOUNCEMENTS

Broadcast of the Meeting

The Chair made the following announcement: "In addition to the rights by law that the public and press had to record this meeting, he would like to remind everyone that this meeting was being recorded and broadcast live by the Council to the Internet and could be viewed on the Council's website for six months after the meeting. After that time, webcasts were archived and could be made available upon request.

If you had asked to address the meeting, you were deemed to be consenting to having your contributions recorded and broadcast, including video when switched on, and to the use of those sound recordings and images for webcasting and/or training purposes."

Request to defer item 9 Elysee Restaurant, 13 Percy St

The Legal Officer informed the Panel that the applicant for this item had requested an adjournment.

The Panel resolved to adjourn this item and the Chair confirmed that it would not be considered at today's hearing.

6. NOTIFICATION OF ANY ITEMS OF BUSINESS THAT THE CHAIR DECIDES TO TAKE AS URGENT

There was no such business.

7. MINUTES

Consideration was given to the minutes of the meeting held on 15th September 2022.

RESOLVED –

THAT the minutes of the meeting held on 15th September 2022 be approved and signed as a correct record.

8. APERIVINO, 12 BELSIZE TERRACE, LONDON NW3 4AX

Consideration was given to a report of the Executive Director Supporting Communities detailing an application for a new premises licence under Section 17 of the Licensing Act 2003.

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The Licensing Officer provided the Panel with a summary of the application advising that the premises was not situated within a cumulative impact area, and that following representations made by the police responsible authority the application had been amended to include conditions agreed with the police. The police had subsequently withdrawn their representation and the agreed conditions could be found on pages 98 and 99 of the agenda.

The licensing objectives engaged by the application were the prevention of public nuisance. The hours policy was also engaged by the application in relation to the proposed terminal times for licensable activities. Five relevant representations had been received in relation to the application, 4 representations from local residents opposing the application and 1 representation from a local resident in support of the application.

The applicant's agent Mr Onur Siroren informed the Panel that there were no amendments to the application.

Richard Fletcher on behalf of Nikolaos Panigirtzoglou Interested Party (resident of Belsize Village) made the following points in objection to the application.

The area was primarily a residential area with flats and private homes occupied by many families with young children surrounding the rear of the premises. The business hours proposed for the application were far later than other restaurants in the Village and the Belsize Stretery trading times and it was not clear why the applicant wanted an extension to the opening hours of the premises.

If the application were to be approved this would permit an increased footfall of up to 5,000 people in the heart of a residential area, resulting in increased noise nuisance and antisocial behaviour disturbing the local peace and quiet long into the night.

The application was for live and recorded music "on the premises", which presumably included the narrow strip of curb outside the premises. Were the applicant to add tables and chairs outside this would obstruct the pavement and rights of way of residents as there was limited private space outside.

The application was for a licence for a restaurant, not a Wine Bar or Pub. The Licensing Panel should condition as a term of the licence that alcohol could only be served to customers who were enjoying a substantial meal while sitting down in the premises.

In response to a question of clarification from the Chair about what type of music the Panel could regulate, the Legal officer advised that the panel could regulate both live and recorded music. However, in relation to recorded music before 11pm with less than 5,000 people a licence was not required. If there were more than 5,000 people in any premises before 11pm then this would need to be conditioned and permission granted by the panel.

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The Legal Officer also noted that Mr Fletcher had referred to a written submission that he submitted which the panel had not seen because the papers had been sent in late last night. In accordance with the Council's procedure, late papers would not be circulated to the panel. The late submission had not been seen by the panel but Mr Fletcher has had the opportunity to speak to those matters that were set out in his submission.

The Chair noted the Legal Officer's comments as well as her comments relating to the other representations that had been made in relation to the application contained in the agenda, remarking that he was sure that panel members had read all representations and that they would be given due consideration in the panels deliberations when deciding the application.

Mr Fletcher answered questions as follows:

- The main issue of concern for residents was the opening hours of the premises into the early hours of the morning.
- Music was not an issue as such, as long as it was subdued and contained within the building.
- Residents would prefer that business activities ended by 10.30pm and everybody was off the premises by 11pm.
- The closing time of the premises should be in line with other similar premises in the area.
- Alcohol should be served with traditional restaurant food which was a substantial meal.

Onur Siroren, Agent for the applicant presented the applicant's case, summarising the representation made on pages 76-79 of the agenda and highlighting that the applicant had listened carefully to the views of the interested party, the applicant's intention was to provide a place to relax and enjoy the area rather than create a nuisance for local residents.

With regard to the permitted hours, the application had not requested late night refreshment which would have permitted the restaurant to serve food after 11pm. This had been done intentionally so that last orders for food would be by 10.50 or 10.55pm. Licensing permission was not required for this. It could not be reasonably expected for a restaurant serving high quality food up to 10.50 or 10.55pm, people would be expected to finish by 11pm and the premises closed by this time. Most other similar businesses in the area which the interested party referred to were open until midnight serving alcohol. The issues raised relating to late night refreshment would not be a concern as there was no late-night refreshment applied for and the Police condition was clear that alcohol could only be served with a substantial meal. There would be no vertical drinking, only alcohol and food would be served to seated customers. The primary business of AperiVino was food the premises being a restaurant.

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With regard to the music, it was only intended as background music to create a relaxing atmosphere, the live music would not be amplified either. It would either be a violinist or saxophonist creating a nice atmosphere for customers. The customers would be able to speak and hear each other without raising their voices.

The backdoor of the premises would only be used as an emergency exit. The only entry to the premises would be via the front entrance.

No advertisement for the venue had been made by the applicant, not that there was anything wrong with this.

The applicant, Mr Lagani was a responsible owner and was also a resident in the area who had developed a good relationship with neighbours and would not want anything to get in the way of this.

The chairs and tables in the outside area had been covered in the response to objections on pages 77-76 of the agenda.

Mr Lagani and Mr Siroren provided the following responses to questions:

- He was happy to accept the Police Condition relating to alcohol only being sold by waiter/waitress service to customers seated at tables. Alcohol sales would only be ancillary to a substantial table meal.
- He was also happy to accept the Council's model noise condition relating to limiting the noise escaping from the confines of the building which could give rise to nuisance.
- He was flexible with the hours of business and would agree to limit the hours to the Councils framework hours.
- The venue had a private outdoor space of between 1.8 to 1.9 metres and there was additional walkway space of 1.87 to 1.9 metres. The intention was to have 2 to 3 tables outside seating a maximum of eight people.
- He was happy to accept conditions restricting use of the outside area to 10pm and to make it a no smoking area.

Mr Fletcher representing the interested party and Mr Siroren applicant's representative summed up their submissions.

Decision and Reasons

Panel Members confirmed that they had been able to follow and understand the submissions and discussion in relation to this application.

In deliberation, the Panel noted that the application had triggered one policy objective relating to the prevention of public nuisance.

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Members commented that it had been useful to get clarity from all parties as to what was being sought and what would work and on having heard and read everything that had been provided Members were of the view that the licence should be granted with additional conditions. The Panel considered that the additional conditions were necessary in order to prevent public nuisance.

Members were of the view that it had been helpful that the applicant had agreed to keep within the Council's framework hours for closing times noting also that the business was not proposing to open till 12 noon. They also considered that the condition the applicant had agreed with the Police, relating to *'alcohol only being sold by waiter/waitress service to customers seated at tables. Alcohol sales would only be ancillary to a substantial table meal'*, was sufficient and reasonable.

Members also considered that additional conditions should be included, relating to the outdoor space, limiting the number of tables to a maximum of 4, a total number of 8 people at any point in time, the outside area should close to patrons at 10pm and the area should be designated as a no smoking area. In addition, the Council's suggested conditions 7 and 8 relating to music and noise nuisance should be added to the licence.

Taking all the representations and what they had heard at the meeting into consideration, the Panel agreed to grant the licence subject to the additional conditions discussed above which they considered necessary in order to uphold the licensing objectives of the prevention of public nuisance.

RESOLVED

THAT the application be granted as follows:

Supply of Alcohol (For consumption on the premises)

12:00 – 23:30 Monday to Thursday

12.00 – midnight Friday and Saturday

12:00 – 22.30 Sunday

Live Music

19:00 -21.30 Wednesday and Thursday

19.00 – 22.00 Friday

19:00 – 21;30 Sunday

Recorded Music

12:00 -23.00 Monday to Thursday

12.00 – midnight Friday and Saturday

19:00 – 22.30 Sunday

Subject to the following conditions:

Conditions consistent with the operating schedule

1. Managers and employees will ensure no rowdy activities will be tolerated.
2. No alcohol will be served to visibly intoxicated individuals.
3. CCTV will used to prevent criminal and disorderly behaviour as well.
4. Emergency services will be called to assist any individuals in need.
5. Employees and managers will ensure patrons leave in a quiet and orderly fashion to not disturb neighbours.
6. The front of the premises will be kept tidy and free from litter.
7. Employees and managers will ensure no public highways are blocked or obstructed.
8. Efforts will be undertaken to ensure safety against terrorism where ever possible.
9. Alcohol will not be served to visibly intoxicated individuals. CCTV will used to prevent criminal and disorderly behaviour as well.
10. Alcohol will not be served to underage patrons, except where permitted by law.
11. Employees and managers will ensure that proof of age will be required for anyone under the age of 25.

Conditions agreed with the Police

- 1.) CCTV shall be installed, operated, and maintained, to function all times that the premises is open for licensable activities. Said CCTV will comply with the following criteria:
 - (a) The licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct;
 - (b) A record of these checks, showing the date and name of the person checking, will be kept and made available to the police or other authorised officer on request;
 - (c) The Police will be informed if the system will not be operating for longer than one day of business for any reason;
 - (d) The system will record in real time and recordings will be date and time stamped;

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(e) Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to the police or other authorised officers on request (subject to the Data Protection Act requirements) within 24 hours of any request.

(f) CCTV to cover all entry and exit points of the building.

(g) CCTV will be of good quality, a standard approved by the police/council licensing officers.

- 2.) Police must be called to incidents of violence and/or serious disorder.
- 3.) There shall be no vertical drinking in the Premises
- 4.) Alcohol will only be sold by waiter/waitress service to customers seated at tables. Alcohol sales will generally be ancillary to a substantial table meal.

Conditions added by the Panel

- 1.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.
- 2.All windows and external doors shall be kept closed after (21:00) hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
- 3.The use of the outside area at the front of the premises shall cease at 10pm and be limited to 4 tables and chairs with a maximum of 8 people.
- 4 Smoking to be prohibited in any external areas of the premises.

9. ELYSEE RESTAURANT, 13 PERCY STREET, LONDON W1T 1DP

This application was deferred at the request of the applicant.

10. POUNDLAND, 143-145 FINCHLEY ROAD, LONDON NW3 6JL

Consideration was given to a report of the Executive Director Supporting Communities detailing an application for a new premises licence under Section 17 of the Licensing Act 2003.

The Licensing Officer provided the Panel with a summary of the application and advised that the premises was not situated within a cumulative impact area, and that following representations made by the Police and Licensing Responsible Authorities the application had been amended to include conditions agreed with both responsible authorities. The police and Licensing responsible authorities had

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subsequently withdrawn their representations and the agreed conditions could be found on pages 231 -233 of the agenda.

The licensing objectives engaged by the application were the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. The hours policy had not been engaged by the application. One relevant representation had been received in relation to the application, from a local resident opposing the application.

The applicant's agent Gill Sherratt informed the Panel that there were no amendments to the application.

Reza Pashazadeh Interested Party and local resident summarised his objection to the application as outlined in his representation on pages 229 – 230 of the agenda. He also highlighted that he welcomed the space now being used by Poundland as it had been empty for a while due to the Covid pandemic. His objection related to a specific impact on this local area in relation to rubbish and issues with broken bottles, homelessness linked to alcohol consumption in the local area particularly the back service yard and was of the view that, Poundland selling of alcohol would escalate anti-social behaviour and crime issues in the area

Mr Pashazadeh answered questions as follows:

- There were a lot of issues with empty and broken bottles in the area and particularly at the rear of the premises and the provision of low-cost alcohol would worsen the situation in the area.
- He had direct personal knowledge of the impact of these issues as he had witnessed a private company having to carry out a full-scale removal of rough sleepers from the car park area. There were broken bottles, drugs and drugs paraphernalia everywhere.
- The issue with consumption of alcohol and nuisance in the area was worse over the weekend.
- The broken glass was unsafe particularly for children and also caused damage to vehicles.
- The positioning of alcohol in the shop was also quite prominent.
- The stronger the alcohol, the bigger the issue was going to be.
- However, there was more concern with bottled alcohol as it was more of an issue than cans of alcohol.

Gill Sherratt, Agent for the applicant presented the applicant's case, summarising the representation made on pages 76-79 of the agenda and responding to the comments of the interested party stated that:

Poundland was part of a national company of around about 800 stores which used to have the format of selling things for a pound. That format and concept ended around about five years ago and stores were now selling all sorts of branded products at multiple prices. The business was expanding to become a general supermarket and

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specifically in terms of the alcohol it was purchased from Best Way wholesale and sold at exactly the same prices as you would get in Tesco and all other stores. It was not discounted alcohol.

The premises was situated on a very busy commercial street, there was also a Tesco Express in the area that sold alcohol, and a Marks and Spencer's. The premises intended to sell everything that you would expect of a convenience store including fresh bakery, coffee, while alcohol would be a very small part of what was being offered. The application was within the Council's framework hours.

The Licensing Objectives would be upheld by abiding by the conditions agreed with the Police and Licensing Authority. There were about 19 conditions and included the policies and procedures formalised within those conditions such as CCTV conditions, Challenge 25, and staff training which was crucial. Training of staff particularly, on the alcohol side of things were retrained every year on their responsibilities. This was a continuous e-learning programme developed across all stores. There was also a condition attached to the Licence if it were to be granted, stating that there would be no sale of high strength beer and cider above 5.5%. This particularly targeted or addressed the issue of street drinkers who wanted strong and cheap alcohol. Poundland would not be selling the type of alcohol that street drinkers tended to buy, so rough sleepers and street drinkers would not be attracted to this store.

The alcohol would be located next to the counter where adequate supervision could be provided. The most important way of supervising alcohol was the staff, with the staff being able to supervise the alcohol because of where it was located. This had been carefully thought out.

Poundland understood the concerns and the issues in the area, noting however that the interested party had indicated that he was grateful that Poundland had taken over this unit and Poundland as a responsible operator would be another set of eyes and ears in the area helping to alleviate the problems. There would be responsible staff in and outside the premises helping with those problems including sweeping up of any glass outside which was a good thing.

Gill Sherratt and Johnny Gilbert provided the following responses to questions:

- Spirits would also be sold but would be in a secure place located behind the counter.
- The staff training was conducted as e-learning, which was used by a lot of, organisations in the Convenience Store Sector. It involved learning and understanding 3 modules at the end of which they would need to pass a test. The training was refreshed every year.

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- In respect of controlling the car park and broken glass in the outside area, the car park was controlled by a management company which was responsible for its upkeep and not Poundland.
- Poundland had a waste management company which controlled its waste, Poundland also had its own facilities which took away recyclables. The deliveries and removal of waste were dealt with between 5:30 and 7:00 AM at the front of the premises.
- Poundland did not use the service yard, any Poundland litter would be dealt with.
- With regards to the bins Poundland would situate them in accordance to what was stipulated in their lease conditions.
- Poundland's rubbish and recycling would be disposed of with its own deliveries.

In response to a question of clarification from the Chair about whether the Panel had any powers to regulate the cost at which the premises sold alcohol, the Legal officer advised that the Panel did not have any powers to regulate the cost of alcohol, as these were set out in mandatory conditions as was the prohibition of alcohol promotions.

Mr Pashazadeh interested party and Gill Sherratt applicant's representative summed up their submissions.

Decision and Reasons

Panel Members confirmed that they had been able to follow and understand the submissions and discussion in relation to this application.

In deliberation, the Panel noted that the hearing had been triggered by one objection which cited all four licensing objectives. It also noted that the application was not situated in a cumulative impact area, the framework hours policy had not been engaged, it related to an off licence and the issues raised by the interested party related to alcohol sales, the street population and the nuisance that may cause. The Panel commented that the interested party had raised many valid concerns but these concerns were far beyond the scope of what the individual operator could control.

The Panel were of the view that the conditions proposed and agreed with the Responsible Authorities resulting in the withdrawal of the representations from the Police and the Licensing Authority were sufficient to meet the Licensing objectives and were minded to grant the application as applied for subject to these conditions which were proportionate and would help to promote the licensing objectives.

The Panel agreed to grant the licence subject to the agreed conditions.

RESOLVED

THAT the application would be granted as follows:

Supply of Alcohol (For consumption off the premises)

08:00 –22:00 Monday to Saturday

10.00 – 22.00 Sunday

Opening hours

08:00 –22:00 Monday to Saturday

10.00 – 22.00 Sunday

Officers' summary of conditions consistent with the operating schedule

1. On first appointment, all staff employed at the premises will receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters. Training shall be regularly refreshed at no less than annual intervals. The training must be recorded and be accessible on the premises and made available for inspection upon request of a Police Officer or an authorised officer of the licensing authority or (in the case of online training) within 48 hours.
2. A CCTV system will be in operation at the premises and recorded images shall be retained for a period of 31 days. CCTV images will be provided to the police and other responsible authorities as soon as practicable and in any case within 48 hours of a request for such images, subject of the provisions of the DPA.
3. A register of refusals of alcohol will be maintained at the premises. The register will be made available for inspection by the Police and other responsible authority.
4. The premises will adopt a 'Challenge 25' policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or older. Posters will be on display advising customers of the 'Challenge 25' policy. The only forms of identification that will be accepted will bear their photograph, date of birth and a holographic mark and/or ultraviolet feature. Examples of appropriate identification include a passport, photocard driving licence, military ID, and Home Office approved proof of age ID card bearing the PASS hologram.

Conditions agreed with the Police Responsible Authority

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1. The premises licence holder shall ensure that CCTV cameras and recorders are installed at the premises and are of a standard acceptable to and approved by the Police.
2. The CCTV camera views are not to be obstructed.
3. At least one CCTV camera is to be placed no more than seven feet above floor level; near to the exit in order to capture clear facial images of all persons leaving the premises.
4. The medium on which CCTV images are recorded shall be of evidential quality; stored securely; shall be retained for a period of 31 days; and be available for inspection by the Police or Local Authority upon request.
5. At all times when the premises are open for the purposes of licensable activities, a suitably trained member of staff shall be present to assist the Police or an authorised officer in obtaining the CCTV footage.
6. Copies of CCTV shall be made available within 48 hours to the Police or Local Authority, upon request.
7. Staff working at the premises shall be trained in the use of CCTV and a log will be kept verifying this.
8. Signs must be displayed in the customer areas to advise that CCTV is in operation.
9. The licensee will ensure that staff are trained, as appropriate, in respect of relevant Licensing Law, crime scene best practice and upon the sale of alcohol to drunks and to persons underage.
10. A Challenge 25 policy will be enforced, where any person reasonably looking under the age of 25 shall be asked to prove their age when attempting to purchase alcohol and signs to this effect will be displayed at the premises. The only acceptable forms of identity will be those with photographic identification documents recognised in the Home Office guidance, including passports, photo-card driving licence or proof of age card bearing the PASS hologram.
11. In the event of an incident of violence and/or disorder the police will be contacted.
12. A sign shall be displayed at the point of sale stating "No Proof of Age - No Sale" or promoting the use of the Challenge 25 scheme.
13. The premises licence holder will ensure that staff are trained as appropriate and to a level commensurate with their duties. The training will include relevant licensing law, crime scene best practise & prevention of the sale of

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alcohol to people who may be drunk and underage persons. All such training to be updated as necessary, for instance when legislation changes.

14. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or a constable.
15. An incident log shall be kept at the premises, and made available on request to an authorised officer or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any incidents of disorder and violence
 - (d) any faults in the CCTV system or searching equipment or scanning equipment
 - (e) any refusal of the sale of alcohol to include date, time, and staff member
 - (f) any visit by a relevant authority or emergency service.
 - (g) CAD reference numbers where Police are called.
16. The premises licence holder shall not sell super strength beer, lager or cider with an alcohol content above 5.5% ABV or greater. This restriction shall not apply in respect of specialist branded premium priced products, for example Craft ales, local or micro-brewery specialist products, boxed gifts or national celebratory/commemorative beer, lager or cider with alcohol content of 5.5% ABV or greater.

Conditions agreed with Licensing Authority Responsible Authority

17. The designated premises supervisor shall regularly check the refusals book to ensure it is being consistently used by all staff.
18. Notices shall be displayed in prominent positions on the premises near to where alcohol is kept and sold advising customers that the whole of the London Borough of Camden is a controlled drinking zone.
19. The licence holder shall ensure that alcohol is not sold in an open container, opened on the premises, or consumed on the premises.
11. **ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT**

There was none.

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Having adjourned between 11.25am and 11.31am, the meeting ended at 12.25 pm.

CHAIR

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MINUTES END