

MUNICIPAL YEAR 2020/21 REPORT NO.

COMMITTEE:
Licensing Sub-Committee
8 July 2020

REPORT OF :
Principal Licensing Officer

LEGISLATION:
London Local Authorities Act 1990

Agenda - Part	Item
SUBJECT: Application for a Renewal of a Tables & Chairs (Street Trading) licence	
PREMISES: Broomfield Coffee Bar, 64 Aldermans Hill, LONDON, N13 4PP	
WARD: Southgate Green	

1. LICENSING HISTORY:

1.1 On 26 February 2019, Mr Arjan Borufi applied for an annual tables and chairs street trading licence under the London Local Authorities Act 1990, and the licence was subsequently granted on 3 April 2019.

1.2 The tables and chairs licence (LN/201800896) permits the following:

Licensed Area:

Licensed Days & Hours:

Articles	Max. Quantity:	Max. Measurements:
Tables	2	75cm x 70cm x 70cm
Chairs	4	80cm x 45cm x 45cm
Parasols	0	0

1.3 A copy of the tables and chairs (LN/201800896) is produced in Annex 1.

1.4 With regards to the timings permitted by the tables and chairs licence, as stated on the licence, it is now understood that Mr Borufi on his application meant midnight, not midday. Please note that the latest hour permitted for any tables and chairs licence is 11pm.

1.5 The use of tables and chair licences has not been permitted between 21 March 2020 and 3 July 2020, through the Covid-19 emergency period.

1.6 With regards to other licensing matters for background information: On 22 January 2016, a new premises licence under the Licensing Act 2003 (LN/201500949) was granted for 64 Aldermans Hill, N13 4PP.

- 1.7 On 20 September 2017, a transfer application was made to name Mr Arjan Borufi as the premises licence holder (PLH), to replace Ms Drilona Zeqiri. No objections were received, and the application was granted on 3 October 2017.
- 1.8 On 10 November 2017, Mr Borufi applied to vary the Designated Premises Supervisor (DPS) into his name, again to replace Ms Drilona Zeqiri. No objections were received, and the application was granted on 13 November 2017.
- 1.9 On 17 June 2020, a licensing hearing took place to determine the review application of the premises licence (LN/201500949), submitted on behalf of the Licensing Authority. The review initially sought to remove live and recorded music from the licence, but the review attracted objections from local residents with complaints of anti-social behaviour in relation to the premises.
- 1.10 The Licensing Sub-Committee resolved to revoke the premises licence, but with a final chance for the premises licence holder to meet new licence conditions whilst the premises licence is suspended for a period of not longer than 3 months. Non-compliance of the conditions will result in revocation of the premises licence. The Decision Notice is attached in Annex 2.
- 1.11 A minor variation was submitted by Mr Borufi to update the plan which forms part of the premises licence, and the consultation for this application closes on 30 June 2020.
- 1.12 Part A of the premises licence (LN/201500949) is produced in Annex 3.
- 1.13 In summary, the premises licence (LN/201500949) permits the following (when the licence is not suspended):

Licensable Activity	Times (daily)
Opening	08:00 to midnight
Alcohol (On sales only)	11:00 to midnight
Live music (indoors)	20:00 to midnight
Recorded music (indoors)	10:00 to midnight

2 THIS APPLICATION:

- 2.1 The renewal for the tables and chairs licence (LN/201800896) was due by 2 April 2020, however, due to the crisis period, there was a delay in the Licensing Team sending the renewal reminder being sent to Mr Borufi and was later sent on 28 April 2020. Mr Borufi completed and submitted the renewal application and payment on 4 May 2020.
- 2.2 A copy of the renewal application is produced in Annex 4.

- 2.3 Mr Borufi stated on this renewal form that the licensable area sought is 5 m x 3 m, which is 15 sq. metres total licensed area. This is an increase to the existing licence of 5 sq. metres. However, the fee paid by Mr Borufi relates to the fee for 5 sq. metres. Mr Borufi has since clarified that the licensed area sought on the renewal application is 5 sq metres (5m x 1m).

3 RELEVANT REPRESENTATIONS:

- 3.1 **Licensing Authority:** Representation has been made, against the licence being renewed outright, on the grounds that Mr Borufi is not suitable to hold a licence. The Licensing Authority recommend that if the Licensing Sub Committee are minded to renew the tables and chairs licence, it is recommended to impose reduced hours be attached to the licence so that it is not used at these peak times or in the evening, such as: 10:00 – 17:00 Monday – Sunday. A copy of this representation and supporting Appendices can be seen in Annex 5.
- 3.2 **Highways:** A representation was made objecting to the licensed area as stated on the application form (5 m x 3 m, total 15 sq. m). However, Highways have advised that they believe the renewal application is for the licensed area of 5m x 1 m (total 5 sq. m) and therefore do not object.
- 3.3 **Other Persons:** Representation has been made, against the renewal application, by a ward councillor and local residents, who are referred to as IP1 to IP15, also on the grounds that Mr Borufi is not suitable to hold a licence and that access around the tables and chairs is unsafe. Those residents live in Aldermans Hill, Derwent Road, Grovelands Road, Lakes Estate and Lakeside Road. A copy of the IP representations (including additional representations and a video) are attached as Annex 6.
- 3.4 Representation was also made in support of the tables and chairs renewal application by three persons, who are referred to as SUP01 to SUP03. SUP02 is the landlord for the premises and the remaining supporters live in Derwent Road and Lakeside Road. A copy of the supporting representations are attached as Annex 7.
- 3.5 On behalf of Mr Borufi, Mr John Palmer (Akin Palmer LLP) has provided a written representation to the objections and is attached as Annex 8. It is not the intention to withdraw the renewal application.

4 RELEVANT LAW, GUIDANCE & POLICIES:

- 4.1 The paragraphs will have regard to either:
- 4.1.1 the London Local Authorities Act 1990 ('Act'); or
- 4.1.2 the London Borough of Enfield's Street Trading Policy of September 2008 ('Pol').

4.2 Relevant extracts from the Act:

Section 25 Application for street trading licences

(4) A street trading licence—

(b) shall not be granted unless the borough council are satisfied that there is enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons or vehicular traffic using the street;

(5) Subject to subsection (4) above, the borough council shall grant an application for a street trading licence unless they consider that the application ought to be refused on one or more of the grounds specified in subsection (6) below.

(6) Subject to subsection (8) below the council may refuse an application on any of the following grounds:—

(a) that there are enough traders trading in the street or in any street adjoining the street in respect of which the application is made in the goods in which the applicant desires to trade;

(b) that the applicant is on account of misconduct or for any other sufficient reason unsuitable to hold the licence;

(c) that the applicant is an individual who has without reasonable excuse failed personally to avail himself fully of a previous street trading licence;

(d) that the applicant has at any time been granted a street trading licence by the borough council which was revoked or could have been revoked on the grounds that he had refused or neglected to pay fees or other charges due to them in respect of the licence;

(7) If the borough council consider that grounds for refusal exist under subsection (6)(a) or (c) above they may grant the applicant a licence which permits him—
(a) to trade on fewer days or during a shorter period in each day than is specified in the application.

Section 27 Conditions of street trading licences

(1) A licence granted under section 25 (application for street trading licences) of this Act, shall—

(b) specify the conditions; and

(c) in the case of an individual incorporate one of the photographs of the licence holder submitted under subsection (3) of the said section 25; and on any occasion of the renewal of a licence, or at 1 January in any year during the currency thereof, (whether on application by the licence holder or otherwise) or at any time on application by the licence holder, the borough council may vary the conditions.

Section 28 Revocation or variation of licences under Part III

(1) Subject to the provisions of this Part of this Act a borough council may at any time revoke a street trading licence if they are satisfied that—

(a) owing to circumstances which have arisen since the grant or renewal of the licence, there is not enough space in the street in which the licence holder trades for him to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons or vehicular traffic using the street; or

(d) the licence holder is on account of misconduct or for any other sufficient reason unsuitable to hold the licence; or

(e) that since the grant or renewal of the licence, the licence holder has for a period of four weeks or more failed to pay fees or charges due to the borough council in connection with the street trading licence or has failed to pay any charges due from him for accommodation provided in pursuance of subsection (2) of section 33 (receptacles and containers) of this Act; or

(g) that since the grant or renewal of the licence, the licence holder has persistently failed to remove to a place of storage the receptacles used by him for trading; or

(h) that the licence holder has persistently failed to comply with any condition of his licence.

(2) If a borough council consider that a licence could be revoked on any of the grounds mentioned in paragraphs (a) to (c) of subsection (1) above they may instead of revoking it, vary its conditions by attaching further conditions—

(a) reducing the number of days in any week or the period in any one day during which the licence holder is permitted to trade.

4.3. Relevant Extracts from the Policy

- A Street Trading Licence ('tables & chairs licence') is required to place tables and chairs on the highway. This policy lists the tables and chairs licence conditions (Sections 6 - 12).(Pol 1.2)
- If a tables & chairs licence is granted, enough space must be left on the highway for pedestrian access, street furniture and other obstructions such as trees. (Pol 1.3)
- It will be the responsibility of the licence holder that the conditions of the tables & chairs licence are complied with. (Pol 3.8)
- If the licensed tables and chairs (and any associated objects) subsequently cause an obstruction to pedestrians, or interfere with the safe and efficient operation of the highway, the Council has powers to modify the terms of the tables & chairs licence (by issuing a revised licence) to ensure that the highway continues to function in a safe manner. (Pol 3.9)
- (Pol 5.3) The placing of tables and chairs at the location should not significantly harm residential amenity and:
 - 5.3.1 if evening use is proposed, the location should be in a town centre close to other premises open in the evening and where there is significant pedestrian activity.

- 5.3.2 if daytime use is proposed, the location should be in a town centre, local shopping centre or other area of predominantly commercial activity where there is significant pedestrian activity.
 - 5.3.3 if there are residential properties nearby, the Council will seek to ensure that the proposal will not result in unreasonable noise and nuisance by people using the tables and chairs.
- The Council requires all applications to be accompanied by a plan clearly showing where the tables and chairs will be placed. (Pol 5.5)
 - (Pol 5.7) The effects on people in the surrounding area (e.g. residents, businesses or visitors) are very important when considering a planning application for the placing of tables and chairs on the public highway. These effects include :
 - 5.7.1 congestion on the footway;
 - 5.7.2 increased parking congestion in the area; and
 - 5.7.3 noise and disturbance generated by the tables and chairs.
 - The effect of the proposed tables and chairs on the appearance of the premises and adjacent buildings as well as on the character of the area in general will be taken in account. This is particularly important in the case of applications affecting listed buildings and Conservation Areas. In these cases, the design, materials and colour of the furniture and other items placed on the highway may be governed by planning conditions. (Pol 5.8)
 - (Pol 6.1) The Council will require sufficient space for pedestrian movement. This will take into account :
 - 6.1.1 the high flow of pedestrians (on the borough's busier highways);
 - 6.1.2 the needs of people with limited mobility including those who use walking aids, wheelchairs or mobility scooters;
 - 6.1.3 people with children in buggies or prams; and
 - 6.1.4 people with impaired sight.
 - It is essential in all cases that a minimum width of unobstructed highway to the line of the front face of the kerb or the line of any fixed structure (such as a lamp column or litter bin) is free for safe and convenient pedestrian movement. This would normally be at least 2 metres, but in locations where there is a high flow of pedestrians (even if only during short periods in the day) a greater width may be required. (Pol 6.2)
 - The provision of service to the tables and chairs, including customers serving themselves, must take place within the licensed area. The need for such service should be taken into account when considering the proposed number and layout of tables and chairs. (Pol 6.4)
 - Steps will need to be taken to ensure that the highway is not obstructed by customers, standing between tables, chairs and the kerb. (Pol 6.8)
 - Tables and chairs must be removed from the licensed area at a specified time, which will vary according to individual circumstances.(Pol 8.1)
 - The Council will not usually approve applications for the use of tables and chairs beyond 11pm even if the applicant has the relevant licences and permissions to operate (within the premises) until a later time. (Pol 8.2)

- Service at the tables and chairs must finish at such time before the specified time as will allow for them to be removed by the specified time. (Pol 8.3)
- The licence holder will be required to keep the area of licensed highway free from litter and detritus, including cigarette ends by sweeping or washing the area during and at the end of the trading day. (Pol 12.3)
- The trading area shall not exceed the dimensions specified on the licence and any pitch limits marked on the ground during trading hours. (Pol 12.4)
- The licence holder shall trade only from the position indicated on the licence. (Pol 12.5)
- The Council reserves the right to cancel any licence if a breach of the conditions occurs. (Pol 12.17)
- Aldermans Hill is a designated street and listed in the Annex of the policy.

4.4 Business and Planning Bill

4.1 On Thursday 25 June 2020, the government announced the introduction of the Business and Planning Bill, which is yet to come into effect (and date is unknown at the time this report was prepared but likely to be in force by 4 July 2020 in line with pubs/restaurant/cafes re-opening for consumption on the premises).

4.2 The Bill introduces a 'pavement licence' to place furniture (i.e. tables and chairs) on the highway for consumption of food and drink including of alcohol. One of the provisions of the Bill is that the pavement licences supersedes existing tables and chairs licensing for the period of this new Bill/Act (i.e. up to 30 September 2021).

4.3 A brief summary of the Bill's provisions as it currently stands are:

- A maximum licence fee of up to £100 (capped)
- A pavement licence to last for a period to be determined by the Council up to 30 September 2021
- Will still be subject to a consultation with stakeholders, including a requirement on businesses to display a site notice so members of the public as well as the Police and Highways may make representations.
- Highways will assess the applications to ensure that a safe space of the pavement that can be licensed
- Specifies a maximum 14 day 'turnaround time' between submitting the application until granted or refused (7 days must be allowed for consultation and then the Council must grant or refuse the licence within a maximum of 7 days from when the consultation ends.

5. Decision:

- 5.1 Having heard all the representations (from all parties) the Sub-Committee must take such steps as it considers sufficient. The steps are:
- 5.1.1 to issue the renewal consent;
 - 5.1.2 to issue the renewal consent with amendments to the proposal, as amendments to times or conditions as it considers necessary;
 - 5.1.3 to reject the renewal application.

Background Papers:
None other than any identified within the report.

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