

**Report for:** Licensing Sub Committee – 27 October 2021

**Title:** Application for a New Premises Licence – Rincon De Yirda, 487 Seven Sisters Road, Tottenham, London, N15 6EP

**Report authorised by:** Daliah Barrett, Licensing Team Leader, Regulatory Services

**Ward(s) affected:** Seven Sisters

**Report for Key/ Non Key Decision:** Not applicable

**1. Describe the issue under consideration**

1.1. This report relates to an application for a new premises licence by Yirda Turbi Rosario.

1.2. The application seeks the following:

**Late Night Refreshment**

Monday to Sunday 2300 to 0100 hours

**Supply of Alcohol**

Sunday to Thursday 1100 to 2330 hours  
Friday to Saturday 1100 to 0030 hours

Supply of alcohol **ON** the premises

**Hours open to public**

Monday to Sunday 1000 to 0100 hours

1.3. The application is set out at **Appendix 1** to the report.

1.4. Representations have been received from the Licensing Authority, as set out in **Appendix 2**, and the Police, as set out in **Appendix 3**. The police representation has now been withdrawn.

**1.5. Recommendation**

In considering the representations received and what is appropriate for the promotion of the licensing objectives, the steps the Sub Committee can take are:

- Grant the application as requested.
- Grant the application whilst imposing additional conditions and/or altering in any way the proposed operating schedule.
- Exclude any licensable activities to which the application relates
- Reject the whole or part of the application.

Members of the Licensing Sub Committee are asked to note that they may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must be appropriate in order to promote the licensing objectives.

## **2. Background**

- 2.1. The premises are situated along Seven Sisters Road and form part of a large shop frontage that has been separated into two units. The premises operates in the unit that is also shown to have the trading name of 'One Love Barbers'. The premises first came to the Licensing Authority's attention in late 2019 and again in July 2020 by Covid marshals when it was found operating as a hairdressers to the front and a social club to the rear with alcohol on sale. The officer report advised of *'a bar operating in the above premise. The bar is at the rear of the beauty salon. I could not take photographs of the bar because the shop was overcrowded when I visited. The business owner was away, and the people in the business were not helpful so I could not ask much question about the business and the bar at the rear. Someone did confirm that they are running a bar, and the busines have been opened for over a year'*.
- 2.2. A further visist was undertaken on 15 July 2020 and the Enforcement officer noted the following: *'visited the premises this evening, the shutter was half down however we walked freely in. Nine people were sitting in the rear of the premises most of them were drinking bottles of beer, there was no food available as the kitchen was closed. I spoke with a lady called YULI BIANCO ENEARNACION, she informed me that all the alcohol was bought into the premises and was not sold on site, she became very rude after I informed her thay she should not have alcohol being sold on the premises. Once we left and went outside we saw three identical bags to the one in her bin, when we looked through them it was full of waste food, alcohol and paper towel. Although we suspect it was their waste, we could not prove it, we will be serving them with a section 34 notice for a copy of their waste transfer. The premises received warning from the Council and information on steps required to ensure compliance with the law. Their agent had previously submitted TENS applicatons for the premises in 2019 so knowledge of the need for authorisation to sell alcohol was known by the applicant.*
- 2.3. Since the submission of this application the applicant was found to be offering licensable activity without authorisation on 18 September 2021; the Council Enforcement Team will be prosecuting for this offence.

## **3. Licensing Policy**

- 3.1. The Committee will also wish to be aware of the guidance issued under section 182 of the Licensing Act 2003. Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions are focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.

- 3.2. The objective of the licensing process is to allow for the carrying on of retail sales of alcohol and the prevention of public nuisance, prevention of crime and disorder, public safety, and protection of children from harm. It is the Licensing Authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 3.3. In considering licence applications, where relevant representations are made, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for public nuisance and/or public disorder having regard to all the circumstances of the case.
- 3.4. Applications shall only be granted where the Licensing Authority is satisfied the grant of the licence would not harm the licensing objectives following a hearing. Where relevant representations are made, the Licensing Authority will also have particular consideration to the hours requested for sales of alcohol. Persons who are alcohol-dependant may be drawn to particular premises if they are licensed to sell alcohol at earlier or later times than other premises. Additionally, if there are issues related to late-night disorder, the hours for alcohol sales from the premises may be restricted. Other conditions may be imposed directed at avoiding problematic street drinking in the vicinity of the premises. Another particular concern will be irresponsible drink promotions that do not follow best practice, would appeal to underage drinkers or street drinkers, or encourage excessive consumption.
- 3.5. Where relevant representations are made, this authority will demand stricter conditions with regard to noise control in areas that have denser residential accommodation, but this will not limit opening hours without regard for the individual merits of any application. This authority will consider each application and work with the parties concerned to ensure that adequate noise control measures are in place. Any action taken to promote the licensing objectives will be appropriate and proportionate.
- 3.6. This Licensing Authority, in determining what action to take, will seek to establish the cause of concern and any action taken will be directed at these causes. Any action taken to promote the licensing objectives will be appropriate and proportionate.
- 3.7. Also, the Licensing Authority may not impose conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of the hearing that it is appropriate to impose conditions to promote one or more of the four licensing objectives. Therefore conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be required.
- 3.8. Members should make their decisions on the civil burden of proof, that is the balance of probability.
- 3.9. Members should consider in all cases whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

- 3.10. The government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff. The Council's Statement of Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

#### **4. Licensing hours**

- 4.1. Where relevant representations are made, the Council will consider the proposed hours on their individual merits. Notwithstanding this, the Council may require stricter conditions in areas that have denser residential accommodation to prevent public nuisance. The Council will endeavour to work with all parties concerned in such instances to ensure that adequate conditions are in place. The Council may restrict the hours that certain premises can offer alcohol for sale for consumption off the premises for preventing crime, disorder and nuisance.

#### **5. Powers of a Licensing Authority**

- 5.1. The decision should be made with regard to the Secretary of the State's guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the Policy, clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.
- 5.2. The Licensing Authority's determination of this application is subject to a 21 day appeal period or if the decision is appealed the date of the appeal is determined and /or disposed of.

#### **6. Other considerations**

- 6.1. Section 17 of the Crime and Disorder Act 1998 states: 'Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can to prevent crime and disorder in its area'.

#### **7. Human Rights**

- 7.1. While all Convention Rights must be considered, those which are of particular relevance to the application are:
- Article 8 – Right to respect for private and family life.
  - Article 1 of the First Protocol – Protection of Property.
  - Article 6(1) – Right to a fair hearing.
  - Article 10 – Freedom of Expression.

#### **8. Use of Appendices**

Appendix 1 – Application Form

Appendix 2 – LA Responsible Authority Representations  
Appendix 3 – Police representation

**9. Background papers**

Section 82 Guidance  
Haringey Statement of Licensing Policy