

Report for: Licensing Sub-Committee – 22 August 2022

Title: Application for a New Premises Licence – Rancho Brasil, 2 Queens Parade, Brownlow Road, Wood Green, London, N11 2DN (Bounds Green)

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

Ward(s) affected: Bounds Green

**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 Julio Cesar Da Silva under Rancho Brasil Ltd.

1.2. The application seeks the following:

Supply of Alcohol

Monday to Sunday 1000 to 2230 hours

Supply of alcohol **ON** and **OFF** the premises.

Hours open to Public

Monday to Sunday 1000 to 2300 hours

1.3. The application can be found at - **Appendix A.**

1.4. Representations have been received from:

Other person – Residents, as set out at Appendix B.

The Police submitted a representation which is now withdrawn, as set out at Appendix C.

The applicants have also agreed to a condition to not have regulated entertainment as set out at Appendix D.

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 is located on the first floor of the terrace of shop units and residential properties. It is accessed from stairs at street level up to the first floor. It has been occupied and operated by different owners previously as a wine bar under a Premises Licence for years but had received a number of complaints from nearby residents who were adversely affected by noise nuisance. The residents initiated a review against the previous licence holder which ended with the LSC revoking the licence.
- 2.2. The Planning permission on the premises was granted for change of use of upper floor to A3 (food and drink) The application was permitted on 2 December 1991. There were a number of planning conditions attached to the permission but the hours permitted state that the operation shall not be before 0900 or after 2300 on any day.
- 2.3. The residents have submitted the entire review documents as part of their current representation against this new application. To be clear there is no connection between the previous occupant and this present occupant.
- 2.4. The LSC will note that the applicant is not seeking the ability to provide regulated entertainment but if the ability to provide On sales of alcohol at the venue the licence holder will benefit from the exemption and be able to provide live and recorded music between 8am-23:00 without the need for it to be stated on the Premises Licence.
- 2.5. The applicant has offered to forego the exemption and have it conditioned on the licence to not provide regulated entertainment, I have not been able to find any legal precedence for this. But this also was not welcomed by the residents who made representation. The applicant would still be able to provide some background music onsite in any event as it is certainly not licensable.

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, this 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. 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
- 3.8. 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.

- 3.9. In cases Members should make their decisions on the civil burden of proof, that is the balance of probability.
- 3.10. 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.
- 3.11. 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 Councils 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**

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''.

6.1. **Human Rights**

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

7. Use of Appendices

Appendix A – New Application.

Appendix B – Residents Representation.

Appendix C – Police Representation (now withdrawn).

Appendix D – Offered conditions.

8. Background papers:

Section 82 Guidance

Haringey Statement of Licensing Policy