

**CANTERBURY CITY COUNCIL**  
**LICENSING SUB-COMMITTEE**

**Minutes of a meeting held on Wednesday 10 January 2024**  
**at 10.30 am in The Guildhall, St Peter's Place, Westgate Canterbury**

**Present:** Councillors Mike Bland (Chair)  
Councillor Buckman  
Councillor Naomi Smith

**In attendance:** Councillor Harry McKenzie (reserve)

**Officers -** Anton Walden, Licensing Officer  
Pippa Tritton, Democratic Services Officer  
Olivia Davies - Legal Advisor

**1 Apologies for absence**

An apology for absence was received from Councillor Howes.

**2 Substitute Councillors**

Councillor Naomi Smith was present as a substitute for Councillor Howes.

**3 Declaration of any Interests by Councillors or Officers**

No declarations of interest were made.

The Chair advised that Councillor Cornell, the Other Person, was known to the Panel and officers.

#### **4 Minutes of the meeting held on 8 November 2023 and 20 December 2023**

The minutes of the meetings held on 8 November and 20 December 2023 were agreed as a true record.

#### **5 Order of business**

The Order of Business was NOTED.

#### **6 Licensing Act 2003 - Review of the Premises Licence for A La Turka, 13 High Street, Whitstable CT5 1AP**

Present at the meeting were Susan Newman, Mr and Mrs Tuckwood, Mick Steward and Ms Holmes, all Applicants for the Review. Also present was Councillor Chris Cornell, an 'Other Person'.

A La Turka, Whitstable was represented at the Hearing by Duncan Craig - Barrister, Michael Kheng - Licensing Consultant and Madalina Soava - Manager and Designated Premises Supervisor.

The Licensing Officer introduced the application for a review of the premises licence in accordance with Section 51 of the Licensing Act 2003 for A La Turka, 13 High Street, Whitstable CT5 1AG. He explained that a site visit had been conducted earlier in the day and assured those present that no discussion had taken place regarding the application at that meeting. He added that the agenda had been prepared and published in accordance with the relevant legislation and the council's constitution.

Mick Steward made the application as spokesperson for those calling the Review and others added relevant points as required when necessary:

1. He recorded his dissatisfaction that Mr Dari was absent from the Hearing and noted that he had also been absent from the Hearing when the licence had been granted.
2. He asked if he could submit a short, written statement from local resident Anne Davies.

It was noted that Mr Dari's father was seriously ill in Turkey and that is why he was not present.

With regards to the written statement, the Licensing Officer advised that the statement had been considered by the council's Legal Officer and had been rejected for not being served in accordance with the regulations.

3. In response to a question, it was confirmed that Madalina Soava was the Designated Premises Supervisor (DPS) for the premises.

4. The application for the review had not been submitted lightly, but due to countless breaches of conditions over the past 12 months.
5. They simply wished to ask that the conditions be adjusted and adhered to.
6. There was a failure to have a notice asking customers to leave quietly.
7. Residents had tried to engage with Mr Dari since January 2023 but had been unsuccessful. Lots of weight had been placed on this condition at the Sub-Committee where the Licence had been granted.
8. Susan Newman had called at the restaurant on a number of occasions and had not always been treated with respect.
9. Mr Dari would have been aware that the lights and noise from the door would be issues, but nothing had been done despite the issues being raised.
10. Susan Newman reported that she was disturbed on a daily basis between 11:00 and 23:00 hours due to various reasons including flue noises and visitors to the garden.
11. Her property was 12 yards from the bin area and store. There was noise from the back gate opening, trundling noises as large and heavy items were dragged along the street. There was additional noise from young staff filling bins with waste, including a 'Sunday night bin dance' when staff would jump up and down on the bins to compact the rubbish.
12. She was aware that she lived close to a busy high street, but her property was in an exceptionally quiet area so noise was amplified.
13. She had spent £2,000 on secondary glazing to mitigate the noise but the flue system was still audible and obviously wasn't effective when the windows were open.
14. The lights were on from 06:30 until 23:00 hours and beyond. All activities in the dark, including the bins and storage area, triggered both the restaurant's lights and her security light and she felt that the impact could significantly be reduced by simple measures such as adjusting the angle of the security light and installing curtains on the bifold doors.
15. Costa did not use the 'ransom land' at the rear of the businesses.
16. On the whole, issues raised by Mrs Newman had been received sympathetically but some visits had been less than amicable. She now felt unable to visit and effectively that route of communication had been closed.
17. It was never the aim of residents to close the restaurant.
18. The Licensing Sub-Committee had originally promised that there would be no commercial activity in the garden.
19. Some diners were unruly in the summer, with children noisy and undisciplined.
20. Staff smoked by the bins, made considerable noise and had loud conversations in the garden.
21. Staff would fill bins and then take them through the emergency gate to be emptied. Supplies should be taken through the building and the emergency gate should be kept locked.
22. Cooking should cease by 22:00 hours.
23. A condition of 21:00 hours in the garden area would help.
24. There was impact on children in nearby premises and the disallowed submission would have shown the impact on nearby residents.
25. There should be no light pollution from the premises at any time.
26. The licensee should meet with residents every two months to discuss any concerns. There had been no engagement so far and the only attempts had

- come from residents.
27. The residents sought the following conditions - the rear door of the restaurant to be closed at 21:00 hours and no use of the rear gate at any time.  
Residents would be content if these conditions were imposed and monitored effectively by the council.
  28. Residents had only brought the review as Mr Dari had refused to follow conditions or to engage with them.
  29. None of the representations were as the result of racism, and this was refuted strongly.
  30. The shed pictured in the agenda pack required planning permission.
  31. Mr Dari was happy to engage with the press but not with residents.

Sub-Committee members had the opportunity to ask questions of the applicants and responses or clarification were provided:

32. Light issues were from the upper storey of the restaurant itself as well as from the garden. This could be addressed by adding blinds.
33. The Sub-Committee was not able to deal with planning matters.
34. If the gate was to be secured when premises were open, and bins were not to be removed between 10:00 and 19:00 hours, this left a very short window when bins could be taken out.
35. Complaints, primarily related to the flue, had been made to Environmental Health but had been dismissed.
36. Councillors hoped to see a satisfactory resolution to the issues raised.

The Premises Licence Holder's representatives had no questions of the review applicants.

Councillor Chris Cornell, an 'Other Person' had no questions. He made his representations as follows:

37. He had 15 licenced premises within his ward and was not a 'NIMBY'.
38. He had lived in the High Street and whilst appreciating there would be some noise, considered that rules were needed for how shops and businesses operated.
39. He wished to see the business succeed.
40. One of the issues with this establishment was that it had fallen between licensing and planning regulations.
41. Conditions had been added due to worries about the restaurant's location within a densely populated area.
42. The original application was refused.
43. The acoustic report presented to planning was twice the decibel rating agreed.
44. The existing licence did have some difficulties, for example the licensing condition was subjective and not helpful.
45. There was evidence that the existing conditions had not been adhered to.
46. He had tried to contact Mr Dari but had received no response.
47. A series of promises had been made to local residents that had not been adhered to.
48. It was noted that some concerns raised were outside the realms of licensable

activities, but reminded the panel that some of the conditions had been added due to the close proximity of some of the houses.

49. It was acknowledged that there were difficulties in deliveries to the location.

Sub-Committee members were given the opportunity to ask questions of the Other Person:

50. The current condition stated the back doors should be locked at 22:00 hours.

51. The restaurant was limited to 36 covers outside but had seating for 40.

The Premises Holder's representatives did not wish to ask questions of the other person and made their submission. Points included:

52. They do not accept that any conditions had been breached.

53. Conditions on a licence should not duplicate other conditions imposed on a business.

54. Signage was displayed in the frame by the front door and any suggestion that condition had not been complied with was incorrect. However, they would look at wall mounting the signage to ensure it could not be moved or hidden.

55. With regards to the rear gate, any condition could only be enforced within licensable activities time. There was no evidence that condition had ever been breached.

56. The condition relating to the doors being shut specified customers, staff were allowed to use them.

57. The suggestion of 21:00 shut off time for the garden would effectively mean that customers needed to be seated by 19:00/19:30 hours which would be burdensome. Under the Licensing Act, the nighttime economy commenced at 23:00. The existing condition of 22:00 hours was already a compromise.

58. No condition had been breached with regards to the number of customers in the garden (36) or external lighting.

59. The festoon lights had been turned off, and one of the external lights had been disabled so it could not intrude in the way that had been described.

60. No empty bottles were removed from the premises between 22:00 and 07:00 hours. Highways had stated that bins could not be put out before 17:00 hours and it was not possible for bins to be taken through the restaurant when customers were present.

61. The passageway at the rear of the property was too narrow for a bin lorry to go down. Deliveries to the rear of the property had ceased.

62. Engagement was not sustainable as a condition. It would mean that those bringing the Review would be given more consideration than other residents who had not made representations.

63. Engagement had taken place on a number of occasions. On the exception of one occasion where voices were raised on both sides, the DPS had been courteous and respectful. However, some of the review applicants had been rude to staff and made customers uncomfortable which was unacceptable.

64. Staff were just doing their jobs and should not be approached in this way.

65. This was not a planning hearing.

66. The restaurant was previously derelict and empty and was now a fantastic addition to the High Street with an investment of £½ million. Approximately 20 people were employed.

67. The property had previously been a job centre and a pub.
68. The current conditions should continue as they were fair and balanced.
69. Complaints made by the applicants to Environment Health had been dismissed, and they also had no issues with the planning application which was recently granted.
70. Environmental Health had also had the opportunity to make a representation to the review hearing but had declined.

Sub-Committee members were given the opportunity to ask questions of the Premises Licence Holder's representatives and comments and responses included:

71. Councillors welcomed the suggestion of clear signage relating to noise in the garden.
72. Was there a way to stop children from running around, could a sign be installed asking children not to play near the bin areas? It was noted that not everybody found the sound of children a negative thing and that any sign could only be an advisory one.
73. Mr Dari would be asked regarding the possibility of angling the garden lights and it may be possible to provide a shade. However it was noted that lots of people had security lights, including Mrs Newman.
74. The restaurant lights were dimmed at night and the upstairs of the restaurant did already have some film on the windows. Curtains or blinds would not be practical in the restaurant.
75. The restaurant was situated on a very busy High Street and every other property had deliveries to the front.
76. Staff could be asked to be quieter when on a break, but this was subjective and there was no other rest space for them.

The Other Person had the opportunity to ask questions of the Premises Licence Holder's representatives and comments and responses included:

77. There was no proof that the business was operating outside of its conditions.
78. A retrospective application for planning permission for the flue had been granted, with Environmental Health agreeing it was better than the original one.
79. All deliveries come via the front of the property.
80. There were no restrictions for entry/egress for staff.

The Applicants for the Review were given the opportunity to ask questions of the Premises Licence Holder's representative.

81. In response to being asked about deliveries to the rear of the property on certain dates, the DPS advised that supplies were only delivered to the front of the building which could be proved by camera footage.
82. The reference to Costa deliveries had come from a third party and not the premises licence holder.
83. The signage in reception had always been present but would be fixed to the wall going forward to avoid any confusion.
84. Mediation meetings had not happened.
85. The DPS advised that she was not unhappy to communicate with the review

applicants but meetings must be respectful and civilised. She stated that there had been racist comments made in the past and staff had been upset. All queries should be addressed through herself or Mr Dari, not any other staff.

At this point in the proceedings, Mr Stewart summed up the Application for the Review:

- 86. They wished to review the conditions to see if further consideration was needed.
- 87. It was never their intention for the suspension or revocation of the licence.
- 88. The DPS said customers were brought into the restaurant at 21:30 hours, they would like 21:00 hours to be considered.
- 89. If the conditions requested were imposed, together with no deliveries from the rear, this would be a way forward.

The Licensing Sub-Committee members then retired with the Legal Advisor to make their decision. Under the Panel's return, the Legal Advisor advised that they had considered the licensing objectives and in particular, the objective of preventing public nuisance. The Sub-Committee had also considered the guidance issued under section 182 of the Licensing Act 2003 and its own statement of licensing policy.

The Licensing Sub-Committee had considered all the representations made to it by: all six applicants, the single "other person" who made representations, and the premises licence holder. The Licensing Sub-Committee had given careful consideration to the written submissions and evidence and the oral representations made to it at the hearing.

That having considered these matters, and having deliberated in private, it was

RESOLVED - that the Licensing Sub-Committee had decided to vary the condition in Annex 2 of the premises licence which required signage, so that it now read:

"signage shall be affixed to the wall at the entrance to the premises and on both sides of the outdoor area asking customers to leave quietly and to respect the neighbours and nearby residents."

It is considered that this variation was appropriate and proportionate to promote the licensing objectives.

The Sub-Committee had determined that no other alterations to the licence were appropriate or proportionate.

The Legal Advisor reminded those present of the right of appeal under section 181 of, and schedule 5 to, the Licensing Act 2003. Under paragraph 9 of Schedule 5 there was a strict 21-day period within which the appeal must be made.

## **7 Any other urgent business**

There was no business for this item.

## **8 Exclusion of the press and public**

### **9 Any other urgent business which falls under the exempt provisions of the local government act 1972 or the freedom of information act 2000 or both**

There was no business for this item.

There being no other business the meeting closed at 2.16 pm.