

**JACK'S BAR: 152 WANDSWORTH BRIDGE ROAD SW6 2UH  
(2020/00478/LAPRR)**

**LICENSING REVIEW: REPRESENTATIONS TO LICENSING SUB-COMMITTEE  
BY COUNCILLOR MARK LOVEDAY**

**Introduction**

1. I am a ward councillor for Parsons Green & Walham ward. These representations are made following numerous complaints from local residents. I should mention the premises are located just outside (25m) the boundaries of my ward. But it is measure of the issues raised by this review that my ward have also been affected by the use of Jack's Bar in recent months.

**Policy background**

2. The licensing objectives are of course:
  - The prevention of crime and disorder
  - The prevention of public nuisance
  - Public safety
  - Protection of children from harm
3. According to para 21.6 of the LBHF Statement of Licensing Policy, a licence may be reviewed where it is alleged the Licensing Objectives are not being promoted and there is evidence to show this. The Council will regard applications for the review of any premises licence particularly seriously where they involve evidence of:
  - Use of licensed premises for the sale and distribution of drugs and the laundering of drugs money
  - Use of licensed premises for the sale and distribution of illegal firearms
  - Evasion of copyright in respect of pirated or unlicensed films and music
  - Underage sales and consumption of alcohol
  - Use of licensed premises for prostitution or the sale of unlawful pornography
  - Serious risks to children
  - Use of licensed premises for unlawful gaming and gambling
  - Use of licensed premises as a base for organised criminal activity
  - Use of licensed premises for the organisation of racist, homophobic, sexual abuse, attacks or any discriminatory behaviour

- Use of licensed premises for storing or selling illegal alcohol or tobacco or smuggled goods
  - The use of licensed premises for the sale of stolen goods
  - Incidents of disorder
  - Instances of public nuisance where warnings have been disregarded
  - Serious risks to public safety which the management is unable or unwilling to correct
  - Frequently operating outside permitted hours
4. At a hearing held to determine an application for a review of a licence the sub-committee may:
- Modify the conditions of the premises licence
  - Exclude a licensable activity from the scope of the licence
  - Remove the designated premises supervisor
  - Suspend the licence for up to three months
  - Revoke the licence
  - Take no further action

## **Facts**

5. The licensed premises are on the ground floor and basement of 152 Wandsworth Bridge Road and form part of a retail parade of similar properties. The unit has a rear addition, leaving a yard at basement level. There is a flat on the first and second floors above. The garden backs onto houses at Beltran Road and Clancarty Road, separated by a narrow alleyway which services a flat at 2 Beltran Road and the rear of the adjacent commercial premises in Wandsworth Bridge Road. The houses in the area have mostly been extended backwards and upwards - meaning the rear yard is very much enclosed by residential accommodation on all four sides, funnelling any noise upwards. There are terraced houses facing the front of the premises on the other side of the main road. Despite being located on a busy bus route, the licensed premises are therefore in a densely populated residential area.
6. For as long as I can remember, the premises were a small shop, selling things such as bathroom fittings, sofas etc. I have checked with the LBHF Planning website, and the current planning use for the ground floor and basement remains A1 Retail.
7. Against this long-established retail history, in 2018 Callow Ruscoe Limited applied for and was granted a licence for the sale of alcohol both on and off the premises. I was not aware of the application at the time, but it should be said the premises are not an obvious candidate for an "on" licence. This has always been a small mid-terrace shop. As far as most residents were initially

aware, this was to be a café which also sold specialist craft beers, not a bar. Indeed, officers imposed a condition that the hours of trading were limited to 9.00pm. Until the start of the Covid-19 pandemic, the premises traded with a slight unusual mix of café/cake shop/craft beer sales. They also cooked food on the premises (such as cooked breakfast), and a picture of a typical menu board is attached.

8. I refer to the events on 11, 12, 13, 22, 23, 24 and 25 May 2020 described by officers. The premises were trading and using the pavement and rear garden for customers drinking. The Council also served a prohibition notice on 15 May 2020. The licensee was warned but decided to continue to trade.
9. I first became aware of complaints on 22 May 2020. A local resident contacted me about drinking on the premises during lockdown. I was told the premises had been open as a bar for several weeks, with tables in the rear yard and on the street pavement. Customers were drinking on tables for long periods of time and not social distancing. I was provided with two photographs (see below). It was mentioned that drinking had particularly upset a doctor who was staying at a house in Clancarty Road, who was working on Covid 19 wards at the time. Ward councillors helped contact officers in the noise nuisance team.
10. On 24 May, we were told that (despite the prohibition notice) the garden was full again within hours. The premises were openly trading every day from lunchtime all through the afternoon to well after 9pm. Residents prepared timed and dated photo and video evidence for everything.
11. For a few days, things seemed to quieten down, with closure of the garden and the application for the present review. But on 18 June, we received reports that people had started to drink again outside on the front pavement, not always respecting social distancing rules. By this stage, drinkers were spilling along Wandsworth Bridge Road on to the forecourts of adjacent premises. Again, we were provided with a photograph (see below). This shows people drinking outside 150 (Smartec) and 148 (Euro Floors London) on 18 June. Indeed:
  - a. Someone has painted 'social distancing' squares on the forecourt at the front, which extends halfway across the forecourt of Smartec.
  - b. The owners of Euro Floors have put up a sign asking drinkers not to use their forecourt or to leave litter etc.
12. I understand residents will be submitting further factual evidence to the review. I have been provided with numerous photographs and videos to support the objections by residents. I have also spoken to two of my ward residents in particular, both of whom live very close to Jack's bar. One of them has emailed me the following, which summarises things far more succinctly than I could ever do:

*“There are so many breaches and inconsistencies it is difficult to know where to begin. The premises have been visited by the police on numerous occasions as the owner has been selling alcohol for consumption on the premises during the COVID 19 lockdown. Despite the police visits, he continued to flout every regulation. He is now selling alcohol and encouraging those who purchase it to consume it outside his premises on deckchairs. My children have to walk past them and it is not pleasant for them at all.*

*When the owner has been challenged he has been rude and aggressive. I cannot find any application for Vincenzo Defeo (the registered owner according to Companies House) to obtain the license from the previous owner and applicant, Matthew Ward.*

*If Mr Defeo has made an application, the evidence would suggest that he is not fit and proper to hold such a license.*

*Please withdraw the license to sell alcohol.”*

Another said:

*“We would like to object to the anti-social behaviour the bar engenders, and to the noise that used to come from the beer garden in the back before it was closed. Before the beer garden was closed we thought our neighbours were having noisy parties in their garden as we cannot see their garden from our window due to the trees. Now we have heard that it came from the beer garden.”*

13. As the deadline for representations approached, there was another worrying development. Although much of the drinking in recent weeks appears to have been on the front pavement outside the premises, it appears the owners have been preparing to increase the capacity of the rear garden ready for the re-opening of licensed premises next weekend. They have demolished the wall at the rear of the premises separating it from the alleyway. This will incorporate the alleyway into the garden and provide extra space for customers to drink. I understand residents are taking advice about their legal rights in respect of ownership of the alleyway and rights of way along it. But it demonstrates the owners are hell-bent on increasing the numbers of drinkers in premises which are already unsuitable – even while they know they are under the threat of a licensing review. Moreover, the alleyway previously created a (minimal) noise barrier between the premises and the properties in Beltran Road. If the yard re-opens for drinking, that noise barrier will have gone.

14. I went to the premises myself yesterday. Even in the early morning, there was evidence of plastic beer glasses in the doorways of Wandsworth Bridge Road. Just inside the premises was a stack of folding brown chairs, which can also be seen in the photos outside Smartec. Jack’s is plainly providing seating for its customers to drink in the street.

## The legal position

15. The regulations issued by the government for the closure of restaurants, cafes, pubs and other leisure venues during the coronavirus outbreak are the Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 (SI 2020/327). These came into effect on 21 March 2020. The Regulations are the means by which the Government gives effect to the Prime Minister's statement in a press conference on 20 March 2020 that "We are collectively telling cafes, pubs, bars and restaurants to close tonight as soon as they reasonably can, and not to open tomorrow". The Regulations have two categories of premises set out in a schedule.
16. Part 1 consists of what might be described as (but is not defined as) licensed trade, so:
- "1. Restaurants, including restaurants and dining rooms in hotels or members' clubs.*  
*2. Cafes, including workplace canteens, but not including—*  
*(a) cafes or canteens at a hospital, care home or school;*  
*(b) canteens at a prison or an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence;*  
*(c) services providing food or drink to the homeless.*  
*3. Bars, including bars in hotels or members' clubs.*  
*4. Public houses".*
17. By regulation 2(1), a person who is responsible for carrying on a business listed in Part 1 of the Schedule must:
- "(a) during the relevant period—*  
*(i) close any premises, or part of the premises, in which food or drink are sold for consumption on those premises, and*  
*(ii) cease selling food or drink for consumption on its premises; or*  
*(b) if the business sells food or drink for consumption off the premises, cease selling food or drink for consumption on its premises during the relevant period."*
18. It should also be noted that for the purposes of the legislation, a licensee is responsible for areas adjacent to the premises used for drinking, even if ,
19. As I understand it, it is not possible for licensed premises to trade on off-sales only and use its beer garden for patrons to consume alcohol, because Regulation 2(3) makes beer gardens and the like part of the premises. But I leave the law to officers to deal with.

## Action

20. This is perhaps one of the clearest imaginable breaches of the Covid-19 regulations by licensed premises in the borough.
21. There is also some evidence from residents of breach of licensing conditions, such as serving cooked food with drink and drinking after 9.00pm.
22. Ordinarily, a first-time 'offence' would not merit revocation of the licence, but this is an exceptional case. There are aggravating features, such as threats of violence and persistence in ignoring warnings by officers and the police, service of a prohibition notice etc. The premises are wholly unsuitable for a busy bar, were never intended to be a busy bar, and the licensee has treated residents, the public at large, the police and licensing officers with complete contempt during the Covid-19 health crisis.
23. Revocation is justified on the grounds of prevention of crime and disorder and public safety:
  - Incidents of disorder;
  - Instances of public nuisance where warnings have been disregarded;
  - Serious risks to public safety which the management is unable or unwilling to correct; and
  - Frequent operation outside permitted hours.
24. The licensing objectives would be promoted by revocation of the licence:
  - a. It would prevent crime and disorder, in that there would be no trading in breach of the Covid-19 restrictions.
  - b. It would prevent noise nuisance to local residents, and nuisance from drinkers in the street, both at night and when leaving the premises.
  - c. It would help public safety. It is quite obvious from the photographs that social distancing has not been maintained in the yard or on the street. Indeed, it would be quite impossible to maintain social distancing in the rear yard – even when it is expanded. As explained above, the Covid-19 restrictions were specifically introduced by the government to protect public safety and to avoid the transmission of the coronavirus. Public safety is vital – particularly at a time when there has been a spike in the number of cases in the borough. The operation of these premises has become a perfect incubator for the virus.
25. There is a **retrospective** case for revocation due to breaches of lockdown and a **forward-looking** case for revocation/severe curtailment due to public nuisance, anti-social behaviour, lack of planning consent and food standards breaches. The main concern going forward is the use of the beer garden and the forecourt.
26. If, contrary to the above, the sub-Committee considers conditions could be imposed to prevent a repetition of events, residents suggest the following:

- an absolute ban on using the rear garden as a beer garden, drinking place, restaurant or smoking area; no customers allowed at all
- a reduced limit on the number of drinkers who can be drinking on-premise at any one time (the current licence states a max of 15 at any one time; we should push for a max of 10 drinkers)
- a ban on drinkers sitting at tables or congregating on the forecourt or adjacent forecourts, and a ban on take-away drinks being consumed there
- a requirement that all staff and customers avoid antisocial behaviour to neighbours and local shopkeepers/restaurateurs, including noise
- the alcohol license to run from 12pm-6pm Monday-Saturday, excluding Sunday

27. Finally, I would very much welcome the opportunity to address the sub-Committee remotely (or in person, if permitted) to amplify the above and to speak on behalf of residents.

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## Appendix: Photographs

