

## **MARI DELI**

---

### **STATEMENT OF MARIO AIELLO**

---

1. My name is Mario Aiello. I am the owner and operator of Mari Deli at 1a Eyot Gardens, London W6 9TN. I have been in the restaurant trade for over 20 years. I used to own The Miraggio Restaurant in the Fulham Road. This was a large premises seating 130 customers over four floors. I ran The Miraggio impeccably. I had excellent relations with the police, the council and my neighbours.
2. I bought the premises at 1 Eyot Gardens in 2003. I own the freehold. Dr Sue Thompson owns the flat above the restaurant. A few years after I bought the premises my father was tragically killed. My mother and I went into a period of mourning which lasted some time. I did nothing with the property for several years. It was a former corner shop, and it remained closed until 2016 when I decided to open the premises as a coffeshop and Delicatessen where we also served hot food. By this time I had sold The Miraggio. I wanted a quieter life, and I have found it with my new and much smaller world. It has 12 covers inside and 12 covers in a covered area immediately outside the premises which I call the gazebo.
3. My dream was to create the perfect family/neighbourhood place for food and drink providing the freshest Italian seasonal produce which I obtain from my many suppliers in Italy and this country. My 84 year old mother arrives every morning at 7am and prepares cakes, trays of lasagne and the parmigiana di melanzane which is our most popular dish. Right now it is the mushroom and truffle season, and these are supplied to me by my mushroom forager. My flour for the bread is Italian, as are my extra virgin olive oils, my sausages, my cheeses and suchlike. They are all of the very highest quality.
4. My customers are local and loyal. 90% of them come from the immediate neighbourhood. I know them by name, and I know their childrens' names. I have been a good neighbour. During those early days of lockdown I kept the food preparation fully operational, even more so than usual. I delivered hot food and croissants to elderly housebound residents on my electric scooter. It gave me a huge sense of pride and community to see the faces of those residents as they waited by their front windows for my arrival. When eggs and flour were like gold dust, I managed to get a regular supply from my Italian supplier and deliver it to my neighbours. Some Neighbours would knead their dough at home, and then I would

bake their bread for them in my ovens. Often I did this for free. When St Nicholas' Church was unable to open for services and could not collect any money, I gave the church my support with weekly donations. . For me, that is all that matters; community and family.

5. My neighbours kindly donated a plaque to me thanking me for all that I had done for them during Covid. I proudly display this plaque on my wall in the restaurant.
6. My little restaurant won an award from The West London Chamber of Commerce on 24<sup>th</sup> November 2022. The category was "Best Business For Hospitality and Dining". I am extremely proud of this.

## **7. THE BUSINESS AND PLANNING ACT 2020**

I applied for, and was granted a pavement licence under the BPA for 4 tables and eight customers on the pavement outside my premises. This should not be confused with the gazebo. When my premises licence refers to the "outside area" it is the gazebo to which the premises licence conditions relate, and not the pavement. My pavement licence under the BPA was extended to cover 5 tables and 10 customers. The effect of the pavement licence is that I can have 10 customers outside until 10pm (9pm on Sundays). When the BPA was amended to allow off sales, I was able to supply alcohol to these tables up until the same hours. I recently applied for a new pavement licence on 23<sup>rd</sup> September 2022 and paid the fee of £100. The new pavement licence has been granted under the deeming provisions until 30<sup>th</sup> September 2023. There is a difference of opinion between the highways officers and myself. The BPA states that the council has to make a determination of a pavement licence application within 7 days. The council did not make any such determination and so the licence was deemed granted under s.3(9) of The Act. The Highways officer says that this is a renewal of my old licence and that different provisions apply. He is wrong. They do not. There is no renewal procedure in the Act. Each application is a new application. By the time that my application was determined on 27<sup>th</sup> October 2022, the 7 day deadline was well passed. Any purported curtailing of the hours to 20.00 is of no effect.

## **8. THE APPLICATION TO VARY**

My current premises licence contains a number of conditions which I would like to amend in order to marry up the gazebo hours with my pavement licence hours. These are conditions 34, 35, 37 and 38.

- Condition 34 requires that the tables and chairs be removed from the front outside area (i.e. the gazebo) by 21.30 each day. I simply ask that this be amended to 22.00

- Condition 35 requires that the outside area (the gazebo) shall be separated from the public highway by a screen, rope barrier or other means of demarcation from the public highway which shall be removed by 21.30 each day. The outside area is screened from the public highway by means of our chilled display cabinets. I simply ask that this can be done at 22.00.  
In any event, it was also indicated on one of the visits to my premises by council officers that the concrete line between the pavement and my premises was sufficient demarcation. I simply ask that this can be done at 22.00.
  - Condition 37 requires that alcohol shall not be consumed in the outside area (the gazebo) of the premises after 21.30 each day. I ask for this to be amended to 22.00 in line with our pavement licence.
  - Condition 38 states that there shall be no open glass vessels taken into the outside area of the premises (the gazebo) after 21.30. I ask for this too to be amended to 22.00.
9. I should point out that what I am seeking is modest in comparison to other nearby premises. The Black Lion pub has an extensive outside area which is open until 23.00. Its customers do not have to consume a table meal in order to drink alcohol. So, the only proposed changes to my licence are that people would be able to be served and consume alcohol in the gazebo for a further 30 minutes (as is already permitted under my pavement licence) and that the tables and chairs are brought in at 22.00 (as already happens with my pavement licence). I will not be opening my premises any earlier, nor will I be closing them any later.

## **10. SUPPORT FOR MY APPLICATION**

The support that I have received from my neighbours has been overwhelming, and I will submit the letters and emails that I have received.

## **11. OBJECTORS**

I have been forwarded a representation from a local Councillor. It speaks about concerns about the set up of the outdoor space early in the morning. I would say that this has nothing to do with the variation of the four conditions which seeks only to extend the hours from 21.30 to 22.00. To set his mind at rest, I can assure the LSC that I will not be setting up any earlier than my current time of 07.00. With respect to my pavement licence, I will continue to place my tables out at 8am Monday to Saturday and 9am on Sunday. In so far as the breakdown of the storage; that too has nothing to do with the variation and will continue to be done at 23.00. In so far as noise travelling down the street, my current usage of the gazebo until 21.30 causes no disturbance, nor is there any complaint about my pavement licence tables which are licensed until 22.00 (save for the complaints by Sue Thompson that I will deal

with below). There is no music outside in the gazebo; it is simply a question of 12 people being allowed in the gazebo for 30 minutes more.

12. There is another representation dated 29<sup>th</sup> September 2022 from Councillor Walsh. It talks in general terms about the extension of hours being likely to lead to further escalation of issues. I do not agree with this.

**13. SUE THOMPSON**

Sue Thompson owns the flat above the restaurant. She does not live there. She occasionally visits, but spends the majority of her time in Sunbury On Thames where she lives with her mother. The flat was let out about 7 years ago, but remains for the most part empty. The windows of the bedroom which fronts onto Chiswick Mall are almost entirely covered in Ivy. I have gone out of my way to be a good neighbour to her. 8 years ago she fell down stairs in her flat and broke her leg. I drove her to hospital and waited for 4 hours whilst she was attended to. I then drove her to her mother's house in Sunbury On Thames. She has never paid her ground rent,; nor her share of the building insurance; nor her contribution to repairs to the building to me as the freeholder. I have not sought to enforce these. I spent £40,000 repointing the façade of 1 Eyot Gardens. She is obliged under her lease to pay 70% of this. I have never asked her for a penny.

14. I believe that the motive behind her objection is a desire to sell me her flat. We have spoken about this in the past, but she has only a short lease and the flat is in a very poor state of repair. It has been valued at £470,00 and she wanted me to pay £550,00. In fact the last email exchange that we had on this was on 22<sup>nd</sup> September 2022, 7 days before she put in her objection letter. I said that I was not in a position to make or receive an offer because I did not know what it would cost to extend the lease.

15. She raises a number of issues in her letter, many of which have no relevance to the variation application. Nevertheless, I shall address them:

- The telephone number for the premises **is** displayed (and has been for the last 5 years) on 3 blackboards outside the premises.
- The external door from the restaurant is at times propped open in order to allow waiting staff to carry food into the gazebo, and to remove plates. There is low background music in the restaurant. This does not carry into the gazebo, and she makes no complaint about it. Her complaint is about the door being propped open. When I was visited recently by the someone from the council we spoke about applying for a minor variation to remove the condition.
- There is no requirement to keep my windows closed

- The gazebo is part of my licensed premises and service of alcohol to customers in the gazebo is not an off sale. The sealed container condition relates to the bottles of Italian wine that I sell to deli customers to take away. If a customer who has eaten at the restaurant has not finished their bottle of wine, then I have a corking machine that reseals their bottle.
- The BPA allows me to sell alcohol to the tables licensed under the pavement licence.
- My ventilation and extraction systems are regularly serviced and I produce my most recent service certificates.
- I installed a heat extractor 2 years ago specifically to deal with a complaint from Sue Thompson about heat in her flat. The unit does run continuously in order to do its job of reducing the temperature between our two properties. It is the quietest unit on the market. The EHO is welcome to visit my premises at any time to take readings. Indeed, it has done so recently and found some evidence of noise nuisance. I will have an engineer revisit my premises and together we will work with the council to find a solution to this problem
- I produce my fire risk assessment, my gas certificate and my electrical wiring certificate
- The current plan of the premises does include the outside gazebo area. It is this area only that is the subject of this variation application
- My tables and chairs are placed on the pavement exactly in accordance with the stipulations of the LBHF. Council officers recently monitored the use of the pavement licence over 2 weekends and were, I understand, entirely satisfied that all was correct. Officers have been able to view the tables and chairs in place on the pavement and have not informed me that any obstruction. It should be remembered that many of the photographs were taken in the early days of lockdown when large numbers of people would come to buy provisions and mine was one of the few premises open.
- If, on occasion, any external lights have been left on then this is an error. I am not sure when this is alleged to have happened.
- My customers all leave the gazebo at 21.30 and it is rendered unusable. I am very strict about this. When people book a table in the gazebo I tell them that they must leave by 21.30.
- My chiller cabinets and the pavement line create a clear demarcation. It is incorrect to say that "little if anything is removed overnight"
- Sue Thompson is right. We did not have any signs outside reminding patrons to respect the neighbours. I have remedied this and 3 signs went up on 20<sup>th</sup> September 2022.
- I have conducted a fire risk assessment for my patio heaters.
- I do indeed host a "chef's table" similar to a private room in a hotel or restaurant. I cook a set menu at £35-45 per head. I can seat 18 at a long table

- Sue Thompson's complaints about customer noise should be viewed against the back drop of her not living at the premises, and against the fact that not one other resident has made a representation against my application.
- This also goes for her allegations about staff noise after the premises have closed, which of course has nothing to do with the variation application.
- Neither does the placing of rubbish, and I have to accept that if rubbish was placed outside after 23.00, then this should not have happened.
- The fact that there are other places to drink later locally is not a relevant consideration.

#### **16. PLANT NOISE**

Whilst not a relevant consideration for my application, I am not the sort of person who ignores genuine complaints. Following contact from Lamin Tamba at LBH&F I instructed an engineer to come to my premises to see if he could find the source of a vibration that was detected in the upstairs flat. My engineer has fitted an anti-vibration panel above the extractor. I hope that this has solved the issue. I wrote to Lamin on 28<sup>th</sup> November 2022 asking him to inspect again. He has responded positively and will ask the complainant for dates when she is able to give access.

17. Please would the LSC grant my application. It is a small addition to a much loved local restaurant.

Mario Aiello

29<sup>th</sup> November 2022