

MARI DELI

STATEMENT OF MARIANO AIELLO

1. My name is Mariano Aiello. This replaces my earlier witness statement which I have updated and clarified. I am the Dedicated Premises Supervisor of Mari Deli at 1a Eyot Gardens, London W6 9TN. I have been in the catering trade for over 20 years. I used to own The Miraggio Restaurant in Fulham Road. This was a large premises seating 130 customers over four floors. I ran The Miraggio impeccably. We had excellent relations with the council, my neighbours and the police.
2. I bought the freehold at 1 Eyot Gardens in 2003. Sue Thompson has a lease of the flat on the first and second floors. Soon after I bought the premises my father was tragically killed. My mother and I went into a period of mourning which lasted some time. As a result, 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 coffee shop 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. This is "the outside area" referred to in the licence.
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 to prepares cakes, trays of lasagne and the parmigiana di melanzane which is our most popular dish. Mushrooms and truffles are supplied by our mushroom forager. My flour for the bread is Italian, as are my extra virgin olive oils, my sausages, my cheeses and such like. 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 children's names. I pride myself on being a good neighbour. During the 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, expressing “the local neighbourhood’s heartfelt gratitude” for all that I had done for them during Covid. I proudly display this plaque on the wall in the deli. I produce a photo of it.
6. Our little deli won an award from The West London Chambers of Commerce on 24th November 2022. The category was “Best Business for Hospitality and Leisure”. I am extremely proud of this. I produce a photo of the award which is displayed at our premises.

7. OUR PAVEMENT LICENCE

When the conditions of our premises licence refer to the “outside area”, it is the gazebo to which they relate, not the pavement outside the premises. The pavement area should not be confused with the gazebo. The application for a half hour extension to the premises licence concerns only the gazebo. We have a pavement licence granted under the Business and Planning Act 2020 (BPA) for 5 tables and 10 customers outside on the pavement until 10pm (9pm on Sundays). When the BPA was amended to allow off-sales, we were able to supply alcohol to these tables up until the same hours.

8. THE APPLICATION TO VARY

Our current premises licence contains four conditions which restrict the use of the “front outside area” (ie. the gazebo) to 21.30. We would like to amend those restrictions to 22.00 in order to marry up the gazebo hours with the 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 (ie. the gazebo) by 21.30 each day. We simply ask that this be amended to 22.00.
 - Condition 35 requires that the outside area (ie. 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. We simply ask that this can be done at 22.00.
 - Condition 37 requires that alcohol shall not be consumed in the outside area (ie. the gazebo) of the premises after 21.30 each day. We 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. We ask for this too to be amended to 22.00.
9. I should point out that what we are seeking is modest in comparison to other nearby premises. The Black Lion pub (about 150 metres away) 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). We will not be opening the premises any earlier, nor will we be closing them any later.

10. NOISE AND ODOUR

I refer to the Council's letter of 8.11.22 which stated that a visit on 3.11.22 had "ascertained a noise disturbance" in breach of condition 18 and advised us to contact the Noise and Nuisance team "to obtain further details of the officer's findings".

- a) I produce correspondence with the Council's Specialist Noise Officer, Lamin Tamba, 24.11.22-30.12.22 which indicates that the matter was dealt with.
- The officer emailed that "there is no report ... in terms of noise and odour as our investigations have not provided conclusive evidence ..."
 - He did however bring to my attention that "... your extraction system or some machinery at your premises is causing vibration on the floor upstairs.... I believe that this vibration... can be resolved by isolating it." He added that "the noise from the extraction system itself was not very loud when we visited ... We investigated both noise and vibration after 23.00 and have not been able to witness anything after 23.00." He advised us "to inspect your extraction system and look at the possibilities of isolating the system in such a way that there is no vibration transmission ... you need to seek advice from your engineers."
 - I am not the sort of person who ignores genuine complaints. I immediately instructed an engineer to see if he could find the source of vibration. He fitted an anti-vibration panel above the extractor.
 - It is apparent from the officer's final email of 30.12.22 that he expected the issue was resolved. He wrote that "I will let you know if we get complaints and witness noise/vibration but I am hoping the issue is resolved". I heard nothing more.
- b) Our ventilation and extraction systems are regularly serviced to ensure that they are operating correctly and efficiently. At the request of the Council's Licensing Compliance and Enforcement Officer, on 12.10.22 we sent document confirmation that the equipment and systems have been correctly installed, operated, maintained and regularly serviced in accordance with conditions 18 and 29.
- c) It is apparent that allegations of noise have been dealt with and therefore the letter of 17.6.21 from Mr Vivian, Ms Thompson's acoustic consultant, has no relevance to the application.

11. FIRE ISSUES

All the questions raised by the London Fire Brigade in its letter and schedule of 6.10.22 have been addressed.

- (a) I produce a report from John Wates FRICS, a Chartered Building Surveyor, dated 18.1.23. Mr Wates confirms that, following his inspection on 12.1.23, the compartmentation between the deli and the flat "is one-hour fire resisting".
- (b) I produce the Electrical Installation Condition Report of 27.10.22. Its overall assessment of the electrical installation is "satisfactory".
- (c) I produce the Fire Risk Assessment of 18.11.22 which addresses the other questions raised by the LFB. It is satisfied about those matters and expresses no concerns.
- (d) I produce email correspondence with the LFB and Bogdan Les (who carried out the EICR) which indicates that the LFB was satisfied with the EICR and Fire Risk Assessment and that there are no outstanding issues.

12. SUE THOMPSON

Sue Thompson owns the flat above the premises. She does not live there. She occasionally visits, but spends the majority of her time in [REDACTED]

[REDACTED] I produce an email from her dated 7.11.13 where she stated then, ie. in 2013, that she's "[REDACTED] tomorrow". [REDACTED]

[REDACTED] In fact, [REDACTED] She informed me of this on 7.10.19 in an email which I produce. In that email, she states that "I am living in Buckinghamshire". The flat was let out about 7 years ago but remains for the most part empty. The windows of the first floor which front onto Chiswick Mall are almost entirely covered in ivy, as evidenced by Ms Thompson's own photo. I produce a more recent photo which indicates a continuing state of disrepair as the ivy now almost entirely blocks both the light and the view from the windows. I have gone out of my way to be a good neighbour to her. Nine years ago, she fell downstairs 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.

13. It is difficult to escape the conclusion that the motive behind Ms Thompson's objection is a desire to sell me her flat. She has only a short lease and the flat is in a poor state of repair. I refer above to the example of the ivy covering some of the windows. I produce an email from Ms Thompson of 27.2.2015 in which she specifically refers to "trying to agree a sale" before 10.3.2015. The Deli didn't open until 2016. I also produce an email dated 23.9.22 – just seven days before she submitted her objection letter - in which she told me she wanted to sell me the flat for £550,00 and that "this would be for cash, and non-negotiable"!
14. Ms Thompson nevertheless raises a number of issues in her letter of 29.9.22, some of which have no relevance to the variation application. Nevertheless, I shall address them. In short, all the matters raised by Ms Thompson have either been dealt with, or have been found by the relevant authorities not to be an issue, or are irrelevant and/or are an exaggeration and/or are factually incorrect.

a) Allegations concerning the Prevention of Crime and Disorder

- 1) Condition 15: The telephone number for the premises is displayed (and has been for the last 6 years) on 3 blackboards on the premises.
- 2) Condition 16: 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 but that does not carry into the gazebo. It is therefore denied that any nuisance arises.
- 3) There is no requirement to keep our windows closed. In any case, it is denied that it creates a nuisance. Furthermore, this and her claim to a right to a view, is irrelevant to the application.
- 4) Condition 23: The gazebo is part of the licensed premises. Service of alcohol to customers in the gazebo is not an off-sale and has got nothing to do with the Business and Planning Act 2020. The BPA allows us to sell alcohol to the tables on the pavement which are licensed under the pavement licence.

- 5) Condition 29: This refers to allegations about noise and odour. I refer you to paragraph 10 above.
- 6) Condition 32:
 - (a) As Ms Thompson appears to acknowledge, it is only the gazebo area that is the subject of this variation application. This is “the front outside area” mentioned in the Premises Licence. The plan of the premises in the Premises Licence clearly identifies “the front outside area” as the gazebo area. Yet Ms Thompson alleges that the plans of the Premises Licence do not show “the front outside area” and fail to reflect the layout of the premises. This appears to reflect confusion on her part. In any case, she is mistaken.
 - (b) Neither Ms Thompson’s 20 photographs, nor the photos reproduced from our Facebook page, indicate either congestion on the footpath or blockage of her front door. Several of the photos demonstrate the opposite, namely that there is no blockage of the footpath by our tables (which, in any case, are not the subject of this application). This is despite the fact that she acknowledges that “some of the photos were taken in lockdown” when more people than usual would come to buy provisions and ours was one of the few premises open. I note that there is a single photo of a stranger standing on her doorstep but no indication that she is our customer let alone a fire risk or a criminal threat. If Ms Thompson has a concern about passers-by standing on the doorstep then the obvious thing to do is for her to put up a clear warning notice.
 - (c) Council officers monitored the use of the pavement licence during three weekends towards the end of 2022 and were entirely satisfied that all was correct.
- (7) Condition 33: If, on occasion, any external lights have been left on then this would be an error. But Ms Thompson’s only evidence is a single photo - repeated three times - which show lights on 18 minutes past the closing time of 11pm.
- (8) Condition 34: Ms Thompson is again confusing the gazebo area ie. “the front outside area” with the pavement. Our customers all leave the gazebo by 21.30 and it is rendered unusable. I am very strict about this. When people book a table in the gazebo we tell them that they must leave by 21.30. Contrary to Ms Thompson’s assertion, condition 34 does not require us to dismantle the gazebo itself.
- (9) Condition 35: My chiller cabinets and even the distinctive pavement line create a clear demarcation. It is incorrect to allege that “little if anything is removed overnight”.
- (10) Condition 36: Ms Thompson is wrong. The Council officer who inspected earlier in September reminded us of the requirement to put up signs in the outside area to instruct patrons to respect the neighbours. We immediately remedied this and signs went up on 15th September 2022. I produce a delivery note dated 15.9.22.
- (11) Condition 37: Ms Thompson’s allegation of a breach of this condition is denied.

b) Allegations concerning Public Safety

(12) Patio heaters

- (a) Ms Thompson’s allegations are quite unfounded. The LFB schedule of 4.10.22 does not raise any issue about the patio heaters. I produce the Fire Risk Assessment of 18.11.22 which specifically addresses the patio heaters and expresses no concerns. I produce the Electrical Installation Condition Report of 27.10.22. It raises no issue about the electrical safety of the patio heaters.

(b) I do indeed host a “chef’s table”. But it has nothing to do with patio heaters. I cook a set menu at £35-45 per head. I can seat 18 at a long table but this is instead of, not in addition to, the usual tables.

(13) Space to Roadway

Ms Thompson’s photos do not prove the obstruction she alleges. On the contrary, many of her photos indicate the opposite. In fact, anyone who actually lives in the area would know that pedestrians continually use the roadway the whole length of Chiswick Mall which suggests that her allegation is disingenuous. And the claim that we will somehow be the cause of a serious motor accident is outrageous.

c) Allegations about Public Nuisance

(14) These allegations all relate to alleged excessive noise. This is addressed in paragraph 10 above.

(15) I deny the allegations about customer noise and staff noise and refer you to the comments of the other immediate neighbours in paragraph 18. However, if empty bottles were placed outside after 23.00, then this should not have happened.

(16) Sue Thompson’s complaints about noise should be viewed against the backdrop of her not living at the flat, and against the fact that not one other resident has made a representation against my application. On the contrary, several of our other immediate neighbours have expressed considerable support for the Deli as it is currently operated. I refer to their support for this application in paragraph 18.

Ms Thompson’s final point, that there are other places to drink later locally, is not a relevant consideration. Furthermore, I repeat para 9 above.

15. Ms Thompson makes further allegations in her subsequent letter of 8.1.23:

- a) She alleges that the Deli “has expanded *exponentially* ... particularly during Covid” (my emphasis). It is of course a considerable exaggeration. I wish it had but, unfortunately, this is a groundless complaint. It would be true to say that, since Covid, there has been a significant growth in the number of people using the riverside path along Chiswick Mall – joggers, cyclists and, of course, pedestrians. That has nothing to do with me. The joggers were encouraged by the government during Covid and there has been no reduction since. The popularity of cycling increased notably during Covid and there has been no noticeable reduction since. Finally, many people discovered the beautiful riverside walk where the Deli is located and, not surprisingly, they continue to enjoy it now on a regular basis. But few of these new users of the riverside are my customers. As I have pointed out above (in paragraph 4) most of our customers (some 90%) are local and I know most of them personally. The visitors from outside our area are much more likely to use the café opposite the Black Lion pub in Black Lion Lane South since it is in a much more prominent position and has far more seating both inside and outside.
- b) She also alleges that her photo indicates that our tables block her access to her gas meter. The photo indicates no such thing.
- c) All the other points raised in Ms Thompson’s letter of 8.1.23 have been addressed above.

16. Mr Elford, in his submission of 8.1.23 for Ms Thompson, reminds us (in paragraph 10) that “the licensing authority will not permit an extension unless it is satisfied that the licensing objectives will be met”. He then claims (in paragraph 11) that 1.3 of the Council’s report

notes that “the Applicant has not done this”. This is not at all what 1.3 says. What it actually says is: “The applicant has not proposed any *additional* steps to promote the four licencing objectives if the application is granted.” That’s correct.

17. PATRICK WALSH

Patrick Walsh has made general allegations about noise and nuisance. I have addressed the allegations about noise and nuisance above.

18. SUPPORT FOR THE APPLICATION

The support that we have received from our neighbours has been overwhelming. I produce some 25 emails which I have received. In particular, all the other four immediate neighbours are extremely supportive of the Deli and the licence extension. In addition, I produce a petition in support, signed by over 300 people. In contrast, Ms Thompson has not mentioned a single local resident in support of any of her voluminous objections.

I draw your attention to the emails from all the other immediate neighbours:

- Joshua Hunter on 24.11.22 states:
“I live almost on top of it and have never had any problem with noise disturbance I have always found your customers to be polite and considerate”
- Ms Isabel Jacomb (27.11.22) says:
“We live adjacent to Mari’s provides good quality produce as well as going above, over and beyond in providing a warm and friendly service, looking after the more elderly members of the area and always showing such kindness to the children ...I have no concerns about a thirty minute extension....”
- Amy Plender (27.11.22) says:
“I am not at all disturbed by the deli. I live close enough that I can see onto their kitchen from my own kitchen and bedroom windows, and I have no concerns about noise or any other disturbance....”
- Luke Munkle says on 29.11.22:
“I have been living right next door to Mari Deli for the last 15 months and have only good things to say about it.”

And two of those who live opposite and have direct sight of the Deli:

- Sir Frank Lowe says on 28.11.22:
“Mari’s Deli ... is of very positive benefit to Chiswick Mall and the surrounding area....we have no qualms about the proposed extended alcohol licence.”
- Ms Barbara Brown on 27.11.22 says:
“I have lived here since 1976 (I am aged 90) and have direct sight of the delicatessen across the road from my house...Since I have lived here there have been four or five shops....Mari ... is by far the best ...This is the only shop and delicatessen between the A4 and the River and is essential to the area.....I have never been disturbed by noise, crowds or drunkenness...”

The following give a flavour of other comments:

- “adds very substantially to the community atmosphere”
- “On cold and dark wintry nights, the deli adds a significant amount of safety for residents, walkers, runners and cyclists; in particular the gazebo outside... deters anti-social behaviour and illegal activity.”
- “a highly valued feature of Chiswick Mall”
- “... a great help during lockdown ... a great benefit to those who've difficulty in walking... or those without cars... we now use our car much less .. looks out for people who are unwell and sends them food ... in the evening ... there is no disturbance”
- “we often pass... in the evening and... there is no disturbance to the neighbourhood’
- “very grateful for your valuable contribution to the community”
- “a relief to know that Mari's is here to... cater to our needs”
- “we... have benefited enormously from having Mari’s Deli opposite.... During lockdown Mari ... provided an unstinting service to all the neighbours”
- “It is run... with consideration for the neighbourhood ... During lockdown it was a lifeline...”
- “... a valuable hub of the community. During lockdown Mariano and his staff made every effort to help and feed people who could not leave their homes...”
- “You are a huge asset to this area... You were a trooper during covid taking care of some of our vulnerable neighbours and you have added enormously to the sense of community here... I know you... conduct your business with huge sensitivity to the local community.”
- “Every evening, we ... walk along Chiswick Mall, passing by... Clients at tables are thoughtful and quiet; every night, staff clean up meticulously.”
- “Mari’s Deli has been a HUGE ASSET to our community. It is always ... well maintained ... There has never been any problem at all with noise, and it is beneficial for the entire neighbourhood...”
- “... it's one of the tidiest areas along the Mall ...”
- “... during the lockdown months ... his initiative in making produce available when many of us were unable to do our usual shopping was widely appreciated. It ... is rightly treasured by those of us lucky enough to live nearby.”
- “... they are deeply rooted in the community... Their clients... don’t make noise in the evenings. The only noise we might ever hear is from clients of one of the pubs further along the river.”
- “you are a huge asset to the neighbourhood and a big part of our community, which you help to bring together... You... make the area much more fun and interesting...”
- “... all its clients leave quietly... I'd love it if the gazebo could stay open a little longer... the beating heart of Chiswick Mall”.

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

Mariano Aiello

10 March 2023