

APPLICATION FOR A PREMISES LICENCE – BUTECO DO GORDINHO

Executive Summary

This report considers an application for a Premises Licence (PL) for the above premises.

Recommendations

The Committee is requested to:

RESOLVE That

the report be considered and are required to identify what steps, if any, need to be taken to determine the application having regards to the four licensing objectives.

The Committee has the authority to determine the recommendation(s) set out above.

Background Papers:

- A. LGA Licensing Act guidance
- B. Pool of conditions
- C. Location
- D. Application
- E. Plan
- F. Conditions
- G. Environmental Health correspondence
- H. Police correspondence and Reply

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Application for a Premises Licence – Buteco Do Gordinho

1.0 Summary of Proposal

Application Type: New Premises Licence

Variation: No

Site Address: 31 Walton Road, Woking, Surrey, GU21 5DL

Applicant Mr Manuel Rocha of 'Rochaconsultancy' Unit 35 Battersea Business Centre, 99-109 Lavender Hill, London, SW11 5QL

on behalf of

ECP Belsize Ltd, Suite 206 Britannia House, 11 Glenthorne Road, Hammersmith, London, W6 0LH

Application Ref: 24/00333/PREMIS

2.0 Introduction

- 2.1 This report has been prepared for the Licensing Act Sub-Committee to provide a detailed overview of the matters under consideration in relation to the application for a New Premises Licence at 31 Walton Road Woking. The Sub-Committee is tasked with making informed decisions concerning the granting, modification, and review of licenses for premises where regulated activities take place.
- 2.2 The purpose of this report is to present relevant details, including applications, representations, and any other information, to support the Sub-Committee in exercising its responsibilities with fairness and in accordance with the law. It will also outline the key considerations for each case, considering the four key licensing objectives: the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm.

3.0 Description of Premises

- 3.1 The premises, originally a Victorian terraced house, has undergone a change of use on the lower floors, with residential flats located on the upper level.
- 3.2 A premises licence was first granted for the site on 11 May 2022 for " Atelie Da Linguica ", a business previously operating as a delicatessen/butcher and café specialising in Brazilian deli products.
- 3.3 The new premises is proposed to be a Café and restaurant.

4.0 Location

- 4.1 31 Walton Road Woking is located at the corner of Walton Road and Grove Road, with the proposed premises with a small parking area to the rear, which is owned by the neighbouring motorcycle shop. The area surrounding the premises is primarily made up of residential properties.
- 4.2 This area sits outside the Woking Borough Council Saturation Zone.

Appendix C for maps and street view

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5.0 Details of Proposal and Operating Schedule

5.1 The application received on 14 October 2024 was to licence the premises for:

Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities

Sale of alcohol Week Days 10:00 - 22:30

Sale of alcohol Weekends 10:00 - 22:30

The opening hours of the premises

Opening hours Week Days 08:00 - 23:00

Opening hours Weekends 08:00 - 23:00

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

On the premises only

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Edi Carlos Pereria

5.2 It should be noted that under the **Live Music Deregulation Act**, any premises licensed to sell alcohol for consumption on the premises are permitted to provide live or recorded music up until 23:00 without needing to specifically include this activity on their license. This provision allows certain activities to take place without the need for additional licensing approval, provided they comply with the regulatory framework set forth in the Act.

5.3 The premises plan submitted with the application has been forwarded to the relevant responsible authorities for review, in accordance with the requirements of the Licensing Act 2003. The plan must comply with the provisions set out in the Act to ensure it meets the necessary criteria.

5.4 A copy of the Application is attached as Appendix D and a plan of the premises is attached as Appendix E.

6.0 Promotion of Licensing Objectives

6.1 Each application will be given individual consideration on its merit. Nothing in the Licensing Policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in the Licensing Policy shall override the right of any person to make representations on an application or seek a review of a licence where provision has been made for them to do so in the Act.

6.2 The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder.
- Public safety.

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- The prevention of public nuisance.
- The protection of children from harm.

6.3 The operating schedule submitted in the application form, which is attached in Appendix F, shows a list of proposed conditions that the applicant has put forward to describe the steps they intend to take to promote the four licensing objectives.

7.0 History

7.1 On the 1 June 2024 Environmental Health received a food business registration from the new business owner, no approach was made by the applicant to speak to the Licensing Authority.

7.2 In June 2024 Environmental Health received complaints regarding gatherings at the premises, despite the shop being closed. These gatherings involved people consuming alcohol both on the premises and in the street, as well as BBQs and music being played. The disturbances occurred between late afternoon and 22.00hrs particularly on weekends, causing a nuisance to residents.

7.3 Environmental Health informed the Licensing Authority of the possible change in ownership at the premises. The Licensing Authority sought to facilitate the transfer of the licence from the previous owner to the new applicant. Efforts were made to work collaboratively with both parties to ensure a smooth transition.

7.4 Environmental Health delivered a letter regarding noise nuisance complaints to Mr Edy Carlos Pereira in July.

7.5 On 2 July 2024 Surrey Police and Environmental Health, visited the premises. During the visit, the exterior of the premises appeared derelict, and the windows were obscured by plasterboards, preventing them from seeing inside. This raised further concerns and aligned with the complainants' reports suggesting that illegal activities were occurring within the premises.

7.6 On 2 August 2024, the Licensing Authority received a formal notice from the existing premises licence holder Atelie Da Linguica Ltd requesting to surrender the licence.

7.7 On 21 August 2024, a Late Temporary Event Notice (TEN) was submitted. Representations were received from Environmental Health under the objective of Public Nuisance, citing complaints about noise and concerns over the responsible management of the premises. It was noted that the applicant had failed to respond to Environmental Health regarding the complaints and their request to arrange a food inspection.

7.8 Surrey Police also submitted a representation based on complaints of anti-social behaviour, including reports of drinking, smoking, shouting, and individuals engaging in illegal activities.

7.9 Late Temporary Event Notices (TENs) cannot proceed if a representation is made against them, therefore a counter notice was served on the applicant by the Licensing Authority.

7.10 On the 14 October 2024 the Premises Licence application was made by the applicant.

8.0 Relevant Representations

8.1 The following representations have been received in relation to the application:

Responsible Authorities

Surrey Police:

Objection has been received.

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Surrey Fire and Rescue Service:	No objections have been received.
Environmental Health (WBC):	Objection has been received.
Planning Authority (WBC):	No objections have been received.
Social Services (SCC):	No objections have been received.
Trading Standards:	No objections have been received.
Public Health:	No objections have been received.
Home Office Immigration Dept:	No objections have been received.

Interested Parties

Members of Public:	No objections have been received.
Other Persons:	No objections have been received.

- 8.2 The representations received object to the application on the grounds of Crime and disorder and Public Nuisance.

Environmental Health

- 8.3 The Senior Environmental Health Officer reviewed the application and contacted the applicant's agent on 23 October 2024 regarding concerns over the applicant's ability to uphold the public nuisance objective. The Officer requested the following from the applicant:

“Permission to sell alcohol also permits the playing of amplified live and recorded music up until 23.00hrs without the need for additional licencing. This is a key consideration in the permitted opening hours. The sale of alcohol and playing of amplified music to 22.30hours would not be in keeping with the residential close by. Therefore, requested a change in the finish time for the sale of alcohol to 20.00hours with other agreed conditions to ensure that no public nuisance arises”

- 8.4 No response was received from either the agent or the applicant, and no additional conditions or proposed operating times were offered during the representation period.
- 8.5 On 11th November, Environmental Health submitted a representation to the Licensing Authority, expressing their dissatisfaction with the application. They cited concerns regarding the objective of Public Nuisance, the applicant had failed to contact them.
- 8.6 A further email from Environmental Health (22 November 2024) outlined what conditions along with the times they would like the applicant to accept
- 8.7 All windows and doors to be kept closed during the playing of live or amplified music.
- 8.8 No vertical drinking permitted.
- 8.9 Alcohol to be served with food only.
- 8.10 Notice to be displayed to request customers to leave quietly.
- 8.11 No drink or food to be taken on to the outside deck area after 20.00hours.
- 8.12 Regular monitoring of outside areas to manage customers and ensure quick dispersal.

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- 8.13 Evening perimeter checks must be conducted by staff and recorded, to be available to authorities on request.
- 8.14 The Objection and correspondence are attached as Appendix G.

Surrey Police

- 8.15 On the 7 November 2024 Surrey Police suggested amendments to the operating schedule which would satisfy them that the premises would not undermine the crime and disorder objective.

They requested several amendments to the operating schedule some of which are:

- They requested the applicant to detail how they were going to implement a duty of care to vulnerable persons and everyone else.
 - They wanted the applicant to clarify how they would manage sporting events such as football.
 - They wanted more information how the applicant would manage capacity.
 - The supply of alcohol timings to be amended from 11am till 22.30pm
- 8.16 No response was received from either the agent or the applicant, and no additional conditions or proposed operating times were offered during the representation period.
- 8.17 On 11th November, Surrey Police submitted a representation to the Licensing Authority, expressing their dissatisfaction with the application. They cited concerns regarding the objective of preventing crime and disorder, as the applicant had failed to contact them in response to a prior request.
- 8.18 The agent responded to Surrey Police; however, they could not reach a full agreement on conditions.
- 8.19 The Objections emails are attached as Appendix H.

9.0 Site Visit

- 9.1 On the 21 October 2024 the Licensing Authority requested to visit the site, a meeting was arranged for the following week, however this was cancelled by the applicant.
- 9.2 After calling the agent to advise of the representations, another date was offered.
- 9.3 A visit to the location was conducted on the 18 November 2024 with Senior Environmental Health Officer Liz Liesicke and Licensing, During the visit, it was discussed how the premises may impact the local residents, of note were:
- Timings for the seating area outside were inconsistent and it was unclear how it would be used, Mr Pereria stated that it would be for smoking only then for drinks and food.
- 9.4 Mr Pereria was unclear on how he would manage takeaway food deliveries; he planned to put a door on the back of the premises that opened out into the carpark however was unclear if or how this would happen.
- 9.5 The plan was not consistent with the original application, the building had changed whereby a new entrance area was erected and an area has been boarded up.

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- 9.6 As a result, the visit concluded with advice given to Mr. Pereria to consult with his agent regarding the suggestions he offered, including restricting access to the decking after 20:00hrs and ensuring deliveries are made to the back door and the plan would need to be discussed.
- 9.7 On the 22 November 2024 Liz Liesicke sent a further email following a visit to the premises, this outlined again a need for an agreement to timings and conditions that would prevent public nuisance.

10.0 Policy Considerations

- 10.1 In making its decision, the Sub-Committee is obliged to have regard to National Guidance issued under section 182 of the Licensing Act 2003 and the Council's own Licensing Policy. The Sub-Committee must also have regard to all of the representations made and the supporting information presented by all parties.
- 10.2 The Licensing Officer highlights the following relevant sections taken from the '**Licensing Policy for Woking Borough**' should be considered as part of this application.

6.0 Fundamental Principles	
6.3	The Council recognises that public houses, nightclubs, restaurants, hotels, theatres, private members clubs, concert halls and cinemas all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. In considering applications, regard will be given to those differences and the differing impact these will have on the local community.
6.4	The Council can only attach conditions to licences where necessary to ensure the licensing objectives are served and may include conditions drawn from the Pool of Conditions relating to the licensing objectives contained in the guidance issued under the Act. When considering conditions, the Council will focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned and those matters which are within the control of the applicant on the premises and in the vicinity of those premises. Whether or not incidents can be regarded as in the vicinity of licensed premises is a question of fact and will depend upon the particular circumstances of the case.
6.6	The Council acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
7.0 The Licensing Objectives (Prevention of Crime and Disorder)	
7.1	The Council will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises as they seek to enter or leave.
7.2	In addition to the requirement for the Council to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the Borough.
8.0 The Licensing Objectives (Public Safety)	
8.1	The Council will carry out its licensing functions with a view to promoting public safety and will seek to ensure that licensees take measures to protect the safety of performers and persons attending licensable activities. The risk to public safety will vary according to the type of premises and the activities carried out.
9.0 The Licensing Objectives (Prevention of Public Nuisance)	

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9.1 The Council will carry out its licensing functions with a view to promoting the prevention of public nuisance and will seek to ensure that licensees take measures to minimise the impact of licensable activities at their premises on people living, working or sleeping in the vicinity. The prevention of public nuisance can include low-level nuisance affecting a few people living locally, as well as major disturbance affecting the whole community.

10.3 The Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- Grant the licence subject to the conditions consistent with the operating schedule along with the mandatory conditions under sections 19, 20 and 21 of the Licensing Act 2003
- Modify the conditions of the licence, as such to an extent as considered appropriate in order to satisfy any relevant representations so as to adequately promote the licensing objectives, or
- Refuse the application in its entirety.

10.4 Should the Committee decide to override national and local policy then it should provide clear and detailed reasons what the 'exceptional circumstance' is that would allow a departure from the policy.

10.5 The Sub-Committee is asked to note that it may not modify the conditions or refuse the whole application merely because it considers it desirable to do so. It must actually be necessary in order to promote the Licensing Objectives.

11.0 Reference materials

11.1 To assist the Licensing Committee in their decision-making process, the Local Government Association Councillors Handbook to the Licensing Act has been attached as Appendix A, and the Supporting Guidance, "Pool of Conditions," has been attached as Appendix B.

12.0 Summary

12.1 The Environmental Health department has raised concerns about a potential public nuisance and whether the premises will be able to fulfil the required licensing objectives. Specifically, the complaints suggest that activities took place at the premises during times it was allegedly closed, which could affect the public nuisance objective under licensing regulations.

12.2 Surrey Police have raised concerns over the potential for crime and disorder, they have attempted to work with the applicant offering conditions however an agreement cannot be fully reached.

12.3 The sub-committee will need to review the nature of the complaints, the evidence provided by both the responsible authorities and the licensee, and any mitigation measures or operating conditions proposed. The sub-committee's decision will depend on whether it believes the premises can operate in a way that eliminates any potential public nuisance.

13.0 Implications

Finance and Risk

13.1 There are no financial implications. A nationally set application fee is charged to defray the cost of processing applications.

13.2 The risks to the Council associated with determining an application are:

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- Failure to undertake its statutory responsibilities within required timescales;
- Making a decision that may be challenged by the applicant via an appeal to the Magistrates Court with the possible consequence of costs being awarded against the Council; and
- Making a decision that compromises Community Safety.

13.3 These risks have been dealt with in the report under section 6.0 by highlighting that the Sub-Committee is required to determine this application for a Premises Licence under the Licensing Act 2003 having due regard to the four Licensing Objectives, national guidance, the local licensing policy, relevant representations and evidence presented at the hearings. Determining applications in this way will reduce the risk of the decisions of the Council being open to challenge via appeal to the Magistrates Court and promote Community Safety in the Borough.

Equalities and Human Resources

13.4 The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

(c) foster good relations between persons who share a relevant protected

13.5 Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation characteristics and persons who do not share it.

Legal

13.6 A right of appeal lies to the Magistrates Court within a period of 21 days from when the written decision is issued.

13.7 The Licensing Authority must act to promote the four Licensing Objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

13.8 This Hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005.

13.9 The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and such departure must be supported by clear and cogent reasons

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14.0 Conclusions

- 14.1 The Sub Committee is requested to consider the report, the evidence it will hear, representations made, responses to question made and give its decision with reasons and determine the application with a view to promoting the licensing objectives.
- 14.2 The decision made will not come into force until the 21 day appeal period expires, or any appeal is dealt with by the Courts if so called.

REPORT ENDS