

LICENSING SUB-COMMITTEE

3 JUNE 2015

(7.15 pm - 9.40 pm)

PRESENT Councillor David Simpson (in the Chair),
Councillor Stan Anderson
Councillor Tobin Byers

ALSO PRESENT Representatives for Hotel Du Vin including:
Stephen Graham – Legal Advisor
Phillip Lewis – Hotel Manager

Residents and their representatives including:
James Rankin – Legal Representative
Clive Hilton – Wimbledon Common West Residents Association
Mark Hessel
Tony Matthews
Hugh Rance
Other residents who did not speak to the meeting

Councillor John Bowcott – Ward Councillor

LBM Officers:
Guy Bishop – Legal Advisor
Stephen Beedell – Licensing Officer
Jason Andrews – Pollution manager
Lisa Jewel – Democratic Services Officer

1 APPOINTMENT OF CHAIR (Agenda Item 1)

Councillor David Simpson was appointed to the Chair

2 DECLARATIONS OF INTEREST (Agenda Item 2)

No declarations of interest were received

3 CANNIZARO HOUSE, 20 WEST SIDE COMMON, WIMBLEDON, SW19 4UE (Agenda Item 3)

The Chairman asked Stephen Graham, the Legal Advisor for the applicant, Hotel Du Vin Trading Limited, to speak first. Mr Graham described the Hotel Du Vin group as a luxury boutique hotel Chain, which had purchased Cannizaro House Hotel in October 2014. At the time of purchase the previous owners were asked if there was a history of complaints from local residents and neighbours regarding noise and public nuisance resulting from the hotel's activities and where told that there was not. Mr Graham explained the variation of licence as applied for was seeking to alter the layout of the premises, extend the licence area to include the Orangerie, extend the sale of alcohol (both on and off sales) by an hour, and to add regulated entertainment and late night refreshment to the licence. Mr Graham explained that

this variation did not seek to increase the size of functions or to increase the provision of regulated entertainment – the hotel had no wish to turn into pub, or party venue and did not wish to attract any kind of trouble. Mr Graham asked the panel to note that the police had made no representation on this application. Mr Graham stated that the application for variation had been amended to take note of resident's concerns; the extension on sale of alcohol had been reduced from 2am to 12 midnight, the request for a Marquee had been withdrawn and all regulated and non-regulated activities would now only take place inside. The Marquee used at a function in March 2015 was a longstanding booking made by the previous owners. Mr Graham added that the applicants sought to address the issues of noise made by people leaving functions and where going to install further CCTV cameras to bring the total to nine, they were to hire further members of staff such that there would always be a night duty manager in the manager's office to monitor the car park and they would display prominent, clear and legible signage to remind patrons to be considerate when leaving, and the hours of bottle and refuse collection would be limited to between 9am and 10pm with glass collection only between 9am and 11am.

Mr Graham asked the panel to note that since changes to the regulations in March 2015 live music, recorded music and the provision of dance was now deregulated between the hours of 8am and 11pm for less than 500 people – and that events at the hotel never exceeded this number. The proposed capacity of function rooms was detailed by Mr Graham; the Orangerie would have a maximum capacity of 120 with 43 on the patio, the Rollard room would have a maximum capacity of 50 and the Krug room would have a total capacity of 100. Mr Graham said that a noise limiting device that operated on amplified music was still in place and its use was offered as a condition as well as the closing of all doors and windows. The applicant would continue to manage noise whether or not the entertainment was regulated. The Panel asked Mr Graham for more detail regarding past complaints of noise. Mr Graham reiterated that the previous owners had replied that there were no such complaints. The Applicant only became aware of these previous complaints following an event on 28 March 2015. When asked about the Marquee, Mr Graham replied that the grassed area where it had been proposed would now remained a grassed area. Mr James Rankin, Counsel, representing a group of residents, asked Mr Phillip Lewis (Hotel Manager) if KSL Capital had overall ownership of the hotel and if they currently had the Hotel Du Vin group for sale, Mr Lewis confirmed both of these points. The chairman then asked Mr James Rankin of Counsel to speak. Mr Rankin explained that he was acting on behalf of nine residents who were the closest neighbours of the hotel. Mr Rankin told the Sub Committee that the variation applied for was an intensification of use in the premises and detailed the areas to be included in the variation to the licence; the orangerie and two wings and the outside terrace. Mr Rankin said that there was a long history of complaints against the previous owners but that recent disturbance to the local residents had been worse, and that things had changed since the original licence had been granted. The previous owners had closed the doors during functions. He gave three recent dates, 17, 26, and 29 May 2015 when residents had been disturbed by functions at the hotel; May 17 2015 - A door was left open, the previous owners did not do this, and noise and people spilled out. Neighbours phoned the hotel but got no reply. Details of what neighbours saw are in the written representations

May 29 – an event finished at 11.30 when it should have finished earlier. The Hotel provided free taxis but the guests waited outside for these taxis for 50 minutes making noise which was not controlled by the applicant.

Mr Rankin said it was unusual to get 35 full representation letters to be written complaining about a premises. Mr Rankin said that the variation would allow members of the public to drink in the hotel without a meal and he suggested the following conditions on the variation to protect local residents:

- Incorporate all areas into the existing licence but take away off sales
- Use the existing noise limiter, currently it is not in use, and close the three doors in the orangerie when an event is taking place.
- No use of the terraces after 9pm,
- Door to function rooms closed when licenced or unlicensed entertainment is taking place
- Live and recorded music only up to 11pm, as in the Act.

The Chair then asked the Pollution Manager from LBM to speak. Mr Andrews said he was glad that the Marquee had been removed from the application, that conditions should control noise and that there was a difference between 11pm, which counted as day, and 12 midnight counting as night. There was a history of complaints against this property dating back to 2011 with 8 complaints being received by his department this year.

The Chair then asked Councillor John Bowcott to speak as ward Councillor. Councillor Bowcott commented that there was unprecedented concern about the application, which sought intensification when a significant public nuisance was already associated with the premises. The Councillor welcomed Mr Rankin's suggested conditions but noted that late finishing events would still lead to unacceptable noise on neighbouring roads as they are used for parking during functions. Councillor Bowcott said that the applicant's early record in managing events at their premises did not make them worthy of the intensification of use in the variation application. He agreed that the applicant's proposal for a night manager would be a positive but noted that even though the March event had not been booked by the applicant they were in control on the night. Councillor Bowcott was also concerned about off sales being consumed on the Common. Overall he thought that the applicant had made a premature application.

The Chair asked Mr Clive Hilton to speak on behalf of the Wimbledon Common West Residents Association. Mr Hilton said that the residents association had an excellent relationship with the Hotel, using the Hotel for group meetings, and that he hoped that would continue but he did agree with the conditions proposed by Mr Rankin as the applied for hours were too late. Mr Graham asked Mr Hilton if he had been able to have a dialogue with Mr Lewis, the Manager, and Mr Hilton said that they had conversed and Mr Hilton had told Mr Lewis that 2am was too late. Mr Hilton had asked Mr Lewis to speak at the AGM of the Residents Association but when the opposition to this application had escalated this was cancelled.

The Chair then asked local residents to speak. Mr Mark Hessel addressed the Sub committee and told them that in his experience the applicant was a bad neighbour that had done nothing to prevent nuisance to local residents. He agreed with the conditions proposed by Mr Rankin and the points raised by previous speakers. Mr Hessel told the panel that currently bottle deliveries were being made at any time. He said that the previous owners had made efforts to reduce public nuisance but the

applicants were not listening to residents and he felt it was not worth discussing the problems residents were having with the applicant. On 28 March 2015 he and his neighbours were disturbed until late by noise from the hotel including fireworks. When he phoned the hotel to complain, during the event, there was no answer. The next day he received a phone call apologising for there being no warning of fireworks but giving no apology for the actual noise and nuisance. Mr Graham asked Mr Hessel if he had been invited to discuss his complaint with the applicant. Mr Hessel said he had received an email inviting him to do this but he chose not to as he believed he would only hear a promotional speech by the applicant.

The Chair invited Tony Matthews to speak on behalf of himself and Scott Page. Mr Matthews made points that agreed with the previous speakers opposed to the application and supported the view that the applicant was not making the same efforts to prevent public nuisance as the previous owners. Mr Graham reminded the panel that under the existing licence the applicants could provide entertainment 24 hours a day and seven days a week. Mr Hugh Rance, a local resident spoke to oppose the application.

The Chair asked Mr Rankin if he would like to sum up the opposing sides views. Mr Rankin asked the Sub Committee to note that the current licence allowed for 88 covers but the variation application which sought to regularise the use of the orangerie and include the front terrace would increase the covers by 206 to 294. This increase was so substantial that Mr Rankin suggested that under section 36 part b of the Licensing Act 2003 that it could not be covered by a variation to the licence. Mr Graham, for the applicant, summed up by saying that this was not a significant variation and he did not recognise the figures that Mr Rankin gave. He reminded the sub committee that they should deal with the application in a proportionate way and that it was unreasonable to stop people using the terraces at 9pm.

The Sub-Committee retired to private session to consider its decision

The Sub Committee returned and the Chairman asked the legal advisor to deliver its decision that under section 36 part b of the act this application sought a variation of the licence that was so substantial that it could not be considered. The advice given by the legal adviser was that a variation that sought an increase in over 50% could not be considered as a variation