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**By e-mail only to: MaxineFuller@norwich.gov.uk**

Our Ref : JZC/225832.0001  
Your Ref :  
Date : 12 September 2019

Dear Maxine

**Premises licence variation: Pedro's, Chapelfield Gardens**

I write further to the meeting of the City Council's Licensing sub-committee on 2 September 2019 to respond to matters raised by the sub-committee at that meeting and ahead of the meeting due to be held at 2pm on Friday 13 September 2019.

It was the applicant's understanding prior to the meeting on 2 September 2019 that all objections to the premises licence variation application had been withdrawn.

As you are aware I act for the applicant, Pedro's Restaurants Limited. I should be grateful if you would pass on a copy of this letter to the members of the Licensing sub-committee due to attend the meeting on 13 September 2019.

**The extent of the outside area**

- 1 At the meeting on 2 September 2019 members of the City Council's Licensing sub-committee expressed concerns in relation to the applicant's control of the area shown edged and hatched blue on plan 18058 1201 Rev P2 (see **Appendix 1**).
- 2 The applicant has investigated this further and the position is as follows:
  - 2.1 The demise of the applicant's premises is shown shaded in pink on the plan attached at **Appendix 2**.
  - 2.2 The current premises licence plan is enclosed at **Appendix 3** and shows the current extent of the outside area. It should be noted that this exceeds the area that is shown edged and hatched blue on the plan at Appendix 1 (and that area shown on the plan at Appendix 5 – see below).
  - 2.3 Following further investigation, the applicant considers that the area shown coloured green on the plan at **Appendix 4** lies outside of the demise of the premise in

question. It is understood that the applicant has asked for confirmation of the detail of this additional area on a number of occasions.

- 2.4 This additional area shown coloured green on the plan at Appendix 4 was previously used by the applicant (and the former operators of the premises) pursuant to a private property licence granted by the City Council. It is the applicant's understanding that the City Council no longer wish to grant such a private property licence to the applicant. Whilst the applicant hopes that the City Council reconsiders this decision, without this private property licence being in place the applicant will not use the area coloured in green on the plan at Appendix 4 as part of the operation of the premises.

3 The applicant's position in relation to the City Council's concerns is as follows:

- 3.1 In direct response to the City Council's concerns, the applicant does not consider that it is necessary for the applicant to be in control of the whole of the area subject to the volunteered licence conditions (see below for suggested revisions to these conditions). Only a small amount of the area shown hatched and edged blue on the plan at Appendix 1 is outside of the applicant's demise (shown coloured green on the plan at Appendix 4). In practice if this small area is not in the control of the applicant then it simply will not be used as part of the outside area as the applicant would not have rights to do this. As a result the volunteered conditions (see below) restricting off-sales to this area and regulating the management of that area would simply apply to the part of this outside area which is utilised by the applicant. This is something which was already the case at the premises as the outside area shown on the current premises licence plan includes the area previously subject to the private property licence and this licence only operated for six months each year.
- 3.2 Notwithstanding the points made in the sub-paragraph above, the applicant has prepared a revised plan showing the area which is identified in the current premises licence with the small area coloured in green on the plan at Appendix 4 removed. This plan is enclosed at **Appendix 5**.
- 3.3 To be completely clear the plan at Appendix 5 simply shows the area which is already identified for "consumption" on the current premises licence but removes the small area which is no longer in the control of the applicant following the City Council's decision to withdraw the private property licence which previously benefitted the area coloured green on the plan at Appendix 4.
- 3.4 The applicant requests that the City Council approve the plan at Appendix 5 as a part of the current variation application. As set out above, this shows a smaller area than that identified in the current premises licence plan and simply updates this to just show the area within the applicant's demise.
- 3.5 The applicant does not consider this to be controversial. The variation application was publicised as including a change to the plan and the plan set out at Appendix 5 does not increase the outside area of the premises shown. The plan simply updates the current outside area to reflect the City Council's recent decision not to grant a further private property licence for a small part of the outside area. There is no attempt here to extend the scope of the premises licence.
- 3.6 The plan itself is not directly related to the main variation sought in the application which is the removal of condition 9 of the current licence. The applicant submitted a revised plan with the variation application to update the internal layout of the

premises following the significant investment it has made to update and rebrand the premises. Whilst the applicant does not need to show any outside area on the premises licence plan it has chosen to do so in order for conditions to be attached to any varied licence to regulate the management of this area and restrict off-sales from the premises to only be consumed within this area. The submission of this revised plan is to provide the licensing authority with comfort that granting the application would have no adverse impact on the promotion of the licensing objectives.

- 3.7 The case of Taylor v Manchester City Council [2012] EWHC 3467 (Admin) clearly supports the ability of the applicant to amend its application in this manner. This case also makes it clear that a licensing authority is bound to take the views of the applicant into account when exercising its discretion as to appropriate steps it might take in deciding the application. In particular, the following section from paragraph 83 of the judgment is highlighted:

*"...given the decision making power granted to it by Parliament, the administrative nature of that power and the unique position an authority is in to make the relevant judgments, subject to any restrictions expressly imposed by the terms of the statutory scheme itself, the discretion of a licensing authority is necessarily wide, and the exercise of such a discretion with which this court should be cautious of interfering..."*

- 3.8 In addition, the applicant has shared the plan enclosed at Appendix 5 with the Police, NPS and the City Council's Environmental Protection and Parks and Open Spaces teams for their comment in light of the fact that they have already made representations to the variation application. Comments from these parties are awaited.

#### **The volunteered licence conditions**

- 4 The applicant volunteered a number of proposed licence conditions with the variation application to ensure the promotion of the licensing objectives and give comfort to the City Council that the premises will continue to operate in a responsible manner.
- 5 It should be noted that at the time of the sub-committee hearing on 2 September 2019 all objections from responsible authorities and/or those making relevant representations to the variation application had been withdrawn and as a result it should be considered that all such parties were content with the form of conditions volunteered.
- 6 However, the applicant has considered the comments made by the sub-committee and is prepared to revise the volunteered conditions as follows:
- 6.1 *The sale of alcohol by retail at the premises shall cease at least 30 minutes before the premises closes.*
- 6.2 *No patrons will be allowed to leave the premises (to include the outside area shown edged and hatched blue on the plan attached to this licence when that area is in use) while in possession of any drinking vessel or container containing alcohol. This condition applies to all drinking vessels/containers containing alcohol whether open or closed/sealed.*
- 6.3 *The premises licence holder shall ensure that any empty bottles or drinking vessels present within the outside area shown edged and hatched blue on the plan attached to this licence are collected promptly.*

- 7 In addition, to make it completely clear that no off-sales beyond the outside area will be permitted the applicant would be prepared to agree to the following licence condition:

7.1 *No off-sales of alcoholic beverages shall be permitted from the premises unless such sales are made for consumption within the outside area shown edged and hatched blue on the plan attached to this licence when that area is in use.*

#### **The management of the outside area**

- 8 The applicant has already confirmed in the variation application and in subsequent correspondence with both NPS and the Parks and Open Spaces Department of the City Council that one member of staff employed at the premises will have responsibility to monitor the outside area when that area is in operation to ensure compliance with the proposed licence conditions and that sufficient numbers of staff will be on the premises when in operation to monitor the behaviour of customers whilst inside or outside the premises.
- 9 In the event that it is considered appropriate by the City Council the applicant would be agreeable to a licence condition requiring one member of staff at the premises to be responsible for monitoring the use of the outside area shown edged and hatched blue on the plan attached to this licence when that area is in use. In any event the applicant has confirmed to us that it shall be the responsibility of a member of staff to work purely on the outside area and ensure no drinks are taken into the park when this area is in operation, as has always been the case.
- 10 We also wish to take this opportunity to again make it clear that this outside area has been used for the consumption of alcohol purchased on the premises for a number of years without incident (in a larger outside area than is now sought to be permitted for such consumption). The only difference that this variation application would make is that in the future alcohol may be consumed in this area without an associated meal. The premises will still be marketed for all and the kitchen will be open for the sale of meals at all times that the premises is open and serving alcohol.
- 11 The applicant has no intention of operating the premises as a bar or public house and instead wishes to use the removal of condition 9 on the current licence as an opportunity to simply diversify the offering at the premises.
- 12 The applicant is also installing CCTV on the premises as part of its recent investment. This will cover the inside of the premises but two cameras are also intended to be installed on the outside of the premises with one on the north eastern corner and one on the south eastern corner. The CCTV will operate 24/7 and will be capable of capturing the whole area to the north and south of the building (i.e. 270 degree vision for each camera). The data collected will be stored on a hard drive for 31 days and all images would be time and date tagged. The applicant is happy to provide access to the CCTV recordings for the Police at all times. This CCTV shall operate as a deterrent to any potential crime and disorder to the front of the premises and also ensure that any incidents which do occur are duly recorded and capable of being used by the Police. It should be noted that the applicant is not aware of any such incidents at the premises in the past. It is also considered that the operation of these cameras may be more widely helpful to prevent crime and disorder in the surrounding area of the park too.
- 13 If the City Council considers that it would be appropriate to impose licence conditions relating to the use of CCTV at the premises the applicant would be open to agreeing the following form of condition and is content to discuss any suggested variations to this. As

noted above, the cameras would be capable of being operated 24/7 and the applicant would be willing to revise part (i) below to reflect this if the City Council consider this is appropriate.

13.1 *A CCTV system shall be designed, installed and maintained in proper working order, on the south eastern and north eastern corners of the building. Such a system will:*

*(i) be in operation at all times that the premises are being used for a licensable activity*

*(ii) ensure coverage of the outside area of the premises as shown edged and hatched blue on the plan attached to this licence when that area is in use*

*(iii) provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained for a period of at least 31 days, and shall be supplied to the licensing authority or a police officer on request.*

14 A sketch plan showing the location of the proposed cameras is at **Appendix 6**.

15 The staff at the premises will be experienced in working in an operation serving food and drink and in the event there are any incidents on the premises they will be handled and managed effectively.

Please do not hesitate to contact me should you have any queries.

Yours sincerely

**Jamie Childs**  
**For and on behalf of Howes Percival LLP**

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Encs

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