

**THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA  
LICENSING COMMITTEE – 13 FEBRUARY 2025**

**REPORT OF THE CHIEF SOLICITOR AND MONITORING OFFICER  
APPEALS UPDATE**

Licensing appeals update since March 2024  
**FOR INFORMATION**

**1. APPEALS TO THE MAGISTRATES' COURT**

- 1.1 Since March 2024 there have been two appeals to the Magistrates' Court, one of which was settled, and one is pending as explained in sections 2 and 3 of this report.

**2. PELICAN, 45 ALL SAINTS ROAD, W11 1HE - SETTLED**

- 2.1 45 All Saints Limited took over the licence for this gastro pub in July 2021. Nine residents applied for a review of the licence on the grounds that the premises was undermining the prevention of public nuisance and the public safety licensing objectives, because of the noise created by customers drinking and eating outside the premises and blocking the pavements in All Saints Road and Tavistock Road. The review was supported by Environmental Health, the Licensing Authority, a Ward Councillor and another local resident.
- 2.2 The Pelican did not dispute that local residents had suffered nuisance as a result of the noise created by customers and the pavements were being blocked.
- 2.3 The Pelican was also supported by one local resident. At the review hearing on 18 May 2023 the Sub-Committee decided to modify the licence by adding some new conditions and amending some of the existing conditions of the licence to address the concerns raised. In total 19 conditions were either added or amended.
- 2.4 The Operator subsequently appealed against five of the conditions imposed at the review hearing to the Westminster Magistrates' Court and the appeal was scheduled to be heard over three days on 16, 17 and 18 July 2024. However, the appeal was settled on 16 July 2024 as the parties agreed to amend some of the conditions of the original decision. One of the conditions, which was agreed at the hearing permitted up to 40 customers to consume food and drink on the All Saints Road's side of the premises up to 21:00 hours each day provided they were seated. However, after the hearing it transpired that 40 customers could not fit on the All Saints Road's side of the pavement. The parties therefore agreed to split the seating areas so that up to a maximum of 20 seated customers could consume food and drink in All Saints Road and up to another maximum of 20 seated customers could consume food and drink in Tavistock Road. The hours did not change for the outside areas and this condition was dependent upon the premises obtaining any necessary pavement licence for the table and chairs needed. As a

result of this change consequential changes were needed to four other conditions.

- 2.5 Further, in view of the noise problems experienced by an adjacent resident caused by staff using 39A Tavistock Road as an office, the Appellant also provided an undertaking to vacate 39A Tavistock Road as soon as possible. The Appellant agreed in the interim that :-
- i. No staff shall enter the office before 8. am.
  - ii. The newly installed door closer for the front door shall be maintained to prevent the door from slamming shut.
  - iii. The newly installed lock on the front door shall be maintained.
  - iv. The cleaner shall not be permitted to use the office.
  - v. The vacation of the office shall be carried out in way that is considerate to residential amenity, including by not moving things around in the office before 8am.

- 2.6 The Premises Licence Holder also agreed to pay a contribution towards the Council's legal costs of £31,626 by 22 July 2024. I can confirm these costs have been paid.

### **3. RICCO LOUNGE AND CLUB, BASEMENT, 11 RUSSELL GARDENS, LONDON, W14 8EZ – PENDING**

- 3.1 The Metropolitan Police Service applied for a summary review of the above premises on 29 October 2024 under Section 53A of the Licensing Act 2003 because they considered the premises was associated with serious crime. The Licensing Authority was required to determine what Interim Steps should be taken within 48 hours of the application being requested and this took place on 31 October 2024, when the Licence was suspended.
- 3.2 The review was requested because on 13 October 2024, there was an altercation outside the premises when at least one and up to four shots were fired. The full review was supported by the Licensing Authority, Environmental Health and local residents. The hearing of the full review was decided on 26 November 2024 when the Licensing Sub-Committee decided to revoke the licence and to continue the suspension imposed at the Interim Steps Hearing.
- 3.3 On 16 December 2024, the Appellant appealed the decision to revoke the licence to Westminster Magistrates' Court. The Case Management Hearing will take place on 5 February 2025 when directions will be made for the progress of the appeal. Members will be updated of the outcome of the appeal once the appeal has been resolved.

### **4. FINANCIAL IMPLICATIONS**

- 4.1 The Council will incur the costs of defending the appeal, but the Council will generally seek to recover such costs from the Appellant if the appeal is withdrawn, or if the appeal is dismissed.

### **5. EQUALITY IMPLICATIONS**

- 5.1 The Council must have due 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 characteristics and persons who do not share it.

5.2 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.

5.3 There are no direct equalities implications arising from this report.

## **6. LEGAL IMPLICATIONS**

6.1 Any applicant making an application under the Licensing Act 2003 and any other party who has made a representation, is entitled to appeal a decision of the Licensing Sub-Committee if they disagree with the decision or the conditions attached to the licence, provided they apply to the Magistrates' Court within 21 days of the full licensing decision being issued. Such an appeal takes the form of a complete rehearing of the case, where new witnesses can be called and often such appeals last several days.

6.2 The Magistrate's Court has the power to grant or dismiss the appeal or to remit the case back to the Licensing Sub-Committee for reconsideration.

6.3 The Magistrates' Court has the power to make any order it considers appropriate in terms of legal costs. If the Committee provides a fully reasoned decision of the application, the onus is on the Appellant to prove that the Sub-Committee's decision was wrong.

## **7. RECOMMENDATIONS**

7.1 The Committee is asked to note the contents of this report.

**FOR INFORMATION**

**LEVERNE PARKER - CHIEF SOLICITOR AND MONITORING OFFICER**

### **Background papers used in the Preparation of this Report:**

The Secretary of State's Section 182 Licensing Guidance  
The Statement of Licensing Policy of the Licensing Authority

**Any questions regarding this report should be directed to : Heidi Titcombe,  
Principal Solicitor and Licensing and Highways Legal Team Manager  
Bi-Borough Legal Services, The Town Hall, Hornton Street, London W8 7NX**

**Tel:** 07739 314073

**E-mail:** [heidi.titcombe@rbkc.gov.uk](mailto:heidi.titcombe@rbkc.gov.uk)