



Panteleimon Vaisnnis
Sparta Card Gaming Ltd
Zombie Games Cafe
15 Cricklewood Broadway
London
NW2 3XJ

21 May 2024

Ref: 10706

Dear Panteleimon Vaisnnis,

**Licensing Act 2003: Non-compliance of conditions
Zombies Games Café, 15 Cricklewood Broadway, NW2 3JX
(Premises licence number: 28381)**

Following on from an inspection carried out at the above premises on Thursday 16 May 2024, Brent London Borough Council's Licensing Department do not have any major concerns regarding your management of the premises.

It is the view of the Licensing Authority that whilst you are not undermining any of licensing four objectives (The prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm) – it does seem that there are a few issues regarding the compliance of certain conditions set out within annex two of your premises licence.

I do appreciate that you were fully co-operative and helpful during my visit. Whilst it was apparent that there were some conditions that you were not aware of, I do note there was an element willingness and engagement from you to be compliant with the terms of your premises licence.

I think you should be mindful of the fact that failure to adhere to any of the conditions stipulated within your premises licence could result in you committing a criminal offence each you undertake licensable activities (i.e., the sale of alcohol). This is pursuant to Section 136(1)(a) of the Licensing Act 2003 (Unauthorised licensable activities) as any sale of alcohol made would not be in accordance with the lawful authorisation of your premises licence.

Offences committed under the Licensing Act 2003 and/or further non-compliance of conditions could result in the premises licence being called into review where it could ultimately be revoked.

Furthermore, as you are personally liable for any offences committed under the Licensing Act 2003 in relation to the premises licence, you could also face an unlimited fine and/or be imprisoned for up to 6 months if prosecuted.

As such, I believe it's only fair that we give you one calendar month to try and rectify the matters relating to the non-compliance of your conditions. I don't foresee any of them being particularly difficult to resolve.

I therefore request that you contact me by **Friday 28 June 2024** via email to confirm that you have carried out the necessary provisions to be compliant with the conditions of your premises licence. I have included guidance that can be found enclosed at the rear of this letter.

I have also included an informative regarding street trading, pavement licensing and the automatic temporary lawful entitlement regarding permitted off sales of alcohol which we also discussed during my visit.

Of course, if you do have any questions regarding this letter, please feel free to email me using the above details at any time and I will be willing to assist you as much as possible.

Yours sincerely

A handwritten signature in black ink that reads "E. Maldoom". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Edwin Maldoom
Licensing Enforcement Officer

Attached: List of conditions and recommended actions.

Recommend actions for Mr Vaisnnis to take to rectify breaches of premises licence annex two conditions in respect to Zombies Games Café, following an inspection on Thursday 16 May 2024:

Annex 2, Condition 9.

9. Regular documented staff training on licensing legislation and operating procedures shall be given. The training shall be signed and dated, and a copy of these training records shall be available for inspection by Police and local authority enforcement officers.

Inspection – There is no staff training undertaken by the premises nor is there any log recording this information.

Recommendation – I note that you mentioned that any additional staff are hired on an ad hoc basis. I have attached a document at the rear of this letter named “*Authorisation list for the sale of alcohol*”. Completing and maintaining this document each time you hire a member of staff who sells alcohol at the premises works two-fold for you. It ensures compliance with the above condition and provides a written record that you have given authorisation for that member of staff to sell alcohol.

As discussed, this also gives you an opportunity to go through the terms of your premises licence (i.e., permitted hours & conditions) and the challenge 25 policy undertaken by the premises for any staff engaged with selling alcohol. Upon completion of the training, the staff member can include their name, signature and date to the list.

Offence – Failure to adhere to this condition breaches Section 136(1)(a) of the Licensing Act 2003 (Unauthorised licensable activities).

Annex 2, Condition 13.

13. A refusal book detailing date and time of the refused sale (of alcohol), the name of the person refusing the sale and a description of the person attempting to purchase alcohol, shall be kept and maintained and made available for inspection by authorised officers from Brent Council or the police

Inspection – There is no refusal book/log kept at the premises. I do note however that you confirmed that there hadn't been a situation in which you had to refuse any sale of alcohol due to the nature of your business.

Recommendation – During the visit, I acknowledge that you went onto Amazon to purchase a refusal log. Similar to the incident log, it's important to keep this on the premises and maintain it when necessary.

Offence – Failure to adhere to this condition breaches Section 136(1)(a) of the Licensing Act 2003 (Unauthorised licensable activities).

Annex 2, Condition 22 & 23.

22. Toilets shall be checked every 2 hour(s) for the use of drugs and other illegal activities.

23. A toilet check list shall be displayed on the wall in all toilets. Staff shall use these checklists to record their name and certify the time of the check. Checklists are to be replaced daily and old checklists must be retained and made available for inspection by the Police and authorised officers from Brent Council.

Inspection – You confirmed that whilst you do inspect the toilets to ensure that they are clean on a regular occasion, you do not visit them every 2 hours nor is there a written checklist that is updated every 2 hours.

Recommendation – We spoke about how this condition probably doesn't fit the nature of the business. As such, it's advisable that you submit a minor variation to remove both of these conditions.

Offence – Failure to adhere to this condition breaches Section 136(1)(a) of the Licensing Act 2003 (Unauthorised licensable activities).

Annex 2, Condition 25.

25. Notices explaining the licensee's policy on admission and searching shall be placed at each entrance.

Inspection – There are no notices displayed in respect of the above condition.

Recommendation – We spoke about how this condition probably doesn't fit the nature of the business. As such, it's advisable that you submit a minor variation to remove this condition.

Offence – Failure to adhere to this condition breaches Section 136(1)(a) of the Licensing Act 2003 (Unauthorised licensable activities).

Annex 2, Condition 30.

17. A capacity specific risk assessment shall be conducted by a competent risk assessor. This assessment will include holding capacity, exit capacity and the calculations to demonstrate how that was reached, the lower of the two numbers shall be the final capacity. The guidance used to reach this capacity must be quoted. This risk assessment shall be appraised annually or at the time of any building or layout structural works. The Capacity Assessment must be made available to an authorised officer upon request

Inspection – There had been no risk assessment undertaken by a competent risk assessor.

Recommendation – I understand that you had concerns about this condition as you stated that you did not have the finances to pay for a verified risk assessor. I believe you have a few options regarding this condition, and I have listed these below:

- A) Contact a risk assessor to this for you. You can apply to amend this condition to remove the wording that states that it needs to be appraised annually by way of a minor variation.
- B) Carry out the risk assessment yourself, guidance can be found by following this link - <https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-risk-assessments>. You can apply to amend this condition to remove the wording that it needs to be appraised annually by way of a minor variation application.

- C) You can apply to remove this condition entirely and replace it with a capacity limit of your choice after conducting your own fire risk assessment. This is on the basis that a fire risk assessment must be conducted under the provisions of Regulatory Reform (Fire Safety) Order 2005. Further guidance can be found by following this link - <https://www.london-fire.gov.uk/safety/the-workplace/fire-safety-law-explained/>

Offence – Failure to adhere to this condition breaches Section 136(1)(a) of the Licensing Act 2003 (Unauthorised licensable activities).

Street Trading

Part of my visit to your premises was to speak about the unauthorised garage sale that took place on Sunday 12 May 2024. I am mindful of the fact that you were unaware that a street trading licence was required.

Just as a point for your information, only persons licensed by Brent Council may trade from the street. A street includes any road, footway or other area that is within seven metres of a road or footway and is not enclosed and to which the public have access without payment. Street trading means the selling, exposing for sale or offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.

I have spoken to my colleague Christine White and she has confirmed that you have contacted business.licence@brent.gov.uk to obtain further information in relation to applying for a street trading licence.

Pavement Licence

If you are looking to have an outside seating area on Cricklewood Broadway, then you can apply for a pavement licence issued under the Business and Planning Act 2020. A pavement licence allows you to place tables and chairs outside on the relevant highway (i.e., any land that is not on private land). The fee is £500 for a new application, however it drops down to £350 upon renewal. The pavement licence lasts for two years. Further information can be found by following the below link:

<https://www.brent.gov.uk/business/licences-and-permits/street-trading-licences/pavement-licence>

Temporary Off Sales Provision

As discussed, I understand that your intention was to include “off sales” as part of your premises licence permission. I think it would be remiss of me not to let you know that under the Business and Planning Act 2020, any licenced premises that permits “on sales of alcohol” has an automatic entitlement to provide “off sales” in addition. This is only a temporary provision that was introduced during the Covid-19 pandemic, and this automatic entitlement will cease on 31 March 2025.

The government are currently undertaking a public consultation to ascertain their next steps in relation to this provision. Two options proposed are to either keep it as it is, or have the provision only apply to a premises with a pavement licence issued under the Business and Planning Act 2020.

Nonetheless, just as a point of clarification – you are lawfully entitled to provide “off sales” of alcohol despite your premises licence stipulating that you are permitted to only have “on sales”. This is pursuant to Section 172F of the Licensing Act 2003 which sets out the amendments to the Act by the Business and Planning Act 2020.

The only restrictions are that you can only make off sales of alcohol until 23:00, and that you must keep a Section 172F statement at your premises. I have completed this statement on your behalf and have enclosed it at the rear of this letter.

Conclusion

I fully appreciate that this is a lot of information for you to take in all at once. I would advise you to carefully read the above and carry out the recommendations. I have nonetheless condensed the below so that it is more palatable:

1) If you have any staff members working at the premises who are engaged with the sale of alcohol at the premises, then please complete the authorisation list that is attached to this letter. This list provides evidence that you have authorised them to sell alcohol and that they have undertaken the relevant training with you (i.e., challenge 25 policy and terms of the premises licence).

2) If not already purchased, please buy a refusal log that will need to be kept on site.

3) Submit a minor variation application to either remove or amend certain conditions that we spoke about. These include (but are not limited to) annex two condition 16, 18, 22, 23, 25 & 30. This can be done by emailing business.licence@brent.gov.uk.

4) Conduct a risk assessment/capacity risk assessment yourself if you do not want an external person to undertake this. This is to comply with the Regulatory Reform (Fire Safety) Order 2005.

5) If you are looking for a pavement licence to have a seated outdoor area for patrons on the pavement, then please email business.licence@brent.gov.uk.

6) If you do wish to conduct off sales of alcohol, then please ensure that the attached 172F statement is kept at your premises. Please be mindful that this entitlement to allow off sales of alcohol is only valid up until 23:00 each day and that the provision will cease to exist in its current format on 31 March 2024.