



**CITY OF WESTMINSTER**

# MINUTES

## **Licensing Sub-Committee (1)**

### **MINUTES OF PROCEEDINGS**

Minutes of a meeting of the **Licensing Sub-Committee (1)** Committee held on **Thursday 2nd November, 2017**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Angela Harvey (Chairman), Julia Alexander and Shamim Talukder

#### **1 MEMBERSHIP**

There were no changes to the Membership.

#### **2 DECLARATIONS OF INTEREST**

Councillor Angela Harvey declared in respect of Chutney Mary, 72-73 St James's Street, SW1 that she is a member of the Carlton Club which is located at 69 St James's Street. She advised that she had not discussed the application with anyone at the Club and it did not affect her ability in any way to consider the application with an open mind. The Carlton Club had not made a representation in respect of the application.

#### **3 PITCH 1612 AND PITCH 1736, VILLIERS STREET, WC2**

##### **LICENSING SUB-COMMITTEE No. 1**

*Thursday 2nd November 2017*

Membership: Councillor Angela Harvey (Chairman), Councillor Julia Alexander and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Daisy Gadd

#### **Street Trading**

**16/06838/LIIS (Pitch 1612) – Villiers Street, WC2**

**16/06838/LIIS (Pitch 1736) – Villiers Street, WC2**

**Applications adjourned prior to the hearing.**

**4 CO-OPERATIVE, 4 MERCHANT SQUARE, W2**

**LICENSING SUB-COMMITTEE No. 1**

*Thursday 2nd November 2017*

Membership: Councillor Angela Harvey (Chairman), Councillor Julia Alexander and Councillor Shamim Talukder

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon  
Presenting Officer: Daisy Gadd

Relevant Representations: 1 Ward Councillor.

Present: Mr Richard Arnot (Licensing Agent, Representing the Applicant)

**Co-Operative, 4 Merchant Square, W2  
17/08350/LIPN**

**1. Sale by retail of alcohol**

Monday to Saturday 08:00 to 23:00  
Sunday 10:00 to 22:30

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

This was an application by a convenience store to sell groceries, sundry items and alcohol for consumption off the premises. The Sub-Committee granted the application, subject to conditions as set out below.

Prior to the hearing the Applicant had agreed proposed conditions with Environmental Health, South East Bayswater Residents' Association and Paddington Waterways and Maida Vale Society. They had all subsequently withdrawn their representations as the Applicant had addressed their concerns.

Following the withdrawal of the representations, Councillor Floru's representation, submitted in his capacity as a ward councillor, was the sole remaining one. The Sub-Committee considered that the Applicant had addressed the concerns set out in his written representation including amending

	<p>the proposed hours for off-sales to Core Hours. The Applicant had also agreed to ensure that there were no sales of super strength beer or cider above 5.5% or miniatures of alcohol. There would also be no self-service of spirits. A Challenge 25 scheme would be in operation at all times.</p> <p>The Sub-Committee was satisfied that the application, with the proposed conditions attached to the premises licence, would promote the licensing objectives.</p>
<b>2.</b>	<b>Hours premises are open to the public</b>
	Monday to Sunday 07:00 to 23:00
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>

<b>Conditions attached to the Licence</b>	
<b><u>Mandatory Conditions</u></b>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.	<p>(1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.</p> <p>(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in</p>

accordance with the age verification policy.

- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

- 5(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

- 5(ii) For the purposes of the condition set out in paragraph 5(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

- 5(iii). Where the permitted price given by Paragraph 5(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Additional Conditions**

6. The premises licence holder shall install and maintain a CCTV system at the premises giving coverage of all entry points and areas to which customers have access in any lighting conditions.
7. Such CCTV system shall continuously record whilst the premises are open for licensable activities and shall be capable of providing frontal identification of customers.
8. All CCTV recordings shall be retained for a minimum of 31 days and shall be date and time stamped.
9. CCTV recordings should be made immediately available for inspection upon receipt of a request by the Police and Authorised Officer of the Licensing Authority.
10. A member of staff shall always be present on the premises whilst they are open who is capable of operating the CCTV system and able to facilitate immediate viewing of CCTV footage upon the request of the Police and Authorised Officer of the Licensing Authority.
11. A Proof of Age Scheme, such as Challenge 25, shall be operated at the premises whereby the only acceptable forms of identification are a valid passport, UK driving licence, any form of identification containing the PASS hologram, military identification or any other form of identification time to time approved by the Secretary of State.
12. An Incident Record, whether kept in written or electronic form, shall be maintained at the premises and made available on request to the Police or an Authorised Officer of the Licensing Authority. The Incident Record shall record any complaints received in connection with the licensable activity at the premises, any faults with the CCTV system, any refusal to sell alcohol at the premises, and any visit to the premises by a responsible authority in connection with the licensable activity permitted at the premises.
13. All relevant staff shall be trained in relation to their responsibilities under the Licensing Act 2003.

14. Training Records shall be kept and made available for inspection upon receipt of request from the Police or an Authorised Officer of the Licensing Authority.
15. A notice must be displayed in the premises explaining that it is an offence for persons under the age of 18 to purchase alcohol.
16. A panic alarm and system shall be installed and maintained at the premises.
17. A burglar alarm system shall be installed and maintained at the premises.
18. An electronic till prompt system shall be installed and maintained at the premises.
19. During the hours that the premises is open but not authorised to sell alcohol, all alcohol within the trading area shall be secured behind locked screens that customers do not have access to it.
20. No more than 15% of the trading area shall at any one time be given over to the display of alcohol.
21. Notices shall be displayed in the premises confirming that the hours during which alcohol may be sold.
22. There shall be no self-service of spirits, save for mixed spirits with an ABV of 5.5% or less.
23. No spirit measures of less than 20cl shall be sold at the premises save that this prohibition shall not apply to mixed spirits, being spirits mixed with a non-alcoholic beverage.
24. Notices shall be displayed at the exit to the premises requesting that customers should leave quietly.
25. No beer, lager or cider of 5.5% ABV or above shall be sold at the premises save that this prohibition shall not apply to premium products such as craft and microbrewery products, or products produced to commemorate a specific event or similar.
26. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a public nuisance.
27. No deliveries to the premises shall take place between 23:00 and 07:00 on the following day save that this restriction does not apply to newspapers and magazines or dairy or bakery products.
28. No licensable activity shall be permitted at the premises until the premises have been inspected by the Environmental Health Consultation Team (EHCT) and they have confirmed that policies and procedures are in place which enables the Premises Licence Holder to fulfil the conditions attached to this licence.

29. The inspection of the premises shall be concluded within 3 working days of EHCT being notified by the Premises Licence Holder that the premises is about to open.
30. EHCT shall notify the Premises Licence Holder that they are so satisfied, or what steps need to be taken to rectify any inadequacies, within 24 hours of the inspection taking place.
31. If EHCT do not fulfil the requirements of conditions 29 and 30 then the Premises Licence Holder may, in any event, conduct licensable activities.

**5 CHUTNEY MARY, 72-73 ST JAMES'S STREET, SW1**

**LICENSING SUB-COMMITTEE No. 1**

*Thursday 2nd November 2017*

Membership: Councillor Angela Harvey (Chairman), Councillor Julia Alexander and Councillor Shamim Talukder

Legal Adviser: Barry Panto  
 Policy Adviser: Chris Wroe  
 Committee Officer: Jonathan Deacon  
 Presenting Officer: Daisy Gadd

Relevant Representations: Environmental Health and Metropolitan Police.

Present: Mr Craig Baylis (Solicitor, Representing the Applicant), Mr Ranjit Mathrani (Owner), Mr Anil Drayan (Environmental Health) and PC Sandy Russell (Metropolitan Police)

Declaration: Councillor Angela Harvey declared that she is a member of the Carlton Club which is located at 69 St James's Street. She advised that she had not discussed the application with anyone at the Club and it did not affect her ability in any way to consider the application with an open mind. The Carlton Club had not made a representation in respect of the application.

**Chutney Mary, 72-73 St James's Street, SW1  
 17/09962/LIPV**

**1. Condition being varied**

<u>From</u>	<u>To</u>
To permit the supply of alcohol without food on the premises until 19:30 on any day by waiter/waitress service to no more than 20 customers seated in the hatched area as shown	To permit the supply of alcohol without food until 22:00 on any day by waiter/waitress service to no more than 30 customers seated in the hatched area as shown on revised

	<p>on the plan numbered 3346/LIC2.22 as submitted to the Licensing Sub Committee and attached to this Order.</p> <p>plan number 3346/LIC2.22 submitted with this application.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The existing premises licence for Chutney Mary enabled the Applicant to operate the premises as a restaurant (in keeping with the Council's model restaurant condition) except for a maximum of 20 seated customers being permitted to have alcohol (served by waiter/waitress) without food until 19:30 each day in a hatched area set out in the plan. The Applicant was now seeking to extend the supply of alcohol without food in an extended hatched area until 22:00 each day (served by waiter/waitress) and to a maximum of 30 seated customers.</p> <p>The Sub-Committee heard from Mr Baylis, representing the Applicant. He described Chutney Mary at St James's Street as a high end restaurant which has an average spend of £90 per head. He stated that his client had no intention of turning the premises into a bar. Chutney Mary was indeed more commercially viable as a restaurant. There had been the option for customers to be able to have a drink without food at the premises until 19:30 for the last six months or so and no issues had arisen for local residents.</p> <p>Mr Baylis referred to e-mail correspondence with a local resident which had been submitted to the Sub-Committee. This was in order to demonstrate that the Applicant was in dialogue with local residents. Local residents, including the resident whose email correspondence had been forwarded to the Sub-Committee, had objected to a previous application in 2016 to enable up to 30 seated customers to be able to consume alcohol in a hatched area without it being ancillary to food until 20:00. The previous application in May 2016 had been refused by the Sub-Committee but following a settlement between the Council and the Applicant when the latter had appealed the decision, the Applicant had been able to sell alcohol ancillary to food for up to 20 customers until 19:30. No residents had objected to the current application.</p> <p>Mr Baylis clarified in response to a question from the Sub-Committee that the hatched area in the front room was an extension of the space that had been sought in terms of the hatched area in the 2016 application.</p> <p>The Sub-Committee heard from Mr Drayan on behalf of Environmental Health and PC Russell on behalf of Metropolitan Police. Mr Drayan and PC Russell advised that they had no objections to the application. They had maintained their representations in order to give the Sub-Committee the opportunity to</p>



consider the application given the previous history. The Responsible Authorities confirmed Mr Baylis' point that there had been no issues raised by the current operation. Mr Drayan mentioned that Chutney Mary is located outside of the Council's designated cumulative impact areas. There was therefore no policy presumption against the application.

Mr Baylis and Mr Mathrani were asked by the Sub-Committee how the Applicant intended to supervise the 30 customers in the hatched area. Mr Baylis replied that the customers would all be seated and there would be no vertical drinking. Mr Mathrani added that the granting of the application would result in an extension of the existing arrangement. There was a manager currently supervising the 20 customers in the hatched area until 19:30 and this arrangement was working well. Waiters were also vigilant and were able to advise customers accordingly.

The Sub-Committee granted the application, subject to conditions as set out below. In reaching this decision, the Sub-Committee noted that Chutney Mary is not located in a designated cumulative impact area and the application is not contrary to policy. The Sub-Committee noted that there had been serious breaches of the licence in the past which had led to the Sub-Committee refusing the application in May 2016. However, as advised by Environmental Health and the Police, the Sub-Committee took into account that the breaches had since ceased and the licensing objectives were now being promoted. There had been no representations in respect of the current application from residents or amenity societies. Environmental Health and the Police had made representations based on the history of the premises and the Sub-Committee's previous decision. They had no concerns about the current application.

There was no known record from the Magistrates' Court of any conditions attached to the licence following the settlement between the Council and the Applicant. It was agreed that rather than attaching the proposed amendment to condition 21 in the report, the condition would be amended from the one proposed by the Applicant for the application considered by the Sub-Committee in May 2016. The wording used was that 'Notwithstanding condition 15, alcohol may be supplied to customers without food provided that

- a) Such supply shall only be to persons seated and served by waiter/waitress service.
- b) Such supply shall cease at 22:00
- c) Such supply shall be limited to 30 customers to be seated in the area hatched black and shown on plan number 3346/LIC2.22.

The availability of alcohol without food shall not be promoted or advertised otherwise than on menus and price lists within the premises'.

It was pointed out that this condition referred to the existing plan attached to the licence but the current application included an amended version of the plan to show the enlarged hatched area at the front of the premises. The licence, as varied, would have to include the amended version of the plan.

The Sub-Committee also informed Mr Baylis of the intention to attach the

Council's Model Condition 57 to the premises licence that 'patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them'. It was believed that this condition had been negotiated with the Applicant as part of the settlement. Mr Baylis responded that he had no objections to the condition being attached to the licence. He added that the Applicant had always maintained a policy that customers were not able to take drinks outside with them. The condition was therefore attached to the premises licence.

## Conditions attached to the Licence

### Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
7. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

- 8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted

price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Additional Conditions**

9. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
10. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
11. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed: Overall capacity 150 persons  
Basement Private Room 1 - 40  
Basement Private Room 2 - 20
12. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
13. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside area between 23:00 hours and 08:00 hours the following day.
14. A challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport or proof of age card with the PASS hologram.
15. The premises shall only operate as a restaurant (i) in which customers are shown to their table, (ii) where the supply of alcohol is by waiter or waitress service only, (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery, (iv) which do not provide any take away service of food or drink for immediate consumption, (v) which do not provide any take away service of food or drink after 23.00, and (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals. Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
16. The premises will maintain a comprehensive CCTV system that ensures all areas of the licensed premises are monitored including all entry and exit points, and the street environment and which enable frontal identification in any light condition. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 31 days with time and date stamping. Tape recordings shall be made available to an authorised officer or a police officer with facilities for viewing. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours

notice. (Subject to the Data Protection Act 1998).

17. The supply of alcohol shall be ancillary to meals.
18. Suitable beverages other than alcohol (including drinking water) shall be available during the permitted hours.
19. All external doors shall be kept closed after 21:00 except for immediate access and egress.
20. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
21. Notwithstanding condition 15, alcohol may be supplied to customers without food provided that
  - d) Such supply shall only be to persons seated and served by waiter/waitress service.
  - e) Such supply shall cease at 22:00
  - f) Such supply shall be limited to 30 customers to be seated in the area hatched black and shown on plan number 3346/LIC2.22.

The availability of alcohol without food shall not be promoted or advertised otherwise than on menus and price lists within the premises.

22. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

## **6 UNIT 4 - HAPPY BAR AND GRILL, TROCADERO, 13 COVENTRY STREET, W1**

### **LICENSING SUB-COMMITTEE No. 1**

*Thursday 2nd November 2017*

Membership: Councillor Angela Harvey (Chairman), Councillor Julia Alexander and Councillor Shamim Talukder

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon  
Presenting Officer: Daisy Gadd

Relevant Representations: Licensing Authority.

Present: Ms Lana Tricker (Solicitor, Representing the Applicant), Mr Ivan Popov (On behalf of the Applicant - son of owner) and Mr David Sycamore (Licensing Authority)

**Unit 4 – Happy Bar And Grill, Trocadero, 13 Coventry Street, W1  
17/08106/LIPN**

**1. Late Night Refreshment (Indoors)**

Monday to Saturday 23:00 to 01:00.  
Sunday 23:00 to 00:00

Amendments to application advised at hearing:  
  
None.

Decision (including reasons if different from those set out in report):

The Sub-Committee heard from Ms Tricker, representing the Applicant. She informed the Sub-Committee that off-sales of alcohol had been withdrawn from the application. Ms Tricker also referred to the premises operating in keeping with the Council's model restaurant condition, MC66. The food provided included chicken seafood, pasta and meat. There was a holding bar at the premises. However, alcohol could only be consumed there prior to a meal. There would be no vertical drinking and no regulated entertainment at the premises.

Ms Tricker stated that there were few residents in the vicinity of the premises and that no residents had objected to the application. The Applicant as a tenant would be required to minimise any noise due to user clauses in the lease. There would be hotel bedrooms on the upper floor.

The Applicant had agreed proposed conditions with Environmental Health and the Metropolitan Police and the two Responsible Authorities had subsequently withdrawn their representations. The remaining representation was from the Licensing Authority. Ms Tricker said that one of the proposed conditions Environmental Health had agreed with the Applicant was a capacity of 430 for the premises.

Ms Tricker made the point that the proposed terminal hour of 01:00 Monday to Saturday and midnight on Sunday was sought for the restaurant in the West End Cumulative Impact Area in order to accommodate customers post theatre as well as prior to a performance. She mentioned the Council's policy on restaurants, including that it was recognised that restaurants have little association with crime and disorder. Also, the Police had not maintained their representation.

The Sub-Committee asked for clarification regarding the proposed numbers in the holding bar area. Ms Tricker replied that the requested number was 25 people which she added was less than 5% of the total capacity. It was possible to have a meal at the bar area. The concept was to give diners some flexibility.

Ms Tricker commented that customers were likely to leave when the meal was



finished. This she believed would mean that there would be a gradual dispersal of customers so that they would not all leave at 01:00. Ms Tricker also expressed the view that the application would not add to cumulative impact. It was the Applicant's aim to attract people who were already within the Cumulative Impact Area, including post theatre customers. They would be sitting down at Happy Bar And Grill and would be located in a contained environment.

The Sub-Committee was addressed by Mr Sycamore on behalf of the Licensing Authority. He stated that the Applicant's decision to withdraw off-sales had alleviated some of the Licensing Authority's concerns. However, the proposed hours were outside of the Council's Core Hours policy and he was very much of the view that the application would add to cumulative impact. The capacity would be 430 people at premises that were not already licensed. There would therefore be a high footfall.

Mr Sycamore believed that a particular clientele could well travel to the West End Cumulative Impact Area specifically to visit Happy Bar And Grill. It was not necessarily the case that the premises would only attract customers who were already within the Cumulative Impact Area. Mr Sycamore recommended that the use of the holding bar ceased no later than Core Hours as customers were likely to be seated by this time.

Ms Tricker was given an opportunity to respond to Mr Sycamore's comments. She disagreed with his submission in respect of the premises attracting a specific clientele which would bring people into the West End Cumulative Impact Area. She advised that her client was prepared to close the holding bar at Core Hours in the event the application was granted.

Ms Tricker and Mr Popov spoke about how the premises would operate. There was an open market area where there was a display of food. Food would not be sold there. There would be two hosts in the restaurant. It would be known from the booking sheet how many people were in the holding bar area. Customers would either be able to walk in to the premises and be served or book a table. A higher ratio of customers walking in without a booking was likely to take place at lunchtime. Mr Popov informed the Sub-Committee that the average turnaround time for customers at the Applicant's various premises was 52 minutes. It was not expected that customers would be in the holding bar for more than 10 minutes.

The Applicant showed the Sub-Committee during the hearing a number of pictures of what was proposed at Trocadero and also pictures of other premises owned by the Applicant at different locations, including in Bulgaria.

The Sub-Committee considered that this was a large new premises in the heart of the West End Cumulative Impact Area. The Applicant had agreed the Council's MC66 condition with the Responsible Authorities. The Sub-Committee noted that off sales had been withdrawn. The Council's policy is that applications for hours within Core Hours as set out in the policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy. The Sub-Committee was satisfied that the Applicant could

	<p>operate Happy Bar And Grill within Core Hours (a terminal hour of 23:30 Monday to Thursday, midnight Friday and Saturday and 22:30 on Sunday) without undermining the licensing objectives. This included the 25 people in the holding bar as the Council's policy accepts that customers should be able to have a drink prior to having a meal.</p> <p>The Applicant was however also required in respect of Policy RNT2 to demonstrate that the application would not add to cumulative impact. The Sub-Committee considered that the combination of a large capacity of 430 at the new premises and a quick turnaround of customers (the Applicant stated that each customer stayed on average 52 minutes at the premises) produced the likely effect, in the event the application was granted in full, of a substantial number of people being in the Cumulative Impact Area and leaving the premises in the early hours of the morning. This would add to cumulative impact.</p> <p>The Sub-Committee therefore granted Core Hours for the closing time and for licensable activities except for on-sales commencing at 10:00 on Sundays (rather than midday). The Applicant would be permitted to open at 08:00 each day as applied for.</p>
<b>2.</b>	<b>Sale by retail of alcohol (On and Off)</b>
	<p>Monday to Saturday 08:00 to 01:00. Sunday 08:00 to 00:00</p>
	<p>Amendments to application advised at hearing:</p> <p>Ms Tricker, representing the Applicant, informed the Sub-Committee that off-sales of alcohol had been withdrawn from the application. See reasons for decision in Section 1.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted Core Hours for on-sales except that they would commence at 10:00 on Sundays (rather than midday).</p>
<b>3.</b>	<b>Hours premises are open to the public</b>
	<p>Monday to Saturday 08:00 to 01:00. Sunday 08:00 to 00:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p>

	The Sub-Committee granted Core Hours for the closing time. The Applicant would be permitted to open at 08:00 each day as applied for.
<b>4.</b>	<b>Seasonal variations / Non-standard timings</b>
	<b><u>Late Night Refreshment (Indoors), Sale by retail of alcohol (On and Off) and Hours premises are open to the public</u></b>  End of permitted hours on New Year's Eve to start of permitted hours on New Year's Day.
	Amendments to application advised at hearing:  Ms Tricker, representing the Applicant, informed the Sub-Committee that off-sales of alcohol had been withdrawn from the application.
	Decision (including reasons if different from those set out in report):  The Sub-Committee granted this aspect of the application as applied for. Off-sales had been withdrawn.

<b>Conditions attached to the Licence</b>	
<b><u>Mandatory Conditions</u></b>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.	(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
	(2) In this paragraph, an irresponsible promotion means any one or more of

the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
  - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
  - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
  - (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the

alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
  - (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- 8(iv).
  - (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
  - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Additional Conditions**

- 9. The premises shall only operate as a restaurant
  - (i) in which customers are shown to their table,
  - (ii) where the supply of alcohol is by waiter or waitress service only,
  - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
  - (iv) which do not provide any take away service of food or drink for immediate consumption,
  - (v) which do not provide any take away service of food or drink after 23.00, and
  - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition, customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their

meal.

10. Notwithstanding condition 9, alcohol may be supplied and consumed prior to their meal in the bar area (shown hatched on the plan), by up to a maximum at any one time, of 25 persons dining at the premises.
11. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
12. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
13. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
14. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
15. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
16. The reception desk shall be manned at all times the premises is in operation.
17. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

20. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
21. No water or recyclable materials, including bottles, shall be moved, removed from or placed in areas outside the Trocadero between 23.00 hours and 07.00 hours on the following day.
22. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
23. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 on the following day.
24. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business. Smoking related litter shall be cleared by the premises regularly during trade and at the end of the day's trade.
25. The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
26. The Licence will have no effect until the Licensing Authority are satisfied that the premises are constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the Licence.
27. Prior to the licence taking effect, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the LFEPA, Environmental Health Consultation Team, the Police and the Licensing Authority.
28. On New Year's Eve, A minimum of 2 SIA licensed door supervisors shall be on duty from 2200 hours at the premises, at all times whilst it is open for business
29. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. The maximum capacity that can be determined is 430 persons (excluding staff).