



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (4)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** Committee held on **Thursday 10th December, 2015**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

**Members Present:** Councillors Jean Paul Floru (Chairman), Susie Burbridge and Peter Freeman

#### 1 MEMBERSHIP

There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 3 CO-OPERATIVE FOOD, GROUND FLOOR, 87 ALLITSEN ROAD, NW8

##### LICENSING SUB-COMMITTEE No. 4

*Thursday 10th December 2015*

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Susie Burbridge and Councillor Peter Freeman

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

<b>Co-operative Food, Ground Floor, 87 Allitsen Road, NW8</b> <b>15/09339/LIPN</b>
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Application withdrawn by the Applicant prior to the hearing.
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#### 4 IL FORNETTO, 21 CHARING CROSS ROAD, WC2

## LICENSING SUB-COMMITTEE No. 4

Thursday 10th December 2015

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Susie Burbridge and Councillor Peter Freeman

Legal Adviser: Barry Panto  
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Relevant Representations: Environmental Health, 1 Residents Association and 1 local resident.

Present: Ms Bo-Eun Jung (Counsel, Representing the Applicant), Ms Helen Cardy (On behalf of the Applicant), Mr Chong (Alessio) Zeng Dong (Director, Applicant Company), Mr Stefano Potorti (Proposed Designated Premises Supervisor) and Mr Ian Watson (Environmental Health)

<b>Il Fornetto, 21 Charing Cross Road, WC2 15/08997/LIPV</b>	
<b>1.</b>	<b>To add Sale by Retail of Alcohol (On and Off)</b>
	Monday to Thursday: 10:00 to 23:30 Friday and Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:30 Sunday before Bank Holidays: 10.00 to 00.00  From the terminal hour on New Year's Eve until the commencement hour on New Year's Day.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  This was an application for a variation of the premises licence within the West End stress area. The existing premises licence permitted takeaway of hot food and drink until 03:00 Monday to Sunday. The Applicant additionally sought on and off sales of alcohol from 10:00 to 23:30 Monday to Thursday, 10:00 to midnight Friday and Saturday and midday to 22:30 Sunday which are the hours set out as the Council's Core Hours policy. The off-sales required by the Applicant were in the outside area (which would require a tables and chairs licence) and ancillary to a take-away meal. The Applicant also wished to provide off-sales that were ancillary to a take-away meal as part of their delivery service to other premises.

Ms Bo-Eun Jung, representing the Applicant, stated at the hearing that she wished to make three main submissions as to why the application would not add to cumulative impact. Firstly, the application was for the sale of alcohol within Core Hours. Secondly, it was the view of the Applicant that Il Fornetto was a restaurant rather than a drinking establishment or a fast food premises. Thirdly, there had been conditions agreed with the Police and in discussions with Environmental Health that would limit cumulative impact. Ms Bo-Eun Jung wished to emphasise that Il Fornetto was not a 'run of the mill' pizza slice takeaway that was seen frequently in Leicester Square and the surrounding area. She added that only the finest ingredients were used for the pizza which includes Mulino Marino flour. Other Italian dishes were provided including lasagne, melitzanes and arancini. There was a weekly, innovative menu and over the three months Il Fornetto had been open it had received good reviews. Ms Bo-Eun Jung stated that Time Out had described the premises as having the best pizza in the area. She made the point that this was not the type of place that would attract large crowds after a late night of drinking. Customers seek out the premises because they want good quality pizza, not cheap food and alcohol. The pizza at Il Fornetto was approximately £3 to £4.50 a slice compared with ££2.50 per slice in the locality. The alcohol sold would be limited to a small range of wines and Italian beers and would accompany a meal.

Ms Bo-Eun Jung referred to the experience of the staff and that there would be three CCTV cameras inside the premises with two on the ground floor and one on the lower ground floor. There was also a CCTV camera outside the premises. The sale of food and alcohol would take place on the ground floor. There were currently 12 seats on the ground floor (a capacity was proposed of 24 in total). Downstairs there was the kitchen, storage space and toilets. She also stated that there was a bus stop immediately outside the premises.

Ms Bo-Eun Jung, when asked by the Sub-Committee why off-sales would not add to cumulative impact, replied that patrons would not specifically be coming to the premises for cheap alcohol as the alcohol sold at Il Fornetto was more expensive than off-licences. Off-sales would predominantly be sold to other premises such as homes or offices in the form of deliveries within a mile and a half of the premises (Mr Portorti explained that a company was employed to deliver the orders that also arranged for deliveries for other premises in Charing Cross Road). She clarified that waiter or waitress service would be available for on-sales. Off-sales would have to be sold in a sealed container apart from sales to the external tables and chairs which would have to be by waiter or waitress service. Mr Portorti advised the Sub-Committee that the premises did not operate entirely in keeping with the Council's model restaurant condition MC66 as non-disposable crockery was not used and knives and forks were disposable. However, he expressed the view that substantial table meals were provided, including the pizza and lasagne. In terms of takeaways, portions were sold from one slice up to eight slices. The Applicants confirmed in response to a question from Mr Panto that they did not have a private forecourt and that alcohol sold to customers seated outside would be off-sales. Mr Panto pointed out that some of the proposed conditions were in conflict with each other. Proposed condition 15 did not appear to make any provision for off-sales at all, whilst proposed condition 17 restricted off-sales to take-away meals and made no allowance for sales to the external tables and chairs.

Mr Watson for Environmental Health stated that the licensed area should only include the ground floor. The premises would need a 'tables and chairs' licence as they would be situated on the public highway. If such a licence was applied for then the capacity of 24 people would not be affected as it would include customers dining outside. He was also of the view that there had been some confusion regarding the takeaway aspect of the application as set out in the proposed conditions. Mr Watson recommended a proposed condition that there should be no self-service of alcohol. He was not objecting to the proposed hours sought. He added that the premises had already been assessed as satisfactory by the Environmental Health Consultation Team and there was no need for the works condition to remain on the licence.

Members of the Sub-Committee, in reaching a decision to grant the application subject to amendments, were content with the proposed hours for on-sales on the basis that alcohol would be ancillary to a substantial table meal and customers would have to be seated. Members were also satisfied that the hours sought should be permitted for off-sales where customers were seated and served by waiter or waitress in the external area with alcohol being ancillary to substantial meals. They were content with the proposed hours for off-sales in the form of deliveries to company premises and residents' homes where alcohol was ancillary to a takeaway meal. Customers were not in this instance adding to cumulative impact in the West End Stress Area. The Sub-Committee did however share the concerns of the Burleigh Mansions Residents Association regarding off-sales of alcohol that are ancillary to a takeaway meal but are purchased by customers at the premises. Members considered that if alcohol could potentially be consumed with a takeaway meal in the stress area up until midnight this would add to cumulative impact. The Sub-Committee was aware of the Council's consultation on the review of the Statement of Licensing Policy which had proposed that when the sale of alcohol is not permitted beyond 20.00 hours then the Council considers that permitting the sale of alcohol for consumption on the premises is unlikely to add to cumulative impact. Members decided that this policy approach which is included in the revised Statement of Licensing Policy which was approved by Full Council and comes into effect in January 2016 was appropriate to apply in this instance. The Sub-Committee set out these requirements in Condition 23 below which better reflected the style of operation than the proposed restaurant and off-sales conditions which did not refer to use of the outside area or deliveries as sought by the Applicant. The Sub-Committee also added the condition suggested by Mr Watson that there would be no self-service of alcohol. The works condition was removed from the premises licence upon Mr. Watson confirming that it was no longer required.

<b>2.</b>	<b>To remove all conditions on the existing licence and replace with an updated set of conditions</b>
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee granted the removal of all of the conditions 1 to 11 on the previous licence. The Sub-Committee amended the remaining conditions as listed below to reflect their concerns set out in Section 1 above.

#### **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

- (ii) supply alcohol), or  
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 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.
10. 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.
11. 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 a driving licence, passport or proof of age card with the PASS Hologram.
12. The number of persons permitted on the premises at any one time (including staff) shall not exceed
- Ground Floor 24 persons.
13. The edges of the treads of steps and stairways shall be maintained so as to be



conspicuous.

14. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
16. 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.
17. 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.
18. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours.
19. No deliveries to the premises shall take place between 23.00 hours and 08.00 hours.
20. 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, searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
21. Waiter or waitress service shall be available for the sale or supply of alcohol for consumption on the premises.
22. Alcohol shall not be sold for consumption on the premises 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.
23. Alcohol shall not be sold for consumption off the premises apart from:
  - a. Alcohol in a sealed container that has been supplied with and ancillary to a take-away meal for delivery to other premises; or
  - b. Alcohol in a sealed container that has been supplied with and ancillary to a take-away meal (other than for delivery to other premises) but only until

20.00 on every day of the week, including week-ends; or

- c. Alcohol that is served by a waiter or waitress to persons who are seated in an external area appropriately authorised for the use of tables and chairs on the highway and bona fide taking substantial meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

24. There shall be no self-service of alcohol.