



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 11th February, 2016**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

Members Present: Councillors Nickie Aiken (Chairman), Nick Evans and Peter Freeman

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

Councillor Peter Freeman declared in respect of item 2 on the agenda (The Marylebone Tup, 93 Marylebone High Street, W1), that he knew the premises and had visited it on a few occasions. However, he did not view this as a personal or prejudicial interest and remained present to consider the matter.

1 ITALIAN CAFE / DELI, UNIT 5, BISHOP'S QUARTERS, BISHOP'S BRIDGE ROAD, W2

LICENSING SUB-COMMITTEE No. 2

Thursday 11th February 2016

Membership: Councillor Nickie Aiken (Chairman), Councillor Nick Evans and Councillor Peter Freeman

Legal Adviser: Barry Panto
Committee Officer: Toby Howes

**Café / Deli, Unit 5, Bishop's Quarters, Bishop's Bridge Road W2
15/119114/LIPN**

Application adjourned prior to the hearing.

2 THE MARYLEBONE TUP, 93 MARYLEBONE HIGH STREET, W1

LICENSING SUB-COMMITTEE No. 2

Thursday 11th February 2016

Membership: Councillor Nickie Aiken (Chairman), Councillor Nick Evans and Councillor Peter Freeman.

Legal Adviser: Barry Panto
Committee Officer: Toby Howes
Presenting Officer: Sumeet K Anand-Patel

Relevant Representations: Environmental Health and a local resident.

Present: Ms Felicity Tulloch (Legal Representative for the Applicant Company), Mr Ben Avigdori (Director, Applicant Company) and Anil Drayan (Environmental Health).

Declarations: Councillor Peter Freeman declared that he knew the premises and had visited it on a few occasions. However, he did not view this as a personal or prejudicial interest and remained present to consider the matter.

The Marylebone Tup, 93 Marylebone High Street, W1 15/11508/LIPN	
1.	Regulated Entertainment: Exhibition of a Film, Indoor Sporting Events, Live Music and Recorded Music
	Monday to Thursday: 09:00 to 23:30 Friday and Saturday: 09:00 to 00:00 Sunday: 09:00 to 22:30 From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Ms Tulloch, the Applicant Company's Legal Representative, began by advising that the Applicant Company had acquired the premises in 2011 and there was

already a premises licence in place on the ground floor. However, the Applicant Company had submitted an application for a new premises licence in order that part of the first floor would also be licensed in addition to the ground floor. There would also be other works undertaken if the licence was granted, including additional fire exits. Ms Tulloch stated that the hours sought for licensable activities and opening hours were identical to those on the existing premises licence. She confirmed that the Applicant Company would surrender its existing premises licence upon completion of the works if the application was granted. She stated that the Applicant Company had met with Anil Drayan from Environmental Health and had agreed to the conditions that he had proposed.

The Sub-Committee heard that the Police had also visited the premises and had noted that the Applicant Company had agreed to the conditions proposed by Environmental Health and as a consequence, the Police had withdrawn their representation. Ms Tulloch stated that two letters had been sent to a resident who had made a representation on the application, one hand delivered by the Applicant Company on 18th January, and the second by special delivery on 29th January, however no response to the letters had been received.

Members asked what distance the resident making the representation lived from the premises and the length of time the works on the premises would take to complete.

In reply, Mr Avigdori, Director at the Applicant Company, advised that the works were likely to take around 12 weeks and would involve putting in a new steel structure. He anticipated that the premises would be closed for a period of 2 to 3 weeks during the works. Mr Avigdori felt that the distance between the premises and where the resident making the representation lived was considerable and he drew Members' attention to the map provided by the Applicant Company that showed the locations of the premises and the building where the resident lived. Ms Tulloch added that other residents who lived nearer the premises had not made any representations on the application.

Mr Drayan from Environmental Health then addressed the Sub-Committee and he confirmed that all conditions proposed by Environmental Health had been agreed by the Applicant Company. He suggested that conditions proposed by the Applicant Company be replaced by the alternative conditions contained within the list of conditions proposed by Environmental Health. Mr Drayan added that he had no other concerns in respect of the application.

The Sub-Committee considered the written representation by the local resident who was not present at the hearing.

Mr Panto, Legal Adviser to the Sub-Committee, referred to the Applicant Company's proposed condition 10 relating to consumption of alcohol in an external area and he sought confirmation as to whether a tables and chairs licence was required for this area and if so did the Applicant Company hold one. Mr Panto sought confirmation that the Applicant Company and Environmental Health were content for conditions 11 to 18 as proposed by the Applicant Company not to be included on the premises licence as Environmental Health proposed alternative conditions to these. He also sought Environmental

	<p>Health's views in respect of capacity as a capacity condition had not been proposed by them.</p> <p>In reply, Mr Avigdori advised that the external area referred to in the Applicant Company's proposed condition 10 was privately owned and so a tables and chairs licence was not required. Mr Avigdori and Mr Drayan both confirmed that they had no objection to the inclusion of the Applicant Company's proposed condition 10 on the premises licence and the non-inclusion of the Applicant Company's proposed conditions 11 to 18. Mr Drayan advised that he was satisfied for the capacity of the premises to be subject to that as set out in the Fire Risk Assessment, with no capacity being inserted on the premises licence itself.</p> <p>The Sub-Committee granted the application, subject to the conditions as proposed by Environmental Health and agreed by the Applicant Company and an additional condition proposed by the Applicant Company that open containers of alcohol shall not be removed from the premises, save for consumption in any delineated external area. In determining the application, the Sub-Committee considered that the representation from the local resident had not provided sufficient evidence that the application would undermine the licensing objectives. The Sub-Committee noted that the premises was not located in a cumulative impact area and the hours proposed were within core hours. The Sub-Committee also considered that granting the application with the conditions added would help the Applicant Company uphold the promotion of the licensing objectives (prevention of crime and disorder, prevention of public nuisance, public safety and protection of children from harm).</p>
2.	Late Night Refreshment
	<p>Monday to Thursday: 23:00 to 23:30 Friday and Saturday: 23:00 to 00:00</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</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>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
3.	Sale by Retail of Alcohol: On and Off Sales
	Monday to Thursday: 10:00 to 23:30

	<p>Friday and Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:30</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</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>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
4.	Hours Premises are Open to the Public
	<p>Monday to Thursday: 09:00 to 23:30 Friday and Saturday: 09:00 to 00:00 Sunday: 09:00 to 22:30</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</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>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
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.

9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

Additional Conditions

10. Open containers of alcohol shall not be removed from the premises, save for consumption in any delineated external area of the premises shown cross-hatched on the plan.
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 are 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. 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, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder or nuisance
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service.
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 a driving licence, passport or proof of age card with the PASS Hologram.
15. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
16. 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.
17. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
18. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised

by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

19. All outside tables and chairs shall be removed or rendered unusable by 23.00 each day.
20. After 23:00 hours patrons permitted to temporarily leave or use the external areas of the premises and then re-enter the premises eg to smoke, shall not be permitted to take any drinks or glass containers with them.
21. Notices shall be prominently displayed at the exit/entrance and in the external area requesting patrons to respect the needs of local residents and businesses and when leaving to do so quietly.
22. No collections of waste or recycling materials, including bottles, from the premises shall take place between 23.00 and 07.00 hours on the following day.
23. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
24. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
25. 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.
26. All staff will be trained as to their responsibilities with regard to the licensing objectives and on complying with the conditions on the premises licence. The training will be regularly refreshed at least every 6 months and staff records maintained on site and made available for inspection by authorised officers of the Council or the Police. New staff shall be similarly trained within one month of starting their employment.
27. No licensable activities shall take place at the premises before the plans, as deposited, have been checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where minor layout changes have occurred during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority at which time this condition shall be removed from the Licence by the licensing authority.
28. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.

29. No licensable activities shall take place at the premises under this Licence until the premises licence, 15/01622/LIPDPS, has been surrendered and this condition removed from the Licence by the Licensing Authority.

The Meeting ended at 10.18 am

CHAIRMAN: _____

DATE _____