



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (5)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** Committee held on **Thursday 18th February, 2016**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

**Members Present:** Councillors Angela Harvey (Chairman), Jan Prendergast and Rita Begum

#### 1 MEMBERSHIP

There were no changes to the Membership.

#### 2 DECLARATIONS OF INTEREST

Councillor Harvey and Councillor Prendergast declared in respect of The Phoenix, 51 Moscow Road that they know Baroness Gardner and her daughter Sarah Joiner as they were former councillors, and were both appointed to the role of Lord Mayor, at Westminster Council. Councillor Harvey and Councillor Prendergast added that their declarations were neither personal nor prejudicial. Their declarations would not in any way affect their ability to consider the matter impartially.

#### 3 THE PHOENIX, 51 MOSCOW ROAD W2

##### LICENSING SUB-COMMITTEE No. 5

*Thursday 18th February 2016*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

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

Relevant Representations: Environmental Health, 2 Ward Councillors, 2 Residents' Associations and local residents x 25.

Present: Mr Piers Warne (Solicitor, representing the Applicant), Mr Stephen Barrie (Business Development Manager, Spirit Pub Company (Greene King)), Mr Ireneusz Tomecki (General Manager, The Phoenix), Mr Anil Drayan (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – on behalf of local residents), Mr John Zamit (South East Bayswater Residents' Association and Bayswater Residents' Association), Mr William Kennedy (Queensway Residents' Association), Mr Rexford Ladd and Mr Tim Snell (local residents)

Declaration: Councillor Harvey and Councillor Prendergast declared that they know Baroness Gardner and her daughter Sarah Joiner as they were former councillors, and were both appointed to the role of Lord Mayor, at Westminster Council. Councillor Harvey and Councillor Prendergast added that their declarations were neither personal nor prejudicial. Their declarations would not in any way affect their ability to consider the matter impartially.

<b>The Phoenix, 51 Moscow Road, W2 15/09852/LIPV</b>					
<b>1.</b>	<b>Late Night Refreshment (Indoors)</b>				
	<table> <tr> <td style="text-align: center;"><u>From</u></td> <td style="text-align: center;"><u>To</u></td> </tr> <tr> <td>Monday to Saturday 23:00 to 23:30</td> <td>Monday to Thursday 23:00 to 00:00 Friday to Saturday 23:00 to 00:30</td> </tr> </table>	<u>From</u>	<u>To</u>	Monday to Saturday 23:00 to 23:30	Monday to Thursday 23:00 to 00:00 Friday to Saturday 23:00 to 00:30
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Monday to Saturday 23:00 to 23:30	Monday to Thursday 23:00 to 00:00 Friday to Saturday 23:00 to 00:30				
	<p>Amendments to application advised at hearing:</p> <p>Mr Warne advised that the proposed hours for late night refreshment had been amended so that they were in keeping with the Council's Core Hours policy (Monday to Thursday 23:00 to 23:30 and Friday to Saturday 23:00 to 00:00).</p>				
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee initially heard from Mr Warne, representing the Applicant. He advised that the application had been amended so that the proposed hours for licensable activities and the closing time were in keeping with the Council's Core Hours policy. This meant that the application was to sell alcohol for an extra 30 minutes on Monday to Thursday and an extra hour on Friday and Saturday and to provide late night refreshment for an extra 30 minutes on Friday and Saturday. There were no changes proposed relating to the licensable activities or the hours of trading on a Sunday. The Applicant was also seeking to remove the restriction on trading hours for Good Friday so that the hours on that day reflect what is generally permitted on the licence for a Friday.</p> <p>Mr Warne stated that the existing premises licence had few conditions attached</p>				

to it. It was his case that the additional proposed conditions and what he termed the 'robust operating schedule' mitigated the later hours sought. A significant number of conditions had been agreed with Environmental Health and the Police. The conditions were designed to address any issues relating to dispersal (including that from twenty minutes prior to closing the premises, the duty manager will patrol outside the front of the premises to ensure a quiet customer dispersal) and outside drinking (including that staff would regularly collect glasses outside and patrons drinking or smoking outside would be supervised by staff). No drinks would be permitted in the outside area after 22:30 under the proposed conditions which was not the case with the conditions on the existing premises licence.

It was noted that the Police had now withdrawn their objection to the application. Contrary to the assertion in the letter from the applicant's solicitors dated 11 February 2016, the representation from Environmental Health had not been withdrawn.

Mr Warne made the point that applications seeking later hours had previously been submitted by the Applicant and had been withdrawn. Mr Warne added that his client was now looking for the Sub-Committee to determine the matter. He believed that a key concern of local residents was that The Phoenix would become a destination venue. However, the hours were now in keeping with the Council's Core Hours policy. His client was hopeful that patrons would remain on the premises, not leave excited from the premises and look to go elsewhere. He added that there were at least four pubs operating Core Hours within seven minutes' walk of the premises including the Bayswater Arms.

Mr Warne referred to the two entries of complaints for The Phoenix on the Council's Noise Team's database which had been included in Mr Drayan's Environmental Health representation. He explained that his client had not been aware of any complaints until a later meeting. He wished to draw Members' attention to the fact that Licensing Inspectors had visited on 20 November 2015 and no issues had been found. Occasionally The Phoenix had live music. Most music was 'lower key' and involved vocal acts. Mr Warne accepted that louder music had been played on Halloween evening and residents had complained to the premises. He informed the Sub-Committee that a vocal act had performed on Saturday 13 February and his client was confident that no issues had been raised for residents by this performance.

The Sub-Committee next heard from Mr Drayan. He stated that he believed the proposed conditions which had been agreed with the Applicant provided additional controls, including the requirement for a noise limiter. There were conditions to prevent issues in the outside area which he believed was likely to be the main source of concern for local residents. He was content that the proposed hours had now been reduced to be in keeping with the Council's Core Hours policy. He had no further objections to the application.

Mr Brown addressed the Sub-Committee on behalf of a number of local residents. He stated that 29 representations objecting to the application was a significant number and there was a striking consistency to the points that they made in their written representations. They identified a number of issues with the premises which would be exacerbated if longer hours were permitted at The

Phoenix. The residents he was representing were firmly of the view that the proposed conditions did not mitigate the issues that were currently caused and would be caused if the hours were extended.

Mr Brown was representing Mr Ladd who lives at Windsor Court. Mr Brown advised Members that as set out in his written representation, Mr Ladd had experienced loud music emanating from the premises on many occasions. He added that this could be heard in Mr Ladd's bedroom and study. The most recent instance when Mr Ladd had heard music in his home had been the performance in the pub on Saturday 13 February 2016. Mr Brown was also representing Mrs Massey-Cook and raised the problems that she had experienced from the operation of the pub which had been listed in her written representation. These included people 'drinking and smoking on the narrow pavement on the Bark Place frontage preventing pedestrians from passing without going into the road', men urinating openly in the locality, pub glasses being left on garden walls and in hedges, cigarette butts and vomit on the pavement and noise from people drinking and eating at outside tables.

Mr Brown referred to Mr Drayan's written representation that had detailed a meeting between Mr Drayan and Mr Tomecki, the DPS. This had brought to light that music was played through the performers' own sound systems. Mr Brown stated that this had led to the noise limiter proposed condition including the line that 'no additional sound generating equipment shall be used on the premises without being routed through the sound limiter device'. However, this did not bring the comfort that it might have done in the past as the deregulation of live music meant that the condition would have no effect between the hours of 08:00 and 23:00 hours. Whilst it would be hoped that the Applicant would comply with the condition, such a condition would only be enforceable if the premises licence was reviewed.

Mr Brown made the point that the pub is located in a very residential area. Noise from outside drinkers and smokers was a theme throughout the written representations as was screaming and shouting until late in the evening. Dispersal was a major issue for residents, most notably those living in Bark Place as it was used to reach Bayswater Road. Residents had reported that there was no effective control of people leaving the premises. In the event that the proposed hours were extended, enabling people to drink more, the impact on residents would be even greater. Residents in Bark Place, Lombardy Place and Caroline Place live in comparatively quiet roads with lesser use by motor vehicles later in the evening. The high sided buildings there accentuated any noise made by people using these roads at a late hour. Mr Brown added that there were a number of references in the representations from people living in these locations being disturbed by patrons leaving the pub.

It was Mr Brown's submission that the two complaints received by the Noise Team did not provide an accurate reflection of the problems experienced by local residents. He referred to Ms Antoniadis' representation that she had made complaints to the Noise Team on three occasions in 2015 and had contacted them 'on several occasions'. Ms Antoniadis had stated that she had complained about the Halloween event on 31 October 2015. She had also attempted to contact 'the pub directly with no action taken by the pub staff and

management'. Mr Brown stated that residents often did not decide it was practical to contact the Noise Team. Mr Ladd had informed him that there were a number of occasions when he had been adversely affected by noise emanating from the premises but had not contacted the Noise Team because the problems would have been likely to have eased in the time it would have taken officers to reach the premises.

Mr Brown disputed the point made by Mr Warne that the proposed extension of hours would permit The Phoenix to trade the same hours as the other public houses in the immediate vicinity. He commented that The King's Head in Moscow Road was not operating until Core Hours. The other premises within 75 metres of the premises had a terminal hour of 23:00 latest. The Bayswater Arms was operating until Core Hours but that was located further away in Queensway. Mr Brown added that an extension of hours at The Phoenix would therefore go further than had been established in the locality before and introduce noise to the later part of the evening.

Mr Brown stated that residents were of the view that many of the proposed conditions were either policies that the premises management had adopted already or that they should have adopted already. Signs and checking outside were matters of good practice. He commented that regardless of the conditions attached to the licence, the Applicant would be expected to promote the licensing objectives and residents did not believe that this was the case. He referred to Mr Snell's representation that it was more appropriate to have a review of the existing premises licence.

Mr Brown drew Members' attention to the Council's Statement of Licensing Policy and in particular that for pubs outside the cumulative impact areas applications would only be granted if the proposals meet the criteria in other policies including PN1. In PN1 it stated that stricter criteria applied in areas of residential accommodation and where there is residential accommodation in proximity of the premises. He added that because there were demonstrable problems with the current operation it was probable or inevitable that there would be nuisance if the proposed hours were granted.

Mr Ladd stated that the situation was unacceptable now in terms of the impact of the operation of the pub on residents. The Applicant wanted to retain patrons on the premises and patrons would inevitably drink for a longer period. If the later hours were granted it would be very difficult to control the patrons who were dispersing.

Mr Snell raised the point that the pub is located in a very residential area and local neighbouring residents were being adversely affected by the current operation at The Phoenix. Any extension of hours would have a detrimental effect on the quality of life of residents and their families. It would not promote the licensing objectives. Mr Snell commented that the environment in the vicinity of the pub which a large number of residents had referred to was very different from the Bayswater Arms (also operated by the Applicant) at the intersection of Moscow Road and Queensway. It was therefore not comparable in terms of making a case for Core Hours. He expressed the view that no conditions proposed by the Applicant would mitigate or offset the impact of later hours at

the premises. He believed that many of the proposed conditions were best practice measures such as collecting glasses which should be followed currently. He added that a future review of the premises licence was appropriate and this would be the occasion to add the conditions being proposed for the current application.

Mr Kennedy and Mr Zamit wished to echo the concerns raised at the meeting and in the written representations. Mr Zamit referred to the 29 representations objecting to the application, including from two local Ward Councillors. He also commented that by adding 30 minutes to the premises licence additional conditions could be attached to the licence but then it could be argued that not only the existing customers might stay for longer but more people would be attracted to the pub as it would remain open beyond the closing times of other licensed premises in the vicinity. This would make existing matters even worse. Mr Zamit expressed the view that if the Sub-Committee were minded to grant the application the conditions were not sufficiently comprehensive given the objections that had been raised. These included that it was questionable that drinkers should be permitted outside until 22:30 and block the highway. He added that everything he had heard demonstrated that the pub had to 'get its act together'. They needed to remember they were located next to residential blocks and families.

Mr Warne, in response to a question from the Sub-Committee, stated that he accepted that there was least one objection had been received to the aspect of the application relating to the removal of the restriction of trading hours on Good Friday. Mr Brown stated that he was aware of at least two, Baroness Gardner and Mrs Cook. Mr Zamit also referred to his own representation that objected to it.

Mr Warne also responded to some of the objections made at the hearing. It was his submission that the allegations of serious issues at the pub were disputed by his client. His client would be happy to meet residents and address any concerns raised by them. He believed that a lot of the representations related to the potential for disturbance rather than actual complaints and where there were complaints, many of them were outside the scope of the application. He reiterated that the proposed conditions were very robust. In the event of a review, the Applicant would be judged on the basis of whether the conditions attached to the licence were being complied with or not. Live music was not part of the application. Mr Warne stated that in keeping with the Revised Guidance issued under section 182 of the Licensing Act 2003, the Sub-Committee 'should aim to consider the potential burden that the conditions would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives'. He expressed the view that the measures proposed addressed the issues raised by the Applicant directly and there was nothing that had been said by residents which should lead the Sub-Committee not to grant Core Hours. In response to a question from the Sub-Committee he stated that it was accepted that the management could operate the premises, improving policies as issues arise. It was not accepted that the premises was not run well. The Applicant was happy to clear up glasses within a 25 metre radius.

Mr Wroe was asked to give his view on the noise limiter condition. He gave advice that any conditions relating to regulated entertainment before 23:00 were void, including the noise limiter condition, because of the de-regulation of entertainment. Mr Panto made the point that the operation was not supposed to cause a public nuisance whether a noise limiter condition was on the premises licence or not. If there was a public nuisance, a noise abatement notice could be issued or an application for a review of the premises licence submitted.

The Sub-Committee had noted that previous applications to extend the hours of operation had been withdrawn by the Applicant due to residents' objections. The Applicant's Representative had stated that it was time for the Sub-Committee to make a determination in respect of the application. The Sub-Committee decided to refuse the application.

Mr Warne had made specific reference to paragraph 9.43 of the statutory guidance which he described as crucial in determining whether the conditions proposed achieved a proportionate result. It was noted that the guidance indicated that the licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and the benefits either for or against making the determination. The members did have careful regard to that guidance but could not ignore the strength of feeling from the local residents who had made representations and expressed concerns about the current operation of the premises.

It was not considered to be appropriate to extend the hours when the licensable activities could take place. This was due to the continuing concerns raised in the written representations and at the hearing by a significant number of local residents both about the existing operation and management of the premises and also the potential nuisance associated with the proposed extension of the hours of operation. The Sub-Committee had considered the conditions proposed by the Applicant but were not satisfied that they would mitigate the concerns raised in this highly residential area, including in terms of dispersal. Members had heard of failure by management to prevent noise emanating from premises. The most recent case of this had been on Saturday 13 February 2016. The Sub-Committee considered that given the concerns about the current operation, it would not be appropriate to remove the restriction on trading hours for Good Friday.

**2. Sale by Retail of Alcohol (On and Off)**

From

To

Monday to Saturday 10:00 to 23:00  
Sunday 12:00 to 22:30

Monday to Saturday 10:00 to 00:00  
Sunday 12:00 to 22:30

Amendments to application advised at hearing:

	Mr Warne advised that the proposed hours for on and off sales had been amended so that they were in keeping with the Council's Core Hours policy (Monday to Thursday 10:00 to 23:30 and Friday to Saturday 10:00 to 00:00).				
	Decision (including reasons if different from those set out in report):  The application was refused (see reasons for decision in Section 1).				
<b>3.</b>	<b>Opening Hours</b>				
	<table> <thead> <tr> <th><u>From</u></th> <th><u>To</u></th> </tr> </thead> <tbody> <tr> <td>Monday to Saturday 07:00 to 23:30 Sunday 07:00 to 23:00</td> <td>Monday to Saturday 07:00 to 00:30</td> </tr> </tbody> </table>	<u>From</u>	<u>To</u>	Monday to Saturday 07:00 to 23:30 Sunday 07:00 to 23:00	Monday to Saturday 07:00 to 00:30
<u>From</u>	<u>To</u>				
Monday to Saturday 07:00 to 23:30 Sunday 07:00 to 23:00	Monday to Saturday 07:00 to 00:30				
	Amendments to application advised at hearing:  Mr Warne advised that the proposed opening hours had been amended so that the closing time when patrons would be required to leave the premises would be in keeping with the Council's Core Hours policy (Monday to Thursday 07:00 to 23:30 and Friday to Saturday 07:00 to 00:00).				
	Decision (including reasons if different from those set out in report):  The application was refused (see reasons for decision in Section 1).				
<b>4.</b>	<b>Proposed variation to condition</b>				
	Amendment to condition 9 (c) on the existing licence to remove the restriction on trading hours for Good Friday so that the hours on that day reflect what is permitted on the licence for a Friday.				
	Amendments to application advised at hearing:  None.				
	Decision (including reasons if different from those set out in report):  The application was refused (see reasons for decision in Section 1).				

#### **4 WEWORK SOHO, 2 SHERATON STREET W1**

#### **LICENSING SUB-COMMITTEE No. 5**

*Thursday 18th February 2016*



Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

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

Relevant Representations: Residents' Association and 1 local resident.

Present: Mr Craig Baylis (Solicitor, representing the Applicant) and Mr Mittal (Regional Security Director, Applicant Company)

<b>WeWork Soho, Second Floor, 2 Sheraton Street, W1 15/12010/LIPN</b>	
<b>1.</b>	<b>Sale by retail of alcohol (On)</b>
	Monday to Sunday 14:00 to 23:00
	Amendments to application advised at hearing:  The Applicant amended the terminal hour for the sale by retail of alcohol on Sundays from 23:00 to 22:30 (in line with the Council's Core Hours policy).
	Decision (including reasons if different from those set out in report):  The Sub-Committee heard from Mr Baylis, representing the Applicant that his client's business was the provision of serviced office space with facilities such as wi-fi, printers and stationery. The office space was hired by individuals or companies for a minimum period of one month. It had not been appreciated that when the business had starting operating in April 2015 a premises licence for on-sales was required as it had been assumed that the alcohol was being given away. However, the accessibility to alcohol was actually part of the package that was paid for by clients.  Mr Baylis stated that the alcohol provided on the second floor of the premises only was very much an ancillary facility for those who wished to use the office space there. Beer was offered from a tap and this would be locked with a key outside licensable hours. The pantry area where the alcohol was provided was supervised. Mr Mittal informed Members that a swipe card was needed for entry to the second floor. There were security guards and a receptionist to prevent people who had not paid the monthly hire fee entering the area. Alcohol would not be permitted to be taken to or consumed on other floors. CCTV covered 80% of the second floor area with the exception of the landlord's communal area. There was CCTV coverage of the beer tap area at all times.

The Sub-Committee asked Mr Baylis and Mr Mittal a number of questions in relation to the representation submitted by the local resident, Mrs Rhodes. She had raised concerns about the use of the kitchen area which she stated was 15 feet away from her bedroom window. Mr Baylis made the point that his client was not playing music up to 04:30 and there was not significant activity taking place in the early hours of the morning. It was the case that the second floor is a 24 hour a day office space and that the lights would therefore be used at all times. The use of the lights or the kitchen was not specific to the application. Mr Mittal commented that he believed the offices were fitted with sensors so that the lights in certain areas switched off. Some of the lights in the corridor were always lit. Mr Mittal stated that his business wanted to act as a good neighbour to Mrs Rhodes. In response to the Sub-Committee's question as to whether he would be willing to introduce black out blinds and sound deadening measures in the kitchen area in order to prevent light pollution or noise disturbance being experienced by Mrs Rhodes in her flat, he replied that he would definitely consider it. Mr Mittal also informed the Sub-Committee that in terms of alcohol deliveries, the beer barrels were delivered between 09:00 and 18:00 and not early in the morning or late at night.

Mr Baylis stated in response to a question from Mr Panto that consumption was not a licensable activity. However, he was content for a condition to be attached to the premises licence that alcohol would only be consumed on the second floor of the premises.

The Sub-Committee granted the application, considering that the conditions attached to the licence would promote the licensing objectives. It was not considered that the limited nature of the application was such that it would add to cumulative impact in the area. The concerns were more about the impact that the application would have on residents living nearby and, in particular, the impact it might have on Mrs Rhodes. The Sub-Committee was satisfied with the security measures being taken to prevent those who were not permitted to do so from entering the second floor. Members did not seek to impose a condition that limited customers to only being able to obtain beer from a tap. Any alcohol that was made available however would as a result of the condition attached to the premises licence have to be ancillary to the main function of the premises as offices.

Whilst the Sub-Committee appreciated that the concerns of Mrs Rhodes were not directly linked to the licensable activities being applied for, it was requested that the Applicant introduce black out blinds in the kitchen area and undertake measures to prevent any sound emanating from there. This was to recognise that she might have recourse to other legislation if she was experiencing any statutory nuisance from noise or light pollution.

<b>Conditions attached to the Licence</b>
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<b><u>Mandatory Conditions</u></b>
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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. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be

licensed by the Security Industry Authority.

**Additional Conditions**

10. The supply of alcohol shall only be to members of the WeWork group of companies or employees of member companies, or their bona fide guests.
11. SIA staff are provided to patrol all areas of the premises and to ensure good order is maintained at all times in the working environment.
12. Health and safety risk assessments will be undertaken and all staff shall be trained therein.
13. Signs will be located at the exits to the building to remind occupants that they should ensure that local residents are not disturbed by any licensable activity at the premises.
14. Signs will be provided reminding occupants that alcohol should only be supplied to persons over the age of 18.
15. 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.
16. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as offices.
17. Alcohol can only be consumed on the second floor of the premises excluding any landlord's common areas.
18. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
19. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
20. 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.
21. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
22. 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.

23. The sale or supply of alcohol shall be restricted to the area cross hatched in red and green as shown on the plan.

**5 HONEST BURGERS, GROUND FLOOR AND FIRST FLOOR, 33 SOUTHAMPTON STREET WC2**

**LICENSING SUB-COMMITTEE No. 5**

*Thursday 18th February 2016*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

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

Relevant Representations: Environmental Health and 1 local resident.

Present: Mr Nick Yeo (Counsel, representing the Applicant), Mr Kevin Jackaman (Solicitor, on behalf of the Applicant), Mr Dorian Waite (Director, Applicant Company and proposed Designated Premises Supervisor) and Mr Ian Watson (Environmental Health)

<b>Honest Burgers, Ground and First Floor, 33 Southampton Street, WC2 15/12104/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment (Indoors and outdoors)</b>
	Monday to Saturday 23:00 to 00:30 Sunday 23:00 to 00:00.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  Members of the Sub-Committee noted that following discussions with the Applicant, a number of residents' representations had been withdrawn prior to the hearing. Conditions had been agreed between the Covent Garden Community Association and the Applicant, prior to the former withdrawing their representation. These included that the premises would operate in accordance

with the Council's model restaurant condition, MC66.

Mr Yeo, representing the Applicant, explained the circumstances as to how the previous premises licence had been surrendered. The previous licence holder had not been granted a new lease by the freeholder, Transport for London and had refused to transfer the licence without receiving a sum of money. Their terms had not been accepted and the licence had been surrendered by Bistro 1 on 24 September 2015. Mr Yeo made the case for the application to be granted on the basis that the licence had lapsed and the same hours were being applied for as those on the lapsed licence. He referred to paragraph 2.1.8 of the Council's Statement of Licensing Policy that 'in cases where licences have lapsed through insolvency or death, the council will generally grant a new licence on similar terms to the lapsed licence as a replacement. However the council will take into account the previous history of the premises, the length of time the premises have been closed, and any problems at the premises, and will impose conditions that reflect current good practice for the type of business proposed at the premises'.

Mr Yeo also stated that his client had experience of operating at 13 sites in London, including two in Westminster that are located in cumulative impact areas. He wished to emphasise that this was a quality burger restaurant which should not be equated with fast food. The previous premises licence was for a restaurant/bar with a hatched area where the alcohol had to be ancillary to a table meal whereas the current application was for a restaurant only where the consumption of all alcohol had to be ancillary to a substantial table meal. There had not been a capacity limit on the previous licence whereas the Applicant was proposing 30 on the ground floor and 50 on the first floor. The Applicant had agreed a condition that there would be no queuing outside the premises.

Mr Yeo drew Members' attention to the remaining local resident objection. The Applicant had made extensive efforts to contact Mr Tang regarding the application but had received no response. Mr Tang had requested that the hours for the sale of alcohol were reduced in line with those on the current licence (which had now been surrendered) and Mr Yeo made the point that the proposed hours were the same as those on that licence. Mr Tang also made the point that there was an increasing amount of anti-social behaviour and noise pollution in the neighbouring streets as a result of recently opened premises and residents did not want to see a further addition to this. Mr Yeo responded that he believed the proposed conditions such as the model restaurant condition and the no queuing condition addressed this concern as was the view of other residents who had originally submitted representations but had since withdrawn them. Mr Yeo added that he was not aware of any issues under the previous premises licence and that twenty Temporary Event Notices had been submitted by his client since January 2016 without incident or complaint.

The Sub-Committee was also addressed by Mr Watson, for Environmental Health. He confirmed that he was aware of the circumstances behind the surrender of the licence as the Applicant had sought pre-application advice. He had no objections to the application following the Applicant's agreement to the Council's model restaurant condition. He was also content with the proposed capacity. Mr Watson suggested that the condition on the previous premises



	<p>licence which had been proposed for the new application was removed as it referred to a hatched restaurant area. The Applicant had now agreed that the premises would operate entirely as a restaurant. The plans would also need to be amended, removing the hatched area. This was agreed by the Applicant. Mr Watson also confirmed that he was content for the works conditions to be removed.</p> <p>In response to a question from the Sub-Committee as to whether by complying with the Council's model restaurant condition the Applicant was no longer seeking off sales, Mr Yeo clarified that only on sales was being applied for.</p> <p>The Sub-Committee was satisfied that the Applicant was applying for a new licence on similar terms to the lapsed licence. Although the licence had lapsed due to surrender rather than insolvency or death, the new application was still seeking a replacement in similar circumstances to those set out in paragraph 2.1.8 of the Statement of Licensing Policy. Members had no reason to have concerns about the previous history of the premises. The premises licence had lapsed in September 2015 and was therefore relevant in the determination of the application. The Sub-Committee granted, as had been applied for, the same hours as had been permitted on the lapsed licence. Members were confident that the proposed conditions, in particular the model restaurant condition, would promote the licensing objectives and not add to cumulative impact in the West End Cumulative Impact Area. The Chairman requested that the Applicant provide amended plans with the hatching removed to reflect that the premises would now be operating as a restaurant where the consumption of alcohol throughout the premises would have to be ancillary to a substantial table meal.</p>
<b>2.</b>	<b>Sale by retail of alcohol (On and Off)</b>
	<p>Monday to Saturday 10:00 to 00:00  Sunday 12:00 to 23:30.</p>
	<p>Amendments to application advised at hearing:</p> <p>Mr Yeo confirmed that off-sales were not being sought by the Applicant.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the proposed hours for on-sales, subject to conditions as set out below (see reasons for decision in Section 1).</p>
<b>3.</b>	<b>Recorded Music</b>
	<p>Monday to Saturday 10:00 to 00:00</p>

	Sunday 12:00 to 23:30.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  Granted, subject to conditions as set out below (see reasons for decision in Section 1).
<b>4.</b>	<b>Opening Hours</b>
	Monday to Saturday 10:00 to 00:30 Sunday 12:00 to 00:00.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  Granted, subject to conditions as set out below (see reasons for decision in Section 1).
<b>5.</b>	<b>Non-standard timings</b>
	<b><u>Late Night Refreshment (Indoors and outdoors), Sale by retail of alcohol (On and Off), Recorded Music, Opening Hours</u></b>  New Year's Eve all activities are permitted throughout the night until the start of the permitted hours on New Year's Day.  <b><u>Sale by retail of alcohol (On and Off), Recorded Music, Opening Hours</u></b>  Sunday before a Bank Holiday 12:00 to 00:00
	Amendments to application advised at hearing:

	None.
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below.</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 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.</p> <p>(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—</p> <p>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;</p> <p style="padding-left: 40px;">(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</p> <p style="padding-left: 40px;">(ii) drink as much alcohol as possible (whether within a time limit or otherwise);</p>

- (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. 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.

10. The maximum number of persons permitted on the premises at any one time (excluding staff) shall not exceed

- Ground Floor 30 persons.
- First Floor 50 persons.

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. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.

13. All outside tables and chairs shall be rendered unusable by 23.00 hours each day.

14. 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.

15. 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 premise 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.
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. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
18. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
19. Notices shall be prominently displayed in any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
20. 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.
21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
22. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours on the following day.
23. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premise is open.
24. 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
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system or searching equipment or scanning equipment
  - (g) any visit by a relevant authority or emergency service.
25. 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, save for those persons seated at the bar.
- (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.
- (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.

26. There shall be no queuing outside the premises.
27. No deliveries to the premises shall take place between 20:00 Monday to Saturday and 08:00 the following day or between 20:00 on Sunday and 10:00 the following day, save for an out of hours delivery of burger buns to the premises which will comply with the Transport for London's Code of Practice Quieter Deliveries.

**6 UNIT A2, MOORE HOUSE, INNER BASIN, GATLIFF ROAD SW1**

**LICENSING SUB-COMMITTEE No. 5**

*Thursday 18th February 2016*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

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

**Unit A2, Moore House, Inner Basin, Gatliff Road, SW1  
 15/11867/LIPV**

The representations were withdrawn prior to the hearing and the application was therefore granted under delegated powers.

**7 BURGER KING, PLATFORMS 7 AND 8, UNIT 18, PADDINGTON STATION, PRAED STREET W2**

**LICENSING SUB-COMMITTEE No. 5**

*Thursday 18th February 2016*



Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

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

Relevant Representations: Environmental Health, Metropolitan Police (including a submission by the British Transport Police), 1 local resident and 2 Residents' Associations.

Present: Ms Nicola Smith (Solicitor, representing the Applicant), Mr Richard Attwood (Operations Director, Applicant Company), Mr Trevor King (Operations Manager, Burger King), Mr Maxwell Koduah and Ms Anuja Jayawickrema (Environmental Health), PC Bryan Lewis (Metropolitan Police), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – on behalf of the Residents' Associations), Mr John Zamit (South East Bayswater Residents' Association) and Mrs Elizabeth Virgo (Paddington Waterways and Maida Vale Society).

<b>Burger King, Platform 7 &amp; 8, Unit 18, Paddington Station, Praed Street, W2 15/12117/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment (Indoors)</b>
	Monday to Saturday 23:00 to 01:00.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  It was agreed at the beginning of the hearing that the three applications submitted by the Applicant, Select Service Partner Ltd for the three Burger King premises at Paddington Station and Victoria Station would be heard by the Sub-Committee together. Within this framework, the relevant parties were requested to address the Sub-Committee on the specific applications. Mr Zamit and Mrs Virgo submitted representations on the Paddington Station application and they and Mr Brown, who was representing them, addressed the Members only on this application.  The Sub-Committee initially heard from Ms Smith, representing the Applicant. She informed those present that Select Service Partner ('SSP') operates branded catering and retail units in stations and airports and had done so for many years without problems. There had not been any issues in any Burger

King units. In addition to Burger King, some of their portfolio of brands included Whistlestop, Upper Crust and Camden Food Company units. Burger King had recently been granted applications to sell alcohol in Fenchurch Street and East Croydon Stations.

Ms Smith stated that there had not been any objections to the aspect of the application regarding late night refreshment. The Applicant was already permitted to provide this and in the event the current application was granted, the existing premises licence would be surrendered. All three applications for Paddington Station and Victoria Station involved the sale of alcohol. This was for a single brand of lager. Ms Smith explained that the reason for the application was that it was convenient for customers to be able to purchase the food and alcohol in the same unit at the premises. She referred to the station map for Paddington Station and advised that it was possible to purchase alcohol elsewhere in Whistlestop at Unit 22 and Sainsbury's at Unit 5. It was her submission that neither Paddington Station nor Victoria Station were located in the Council's cumulative impact areas and there was therefore no presumption to refuse the applications. The applications would need to promote the licensing objectives. The proposed hours for the sale of alcohol were within the Council's Core Hours policy.

Ms Smith commented that she was aware of the Council's policy in respect of late night refreshment and it was recognised that it was attractive to people late at night. However, the applications were for station premises and they were only accessible to people passing through the concourse and not from the street. She made the point that proposed prices of alcohol at the premises would be 30% higher than off-licences. The Applicant had proposed a condition that all off sales of alcohol would be ancillary to substantial take-away food. Overall the cost of the alcohol and food would be at least £9 for a combined meal and drink with the burger being approximately £4 to £8 and the lager typically £3.50 for a 500ml can. Ms Smith expressed the view that this would prevent people being drawn to the premises late at night. She added that whilst there had not been any issues at the units, she was content for a condition to be attached to the licence that the Police would be able to request that no alcohol be sold at the premises on specific occasions such as when a major football match was taking place. The sale of alcohol would be kept under review at the premises as the Applicant did not want to endanger the relationship with the station managers. She did not believe that there was any evidence to suggest that issues would be caused by the sale of alcohol and if there were, the premises licence could be reviewed.

Ms Smith stated that the Applicant had agreed a number of conditions with the Police and Environmental Health. These included that there would be no self-service of alcohol or draught beer provided. A condition had not been agreed requiring prominent signage indicating the permitted hours for the sale of alcohol to be displayed so as to be visible at the point of sale as the Applicant already had a requirement to display the licence summary. However, the Applicant did not object strongly to this condition being imposed if the application was granted. The Applicant was also proposing to sell 500ml cans rather than the 330ml plastic bottles requested by the Police. The Applicant was seeking that a condition required all staff engaged in the sale of alcohol to be trained in

responsible alcohol retailing rather than it be stipulated, as set out in the proposed Police condition that the training be to a minimum standard of BIIAB Level 1 or equivalent (PC Lewis made the point that this was a nationally accepted training standard). As part of an amendment to a condition proposed by Environmental Health and the Police, the Applicant was putting forward that staff training should include the requirement for staff to ensure quantities of alcohol purchased were proportionate to the food being provided.

The Sub-Committee next heard from PC Bryan Lewis. He stated that the Metropolitan Police and the British Transport Police (Sergeant Michael Conroy had submitted a witness statement) objected to the application involving the sale of alcohol at Paddington Station as they did not consider it promoted the licensing objectives. PC Lewis stated that there were particular concerns regarding a fast food premises selling alcohol and that mainline stations were not an appropriate location for this to take place. This point took into account football fan traffic and those who were drunk and disorderly. He had discussed conditions with the Applicant only in the event that the Sub-Committee was minded to grant the application. He had been informed that the British Transport Police and Network Rail had had no knowledge of the applications and given this fact he questioned whether the risks had been properly assessed.

PC Lewis made the point that the fast service of food was not conducive to the responsible service of alcohol. The Applicant was seeking to serve customers lager in 500ml cans which was only slightly less than a pint of beer and if this was 4.8% ABV, it had the potential to take a customer over the limit towards intoxication. He wished to differentiate Burger King from Whistlestop where alcohol was not sold with fast food and it was likely in the case of Burger King that customers were likely to consume the alcohol there and then. Alcohol would be purchased at a counter on the concourse in Paddington Station and there was no control over where it was consumed. Burger King was also attractive to young people (children's menus were provided) who were often unaccompanied. He questioned whether the age verification procedures would be satisfactory in the event of queuing at the Station. He also questioned whether the Applicant would be able to manage the situation when the sale of alcohol would cease at 23:00 and late night refreshment would continue. He believed signage was necessary to inform those who were queuing for alcohol should the application be granted.

PC Lewis did not believe that the Applicant's point that the alcohol could not be seen from the street was relevant. It was a concourse area which intoxicated people could easily reach. He did not consider that the proposed price of alcohol was expensive.

Mr Koduah stated that Environmental Health were seeking the condition that had not been agreed with the Applicant that prominent signage indicating the permitted hours for the sale of alcohol were displayed so as to be visible at the point of sale. This was because the Applicant was proposing to cease off sales at 23:00 and continue providing late night refreshment. The fast paced nature of the service would mean that the customer would not have time to read through the summary of the licence. In terms of policy, the application was not for a restaurant or an off-licence but combined a fast food premises with the sale of

alcohol. Environmental Health's representation was maintained.

Mr Brown addressed the Sub-Committee on behalf of the South East Bayswater Residents' Association and Paddington Waterways and Maida Vale Society. He endorsed the comments of PC Lewis, particularly in respect of the layout and location of the premises. He stated that the application was a new concept being proposed in a very busy transport hub which was even busier when there were high profile sporting events taking place. Paddington Station was quite different from Fenchurch Street in terms of the volume of travellers. The location of the Burger King at Paddington Station was a kiosk with no seating area of its own. There was a public seating area directly adjacent to it. The concern would be if the application was granted that particularly later into the evening the public seating area would be used by Burger King customers. This would be particularly when the mainline services became less frequent and could be very difficult to manage including when high profile sporting events were held. This would potentially be difficult to manage and would not be the Applicant's or Burger King's responsibility. Mr Brown commented that it was surprising that British Transport Police and Network Rail had not apparently been consulted.

Mr Brown stated that whilst the application did not fit neatly within the Council's policy, it was implicit that fast food premises can act as a honeypot late in the evening when customers are drinking. Use by those who had already had a drink only to then have a burger and beer and hang around was concerning. He referred to the Applicant's assertions that as it was wholly situated within the station, it would not attract customers from outside the station and that there was only one main entrance and exit. Mr Brown made the point that there was more than one main entrance and exit in the case of Paddington Station. He quoted Sergeant Conroy's point in his witness statement that 'I really do not believe the concourse is the best place for people to drink alcohol'.

Mr Brown also addressed Members on the types of premises within Paddington Station and stressed the difference between them and the Burger King premises. Café Ritazza was not a fast food premises and sold cold food which was less attractive to people who had been drinking. Barburrito could be classed a fast food premises but did not provide off sales. The remainder of the premises which were licensed provided late night refreshment. Mr Brown recommended that the application was refused but if it was granted the Residents' Associations supported the Police conditions, particularly the restriction of the size of the vessel containing the lager and limiting to one sale of alcohol per meal. The Applicant's proposed condition that staff training would include the requirement for staff to ensure quantities of alcohol purchased would be proportionate to the taking of such food would put an onus on staff to judge whether customers had had enough to drink. He added that late night refreshment was not of concern but there were considerable misgivings about the sale of alcohol.

Mr Zamit expressed additional concerns that a can of lager with a relatively high strength of 4.8% ABV could be opened straight away and could possibly be passed to youngsters. What took place after the purchase of alcohol would not be monitored. It could also add to litter in the locality. Street drinkers from Praed Street would potentially be tempted to go to the Station to purchase a

burger and can. The application set a precedent and could encourage other fast food outlets to sell alcohol.

Ms Smith responded to a number of points made by the objectors. She clarified that Network Rail had been contacted regarding the application. She did not know whether the individual contacted who had promised to speak with the likes of the British Transport Police had done so. The applications had been advertised and it was open for representations to be made in response. Since the witness statement had been received from British Transport Police the Applicant had made efforts to contact them. The Applicant had agreed conditions such as age prompts and a Challenge 25 policy in order to prevent sales of alcohol to children. If there were underage sales it would be a criminal offence and would be a matter which could lead to a review of the premises licence. It was a matter for the Sub-Committee's consideration whether to attach the Environmental Health proposed condition that prominent signage indicating the permitted hours for the sale of alcohol would be displayed so as to be visible at the point of sale. She added that the unit was already permitted to provide late night refreshment and customers could already sit in the concourse and consume a burger whilst they were waiting for their train. They could also go to a number of off licences in the vicinity and consume the alcohol on the concourse. The Applicant was not looking to set a precedent in the area.

The Sub-Committee asked the Applicants some questions about the application. These included what security arrangements were in place. Ms Smith replied that there was CCTV and SSP employed security elsewhere in the Station which it was believed could be transferred to the kiosk in the event of issues arising. Mr King stated that staff received a one hour conflict management training session. Mr Attwood informed Members that alcohol was sold in Burger King outlets in airports. Ms Smith also advised Members that it was the intention to sell one can of lager per substantial meal and it was unlikely that customers would look to buy a number of cans with food when they could buy cans without food elsewhere.

The Sub-Committee refused the application. Members considered that Paddington Station like Victoria Station is a mainline station and transport hub with many millions of people of all ages passing through. The areas within Paddington Station were freely accessible to all and the Station had many entrances in addition to the underground station. The station was an atypical public space with unique challenges. The application submitted for the kiosk at Unit 18 would potentially lead to an increased consumption of alcohol within the Station, on trains and in the street. The Sub-Committee considered that a major element of the appeal of fast food premises was that fast food was designed to be consumed quickly after purchase. Directly selling this with alcohol sold in 500ml cans would result in customers being encouraged to consume both swiftly. Encouraging drinking in public spaces, including to those who PC Lewis had referred to as at the point of intoxication, failed to promote the licensing objectives, with the significant potential for anti-social behaviour, crime and disorder and public nuisance. The Sub-Committee had given weight in particular to the representations of the Metropolitan Police and British Transport Police and also concerns that were raised relating to public safety. The Sub-Committee noted the witness statement of Sergeant Conroy in respect of the

application for Paddington Station that there had been 'a number of incidents around Burger King and I feel now selling alcohol may increase calls for police to the kiosk. I feel drinking on trains such as commuter services will encourage late night drinking and the problems that go along with it. I really do not believe the concourse is the best place for people to drink alcohol'.

Members were concerned about the ease with which children might be able to gain access to the alcohol, particularly as Burger King premises were attractive to younger people. The applicant stated that as it was a specialist provider of food and drink in transport hubs across the country, it had experience in operating within this particular environment. Members had no doubt that Burger King was capable of training its staff to deal with the issues around the sale of alcohol to children but there were some serious practical considerations that had to be taken into account.

It was not considered that staff could make a judgment as to whether the quantity of alcohol purchased was proportionate to the food purchased and it was not considered appropriate to place that burden on staff working in these particular premises. There were bound to be occasions when customers would gather in large numbers and some would be ordering food for themselves and others. It would be very difficult if not impossible to make a judgment as to who the food or drink was actually being purchased for. That would mean that it would be possible for some individuals to get access to alcohol without having to purchase any food at all. Moreover, some individuals could also get access to more than one can or bottle of beer or larger, despite the conditions that might be placed on the licence. Those issues also meant that there was a real risk that alcohol could easily be obtained by children, either directly from the premises when it was very busy and it would be difficult to apply the "Challenge 25" scheme or indirectly via older friends.

Members also agreed with a number of points that were made by the residents associations regarding the positioning of this particular outlet. It was situated directly adjacent to the mainline platforms and the departure boards and there was an area of seating which meant that the area around the premises would appear to be an obvious gathering place. If the area became busy or congested, there was a significant risk that some customers who had purchased alcohol would cause a public nuisance or would engage in various forms of anti-social behaviour.

Members were concerned about the sale of alcohol late at night (even before core hours) and agreed with PC Lewis that there was also a concern about the transition after 23.00 when the premises remained open but could no longer sell alcohol. It was considered that there was a serious risk of disorder that might be difficult to contain in this particular environment. Consideration was given to the possibility of granting a licence to sell alcohol until an earlier time in the evening but that was not considered appropriate at these particular premises. Both Paddington and Victoria stations were very busy transport hubs throughout the day. The concourse of such stations was designed as a place for commuters to wait until such time as their particular trains were ready to leave. The nature of the Burger King application at Paddington Station was that both the food and the alcohol were likely to be consumed either on the station concourse or on the

	trains that were leaving the station. It was not considered that commuters would welcome the idea of the concourse becoming a place where alcohol could be easily obtained for immediate consumption. That concern applied throughout the day and not just late in the evening. Whilst it was acknowledged that alcohol was available in other premises, it was the convenience of obtaining the alcohol in conjunction with the hot take-away food that was of real concern. Most alcohol that was sold from off-licences was not sold with the intention of it being consumed immediately outside the premises. This alcohol was being sold with precisely that intention.
<b>2.</b>	<b>Sale by retail of alcohol (Off)</b>
	Monday to Saturday 11:00 to 23:00 Sunday 11:00 to 22:30.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The application was refused (see reasons for decision in Section 1).
<b>3.</b>	<b>Opening Hours</b>
	Monday to Sunday 00:00 to 00:00.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The application was refused (see reasons for decision in Section 1).
<b>4.</b>	<b>Non-standard timings</b>
	<b>Late Night Refreshment</b>

	<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>In addition, the premises may open for late night refreshment until 05:00 daily, if requested to do so by the Station Manager, Network Rail or the British Transport Police, as per the existing licence.</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 application was refused (see reasons for decision in Section 1).</p>

**8 BURGER KING, UNIT 9, MAIN CONCOURSE, VICTORIA STATION, TERMINUS PLACE**

**LICENSING SUB-COMMITTEE No. 5**  
*Thursday 18th February 2016*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

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

Relevant Representations: Environmental Health and Metropolitan Police.

Present: Ms Nicola Smith (Solicitor, representing the Applicant), Mr Richard Attwood (Operations Director, Applicant Company), Mr Trevor King (Operations Manager, Burger King), Mr Maxwell Koduah and Ms Anuja Jayawickrema (Environmental Health) and PC Bryan Lewis (Metropolitan Police).

<b>Burger King, Unit 9, Main Concourse Victoria Station, Terminus Place 15/12090/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment (Indoors)</b>
	Monday to Sunday 23:00 to 01:30.



	<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>It was agreed at the beginning of the hearing that the three applications submitted by the Applicant, Select Service Partner Ltd for the three Burger King premises at Paddington Station and Victoria Station would be heard by the Sub-Committee together. Within this framework, the relevant parties were requested to address the Sub-Committee on the specific applications.</p> <p>The Sub-Committee initially heard from Ms Smith, representing the Applicant. She informed those present that Select Service Partner ('SSP') operates branded catering and retail units in stations and airports and had done so for many years without problems. There had not been any issues in any Burger King units. In addition to Burger King, some of their portfolio of brands included Whistlestop, Upper Crust and Camden Food Company units. Burger King had recently been granted applications to sell alcohol in Fenchurch Street and East Croydon Stations.</p> <p>Ms Smith stated that there had not been any objections to the aspect of the application regarding late night refreshment. The Applicant was already permitted to provide this and in the event the current application was granted, the existing premises licence would be surrendered. All three applications for Paddington Station and Victoria Station involved the sale of alcohol. This was for a single brand of lager. Ms Smith explained that the reason for the application was that it was convenient for customers to be able to purchase the food and alcohol in the same unit at the premises. She referred to the station map for Unit 9, Victoria Station. This appeared on page 178 of the report and Unit 9 was actually numbered 15 on that plan. It was situated close to platforms 6 and 7. This application involved both on and off sales and Ms Smith added that the on sales could be consumed in a small area with nine seats adjacent to the sales counter. Draught beer would be available for on-sales which was not the case with the Paddington application or the application for Unit 21 at Victoria. She advised that it was possible to purchase alcohol elsewhere in Whistlestop. It was her submission that Victoria Station is not located in the Council's cumulative impact areas and there was therefore no presumption to refuse the application. The applications would need to promote the licensing objectives. The proposed hours for the sale of alcohol were within the Council's Core Hours policy.</p> <p>Ms Smith commented that she was aware of the Council's policy in respect of late night refreshment and it was recognised that it was attractive to people late at night. However, the applications were for station premises and they were only accessible to people passing through the concourse and not from the street.</p>

She made the point that proposed prices of alcohol at the premises would be 30% higher than off-licences. The Applicant had proposed a condition that all off sales of alcohol would be ancillary to substantial take-away food and a further condition that all sales of alcohol for consumption on the premises shall only be to seated customers and ancillary to substantial food. Overall the cost of the alcohol and food would be at least £9 for a combined meal and drink with the burger being approximately £4 to £8 and the lager typically £3.50 for a 500ml can. Ms Smith expressed the view that this would prevent people being drawn to the premises late at night. She added that whilst there had not been any issues at the units, she was content for a condition to be attached to the licence that the Police would be able to request that no alcohol be sold at the premises on specific occasions such as when a major football match was taking place. The sale of alcohol would be kept under review at the premises as the Applicant did not want to endanger the relationship with the station managers. She did not believe that there was any evidence to suggest that issues would be caused by the sale of alcohol and if there were, the premises licence could be reviewed.

Ms Smith stated that the Applicant had agreed a number of conditions with the Police and Environmental Health. These included that there would be no self-service of alcohol. A condition had not been agreed requiring prominent signage indicating the permitted hours for the sale of alcohol to be displayed so as to be visible at the point of sale as the Applicant already had a requirement to display the licence summary. However, the Applicant did not object strongly to this condition being imposed if the application was granted. The Applicant was also proposing to sell 500ml cans rather than the 330ml plastic bottles requested by the Police. The Applicant was seeking that a condition required all staff engaged in the sale of alcohol to be trained in responsible alcohol retailing rather than it be stipulated, as set out in the proposed Police condition that the training be to a minimum standard of BIIAB Level 1 or equivalent (PC Lewis made the point that this was a nationally accepted training standard). As part of an amendment to a condition proposed by Environmental Health and the Police, the Applicant was putting forward that staff training should include the requirement for staff to ensure quantities of alcohol purchased were proportionate to the food being provided.

The Sub-Committee next heard from PC Bryan Lewis. He stated that the Metropolitan Police and the British Transport Police (Inspector Jennifer Baynes had submitted a witness statement) objected to the application involving the sale of alcohol at Victoria Station as they did not consider it promoted the licensing objectives. PC Lewis stated that there were particular concerns regarding a fast food premises selling alcohol and that mainline stations were not an appropriate location for this to take place. This point took into account football fan traffic and those who were drunk and disorderly. He had discussed conditions with the Applicant only in the event that the Sub-Committee was minded to grant the application. He had been informed that the British Transport Police and Network Rail had had no knowledge of the applications and given this fact he questioned whether the risks had been properly assessed.

PC Lewis made the point that the fast service of food was not conducive to the responsible service of alcohol. The Applicant was seeking to serve customers lager in 500ml cans which was only slightly less than a pint of beer and if this

was 4.8% ABV, it had the potential to take a customer over the limit towards intoxication. He wished to differentiate Burger King from Whistlestop where alcohol was not sold with fast food and it was likely in the case of Burger King that customers were likely to consume the alcohol there and then. PC Lewis referred to the fact that this application was different from the two other Burger King applications being considered by the Sub-Committee at the hearing as it also involved on-sales. He informed the Sub-Committee that he had taken a close look at Unit 9. His concern was that there is a wide opening and there was nothing to stop those purchasing the draught beer, which was offered as an on-sale, and taking it out onto the concourse. There was no SIA security specifically for this Unit. He took the view that the size of the premises was particularly small so that sitting on the bar stools facing the wall was a somewhat uncomfortable experience. It would be difficult, if the application was granted, for the Applicant to comply with the operating schedule.

PC Lewis stated that Burger King was also attractive to young people (children's menus were provided) who were often unaccompanied. He questioned whether the age verification procedures would be satisfactory in the event of queuing at the Station. He also questioned whether the Applicant would be able to manage the situation when the sale of alcohol would cease at 23:00 and late night refreshment would continue. He believed signage was necessary to inform those who were queuing for alcohol should the application be granted.

PC Lewis did not believe that the Applicant's point that the alcohol could not be seen from the street was relevant. It was a concourse area which intoxicated people could easily reach. He did not consider that the proposed price of alcohol was expensive.

Ms Jayawickrema stated that Environmental Health were seeking the condition that had not been agreed with the Applicant that prominent signage indicating the permitted hours for the sale of alcohol were displayed so as to be visible at the point of sale. This was because the Applicant was proposing to cease on and off sales at 23:00 and continue providing late night refreshment. The fast paced nature of the service would mean that the customer would not have time to read through the summary of the licence. Ms Jayawickrema also expressed some concerns about the alcohol being sold in 500ml cans. Environmental Health's representation was maintained.

Ms Smith responded to a number of the points made by PC Lewis and Environmental Health. She clarified that Network Rail had been contacted regarding the application. She did not know whether the individual contacted who had promised to speak with the likes of the British Transport Police had done so. The applications had been advertised and it was open for representations to be made in response. Since the witness statement had been received from British Transport Police the Applicant had made efforts to contact them. The Applicant had agreed conditions such as age prompts and a Challenge 25 policy in order to prevent sales of alcohol to children. If there were underage sales it would be a criminal offence and would be a matter which could lead to a review of the premises licence. It was a matter for the Sub-Committee's consideration whether to attach the Environmental Health proposed condition that prominent signage indicating the permitted hours for the sale of

alcohol would be displayed so as to be visible at the point of sale. She added that the unit was already permitted to provide late night refreshment and customers could already sit in the concourse and consume a burger whilst they were waiting for their train. They could also go to a number of off licences in the vicinity and consume the alcohol on the concourse. The Applicant was not looking to set a precedent in the area. Ms Smith also advised Members that it was the intention to sell one can of lager per substantial meal and it was unlikely that customers would look to buy a number of cans with food when they could buy cans without food elsewhere.

The Sub-Committee refused the application. Members considered that Victoria Station like Paddington Station is a mainline station and transport hub with many millions of people of all ages passing through. The areas within Victoria Station were freely accessible to all and the Station had many entrances in addition to the underground station. The station was an atypical public space with unique challenges. The application submitted for Unit 9, Victoria Station would potentially lead to an increased consumption of alcohol within the Station, on trains and in the street. The Sub-Committee considered that a major element of the appeal of fast food premises was that fast food was designed to be consumed quickly after purchase. Directly selling this with alcohol sold in 500ml cans would result in customers being encouraged to consume both swiftly. Encouraging drinking in public spaces, including to those who PC Lewis had referred to as at the point of intoxication, failed to promote the licensing objectives, with the significant potential for anti-social behaviour, crime and disorder and public nuisance. The Sub-Committee did not consider that on-sales at Unit 9 was appropriate given that it was, as PC Lewis had alluded to, not adequately controlled from a security point of view. In truth, the on-sales of fast food would be very similar to the off-sales and would be very different to the on-sales of alcohol that are associated with a full scale restaurant operation.

The Sub-Committee had given weight in particular to the representations of the Metropolitan Police and British Transport Police and also concerns that were raised relating to public safety. The Sub-Committee noted the witness statement of Inspector Baynes that 'over the last year there has been four incident's at Burger King involving anti-social behaviour I believe the sale of alcohol would increase these incidents'. The Sub-Committee also noted Inspector Baynes' points that 'the fast food premises tend to cater for large groups of customers who have been consuming alcohol already. The danger is rowdy persons may intend to buy fast food to soak up alcohol, possibly before boarding a train , they will now have the opportunity of consuming more alcohol. There are a lot of families with young children travelling through this station and generally at the moment alcohol is consumed on the licensed premises, and not taken out too drink. I would question how will Burger King prevent people immediately consuming off sales of alcohol on the station concourse? Therefore really operating as a bar'.

Members were concerned about the ease with which children might be able to gain access to the alcohol, particularly as Burger King premises were attractive to younger people. The applicant stated that as it was a specialist provider of food and drink in transport hubs across the country, it had experience in operating within this particular environment. Members had no doubt that Burger

King was capable of training its staff to deal with the issues around the sale of alcohol to children but there were some serious practical considerations that had to be taken into account.

It was not considered that staff could make a judgment as to whether the quantity of alcohol purchased was proportionate to the food purchased and it was not considered appropriate to place that burden on staff working in these particular premises. There were bound to be occasions when customers would gather in large numbers and some would be ordering food for themselves and others. It would be very difficult if not impossible to make a judgment as to who the food or drink was actually being purchased for. That would mean that it would be possible for some individuals to get access to alcohol without having to purchase any food at all. Moreover, some individuals could also get access to more than one can or bottle of beer or larger, despite the conditions that might be placed on the licence. Those issues also meant that there was a real risk that alcohol could easily be obtained by children, either directly from the premises when it was very busy and it would be difficult to apply the "Challenge 25" scheme or indirectly via older friends.

Members were particularly concerned about the sale of alcohol late at night (even before core hours) and agreed with PC Lewis that there was also a concern about the transition after 23.00 when the premises remained open but could no longer sell alcohol. It was considered that there was a serious risk of disorder that might be difficult to contain in this particular environment. Consideration was given to the possibility of granting a licence to sell alcohol until an earlier time in the evening but that was not considered appropriate at these particular premises. Both Paddington and Victoria stations were very busy transport hubs throughout the day. The concourse of such stations was designed as a place for commuters to wait until such time as their particular trains were ready to leave. The nature of the Burger King application at Victoria Station was that both the food and the alcohol were likely to be consumed either on the station concourse or on the trains that were leaving the station. It was not considered that commuters would welcome the idea of the concourse becoming a place where alcohol could be easily obtained for immediate consumption. That concern applied throughout the day and not just late in the evening. Whilst it was acknowledged that alcohol was available in other premises, it was the convenience of obtaining the alcohol in conjunction with the hot take-away food that was of real concern. Most alcohol that was sold from off-licences was not sold with the intention of it being consumed immediately outside the premises. This alcohol was being sold with precisely that intention.

**2. Sale by retail of alcohol (On and Off)**

Monday to Thursday 10:00 to 23:30  
Friday and Saturday 10:00 to 00:00  
Sunday 12:00 to 22:30.

Amendments to application advised at hearing:

	<p>Monday to Saturday 11:00 to 23:00  Sunday 11:00 to 22:30.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was refused (see reasons for decision in Section 1).</p>
<b>3.</b>	<b>Opening Hours</b>
	<p>Monday to Sunday 00:00 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> <p>The application was refused (see reasons for decision in Section 1).</p>
<b>4.</b>	<b>Non-standard timings</b>
	<p><b><u>Late Night Refreshment</u></b></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>The premises shall be permitted to provide LNR between 01:30 and 03:00 daily, if requested to do so by senior station management, a senior Network Rail representative or a senior police officer and where access to the station is controlled by Network Rail or the Metropolitan Police.</p> <p><b><u>Sale by retail of alcohol (On and Off)</u></b></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>

	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The application was refused (see reasons for decision in Section 1).

**9 BURGER KING, UNIT 21, MAIN CONCOURSE, VICTORIA STATION, TERMINUS PLACE**

**LICENSING SUB-COMMITTEE No. 5**

*Thursday 18th February 2016*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

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

Relevant Representations: Environmental Health and Metropolitan Police.

Present: Ms Nicola Smith (Solicitor, representing the Applicant), Mr Richard Attwood (Operations Director, Applicant Company), Mr Trevor King (Operations Manager, Burger King), Mr Maxwell Koduah and Ms Anuja Jayawickrema (Environmental Health) and PC Bryan Lewis (Metropolitan Police).

<b>Burger King, Unit 21, Main Concourse Victoria Station, Terminus Place 15/12095/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment (Indoors)</b>
	Monday to Saturday 23:00 to 02:30 & 04:30 to 05:00. Sunday 23:00 to 01:00.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):

It was agreed at the beginning of the hearing that the three applications submitted by the Applicant, Select Service Partner Ltd for the three Burger King premises at Paddington Station and Victoria Station would be heard by the Sub-Committee together. Within this framework, the relevant parties were requested to address the Sub-Committee on the specific applications.

The Sub-Committee initially heard from Ms Smith, representing the Applicant. She informed those present that Select Service Partner ('SSP') operates branded catering and retail units in stations and airports and had done so for many years without problems. There had not been any issues in any Burger King units. In addition to Burger King, some of their portfolio of brands included Whistlestop, Upper Crust and Camden Food Company units. Burger King had recently been granted applications to sell alcohol in Fenchurch Street and East Croydon Stations.

Ms Smith stated that there had not been any objections to the aspect of the application regarding late night refreshment. The Applicant was already permitted to provide this and in the event the current application was granted, the existing premises licence would be surrendered. All three applications for Paddington Station and Victoria Station involved the sale of alcohol. This was for a single brand of lager. Ms Smith explained that the reason for the application was that it was convenient for customers to be able to purchase the food and alcohol in the same unit at the premises. She referred to the station map for Unit 21, Victoria Station. This appeared on page 195 of the report and Unit 21 was actually numbered 41 on that plan. It was situated adjacent to platforms 12 and 13. This application was for off sales only and there was no dedicated seating area unlike Unit 9. She advised that it was possible to purchase alcohol elsewhere in Whistlestop. It was her submission that Victoria Station is not located in the Council's cumulative impact areas and there was therefore no presumption to refuse the application. The applications would need to promote the licensing objectives. The proposed hours for the sale of alcohol were within the Council's Core Hours policy.

Ms Smith commented that she was aware of the Council's policy in respect of late night refreshment and it was recognised that it was attractive to people late at night. However, the applications were for station premises and they were only accessible to people passing through the concourse and not from the street. She made the point that proposed prices of alcohol at the premises would be 30% higher than off-licences. The Applicant had proposed a condition that all off sales of alcohol would be ancillary to substantial take-away food. Overall the cost of the alcohol and food would be at least £9 for a combined meal and drink with the burger being approximately £4 to £8 and the lager typically £3.50 for a 500ml can. Ms Smith expressed the view that this would prevent people being drawn to the premises late at night. She added that whilst there had not been any issues at the units, she was content for a condition to be attached to the licence that the Police would be able to request that no alcohol be sold at the premises on specific occasions such as when a major football match was taking place. The sale of alcohol would be kept under review at the premises as the Applicant did not want to endanger the relationship with the station managers. She did not believe that there was any evidence to suggest that issues would be caused by the sale of alcohol and if there were, the premises licence could be



reviewed.

Ms Smith stated that the Applicant had agreed a number of conditions with the Police and Environmental Health. These included that there would be no self-service of alcohol or draught beer provided. A condition had not been agreed requiring prominent signage indicating the permitted hours for the sale of alcohol to be displayed so as to be visible at the point of sale as the Applicant already had a requirement to display the licence summary. However, the Applicant did not object strongly to this condition being imposed if the application was granted. The Applicant was also proposing to sell 500ml cans rather than the 330ml plastic bottles requested by the Police. The Applicant was seeking that a condition required all staff engaged in the sale of alcohol to be trained in responsible alcohol retailing rather than it be stipulated, as set out in the proposed Police condition that the training be to a minimum standard of BIIAB Level 1 or equivalent (PC Lewis made the point that this was a nationally accepted training standard). As part of an amendment to a condition proposed by Environmental Health and the Police, the Applicant was putting forward that staff training should include the requirement for staff to ensure quantities of alcohol purchased were proportionate to the food being provided.

The Sub-Committee next heard from PC Bryan Lewis. He stated that the Metropolitan Police and the British Transport Police (Inspector Jennifer Baynes had submitted a witness statement) objected to the application involving the sale of alcohol at Victoria Station as they did not consider it promoted the licensing objectives. PC Lewis stated that there were particular concerns regarding a fast food premises selling alcohol and that mainline stations were not an appropriate location for this to take place. This point took into account football fan traffic and those who were drunk and disorderly. He had discussed conditions with the Applicant only in the event that the Sub-Committee was minded to grant the application. He had been informed that the British Transport Police and Network Rail had had no knowledge of the applications and given this fact he questioned whether the risks had been properly assessed.

PC Lewis made the point that the fast service of food was not conducive to the responsible service of alcohol. The Applicant was seeking to serve customers lager in 500ml cans which was only slightly less than a pint of beer and if this was 4.8% ABV, it had the potential to take a customer over the limit towards intoxication. He wished to differentiate Burger King from Whistlestop where alcohol was not sold with fast food and it was likely in the case of Burger King that customers were likely to consume the alcohol there and then.

PC Lewis stated that Burger King was also attractive to young people (children's menus were provided) who were often unaccompanied. He questioned whether the age verification procedures would be satisfactory in the event of queuing at the Station. He also questioned whether the Applicant would be able to manage the situation when the sale of alcohol would cease at 23:00 and late night refreshment would continue. He believed signage was necessary to inform those who were queuing for alcohol should the application be granted.

PC Lewis did not believe that the Applicant's point that the alcohol could not be seen from the street was relevant. It was a concourse area which intoxicated

people could easily reach. He did not consider that the proposed price of alcohol was expensive. He compared the price of £3.50 for a 500ml can at Burger King with off-sales sold by Mi Casa Burritos in Victoria Station which was £3.75 in a glass bottle. He added that Mi Casa Burritos did not sell specific children's meals.

Ms Jayawickrema stated that Environmental Health were seeking the condition that had not been agreed with the Applicant that prominent signage indicating the permitted hours for the sale of alcohol were displayed so as to be visible at the point of sale. This was because the Applicant was proposing to cease off sales at 23:00 and continue providing late night refreshment. The fast paced nature of the service would mean that the customer would not have time to read through the summary of the licence. Ms Jayawickrema also expressed some concerns about the alcohol being sold in 500ml cans. Environmental Health's representation was maintained.

Ms Smith responded to a number of the points made by PC Lewis and Environmental Health. She clarified that Network Rail had been contacted regarding the application. She did not know whether the individual contacted who had promised to speak with the likes of the British Transport Police had done so. The applications had been advertised and it was open for representations to be made in response. Since the witness statement had been received from British Transport Police the Applicant had made efforts to contact them. The Applicant had agreed conditions such as age prompts and a Challenge 25 policy in order to prevent sales of alcohol to children. If there were underage sales it would be a criminal offence and would be a matter which could lead to a review of the premises licence. It was a matter for the Sub-Committee's consideration whether to attach the Environmental Health proposed condition that prominent signage indicating the permitted hours for the sale of alcohol would be displayed so as to be visible at the point of sale. She added that the unit was already permitted to provide late night refreshment and customers could already sit in the concourse and consume a burger whilst they were waiting for their train. They could also go to a number of off licences in the vicinity and consume the alcohol on the concourse. The Applicant was not looking to set a precedent in the area. Ms Smith also advised Members that it was the intention to sell one can of lager per substantial meal and it was unlikely that customers would look to buy a number of cans with food when they could buy cans without food elsewhere.

The Sub-Committee refused the application. Members considered that Victoria Station like Paddington Station is a mainline station and transport hub with many millions of people of all ages passing through. The areas within Victoria Station were freely accessible to all and the Station had many entrances in addition to the underground station. The station was an atypical public space with unique challenges. The application submitted for Unit 21, Victoria Station would potentially lead to an increased consumption of alcohol within the Station, on trains and in the street. The Sub-Committee considered that a major element of the appeal of fast food premises was that fast food was designed to be consumed quickly after purchase. Directly selling this with alcohol sold in 500ml cans would result in customers being encouraged to consume both swiftly. Encouraging drinking in public spaces, including to those who PC Lewis had

referred to as at the point of intoxication, failed to promote the licensing objectives, with the significant potential for anti-social behaviour, crime and disorder and public nuisance.

The Sub-Committee had given weight in particular to the representations of the Metropolitan Police and British Transport Police and also concerns that were raised relating to public safety. The Sub-Committee noted the witness statement of Inspector Baynes that 'over the last year there has been four incidents at Burger King involving anti-social behaviour I believe the sale of alcohol would increase these incidents'. The Sub-Committee also noted Inspector Baynes' points that 'the fast food premises tend to cater for large groups of customers who have been consuming alcohol already. The danger is rowdy persons may intend to buy fast food to soak up alcohol, possibly before boarding a train, they will now have the opportunity of consuming more alcohol. There are a lot of families with young children travelling through this station and generally at the moment alcohol is consumed on the licensed premises, and not taken out to drink. I would question how will Burger King prevent people immediately consuming off sales of alcohol on the station concourse? Therefore really operating as a bar'.

Members were concerned about the ease with which children might be able to gain access to the alcohol, particularly as Burger King premises were attractive to younger people. The applicant stated that as it was a specialist provider of food and drink in transport hubs across the country, it had experience in operating within this particular environment. Members had no doubt that Burger King was capable of training its staff to deal with the issues around the sale of alcohol to children but there were some serious practical considerations that had to be taken into account.

It was not considered that staff could make a judgment as to whether the quantity of alcohol purchased was proportionate to the food purchased and it was not considered appropriate to place that burden on staff working in these particular premises. There were bound to be occasions when customers would gather in large numbers and some would be ordering food for themselves and others. It would be very difficult if not impossible to make a judgment as to who the food or drink was actually being purchased for. That would mean that it would be possible for some individuals to get access to alcohol without having to purchase any food at all. Moreover, some individuals could also get access to more than one can or bottle of beer or larger, despite the conditions that might be placed on the licence. Those issues also meant that there was a real risk that alcohol could easily be obtained by children, either directly from the premises when it was very busy and it would be difficult to apply the "Challenge 25" scheme or indirectly via older friends.

Members were concerned about the sale of alcohol late at night (even before core hours) and agreed with PC Lewis that there was also a concern about the transition after 23.00 when the premises remained open but could no longer sell alcohol. It was considered that there was a serious risk of disorder that might be difficult to contain in this particular environment. Consideration was given to the possibility of granting a licence to sell alcohol until an earlier time in the evening but that was not considered appropriate at these particular premises. Both

	<p>Paddington and Victoria stations were very busy transport hubs throughout the day. The concourse of such stations was designed as a place for commuters to wait until such time as their particular trains were ready to leave. The nature of the Burger King application at Victoria Station was that both the food and the alcohol were likely to be consumed either on the station concourse or on the trains that were leaving the station. It was not considered that commuters would welcome the idea of the concourse becoming a place where alcohol could be easily obtained for immediate consumption. That concern applied throughout the day and not just late in the evening. Whilst it was acknowledged that alcohol was available in other premises, it was the convenience of obtaining the alcohol in conjunction with the hot take-away food that was of real concern. Most alcohol that was sold from off-licences was not sold with the intention of it being consumed immediately outside the premises. This alcohol was being sold with precisely that intention.</p>
<b>2.</b>	<b>Sale by retail of alcohol (Off)</b>
	<p>Monday to Saturday 11:00 to 23:00  Sunday 12:00 to 22:30.</p>
	<p>Amendments to application advised at hearing:  None.</p>
	<p>Decision (including reasons if different from those set out in report):  The application was refused (see reasons for decision in Section 1).</p>
<b>3.</b>	<b>Opening Hours</b>
	<p>Monday to Sunday 00:00 to 00:00.</p>
	<p>Amendments to application advised at hearing:  None.</p>
	<p>Decision (including reasons if different from those set out in report):  The application was refused (see reasons for decision in Section 1).</p>

<b>4.</b>	<b>Non-standard timings</b>
	<p><b><u>Late Night Refreshment</u></b></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>The application was refused (see reasons for decision in Section 1).</p>