



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** Committee held on **Wednesday 21st March, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Melvyn Caplan (Chairman), Julia Alexander and Jan Prendergast

#### 1 MEMBERSHIP

There were no changes to the Membership.

#### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 1 REGENTS PARK OPEN AIR THEATRE, INNER CIRCLE, REGENTS PARK, NW1

### LICENSING SUB-COMMITTEE No. 3

*Wednesday 21 March 2018*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Jan Prendergast

Legal Adviser: Barry Panto  
Committee Officer: Jonathan Deacon  
Presenting Officer: Yolanda Wade

**Regents Park Open Air Theatre, Inner Circle, Regents Park, NW1  
18/00773/LIPV**

The application was granted under delegated powers prior to the hearing as all representations objecting to the application had been withdrawn.

#### 2 10A VAUXHALL BRIDGE ROAD, SW1

### LICENSING SUB-COMMITTEE No. 3

Thursday 21 March 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Jan Prendergast

Legal Adviser: Barry Panto  
Committee Officer: Jonathan Deacon  
Presenting Officer: Yolanda Wade

Relevant Representations: Environmental Health and the 3 Vincent Square Ward Councillors.

Present: Mr Karim Ali (Applicant), Mr Anil Drayan (Environmental Health) and Councillor David Harvey (Vincent Square Ward Councillor, on behalf of all 3 Ward Councillors).

<b>10A Vauxhall Bridge Road, SW1 18/00503/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment (Indoors and Outdoors)</b>
	Monday to Sunday: 23:00 to 02:00
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee heard from Mr Ali. Twelve conditions had been proposed by Environmental Health prior to the hearing which had been distributed to all parties. Mr Ali advised that he had agreed all the Environmental Health conditions and those proposed by the Police. The Police had subsequently withdrawn their representation.  Mr Ali confirmed that that the reason for the application was to enable him to provide a home delivery service during the hours applied for (23:00 to 02:00 every day of the week). The premises would not operate during these hours as a sit down restaurant. Deliveries would be via Deliveroo and Uber Eats.  The Sub-Committee asked Mr Ali a number of questions regarding the application. These included how he would comply with Environmental Health's proposed condition that the delivery drivers would switch off their engines and come inside to wait for the food so that they did not cause nuisance to residents. Mr Ali replied that he would speak to the drivers and introduce signage for them setting out these requirements. There were only three or four individuals who

delivered from the premises. Mr Ali knew them. They were residents from within a mile of the premises. Mr Ali informed the Sub-Committee that in most cases the individuals carrying out the deliveries used bicycles and not motorcycles or cars. In the event that the application was granted and the individuals carrying out the deliveries did not comply with the conditions on the premises licence, Mr Ali would contact Deliveroo or Uber Eats to let them know that he did not want the individuals being responsible for the deliveries in the future.

Mr Ali, in response to questions from the Sub-Committee, mentioned that any tables and chairs would be brought inside the premises no later than 22:00. He said that people, including those carrying out the deliveries, would not be permitted to use the chairs in order to smoke, eat or drink there after this time. He added that there was little demand at this location for the use of outside tables and chairs after 18:00 as other businesses had closed. Most of the demand was in the morning when customers might wish to have a coffee outside if it was a sunny day.

The Sub-Committee heard from Mr Drayan on behalf of Environmental Health. He confirmed he had made a site visit to the premises. He made the point that the premises would only be open to the public until 23:00. He had noted that the Applicant had agreed the conditions he had proposed.

Mr Drayan advised that there was one aspect which Mr Ali needed to address. This was an extractor fan at the back of the premises which Mr Drayan deemed to be very noisy. There had not been any complaints from residents to date but if the kitchen was able to operate until the middle of the night, the fan was more likely to cause nuisance and generate complaints. Mr Drayan referred to his proposed works condition which had been agreed by Mr Ali. This would result, in the event the application was granted, in the premises licence not being operated by the Applicant until Mr Drayan was satisfied that the noise from the fan had been reduced. Mr Drayan stated that in all other aspects he was content with the application.

The Sub-Committee was addressed by Councillor David Harvey on behalf of all three Vincent Square Ward Councillors. He thanked the Applicant for agreeing to the proposed conditions and commented that the three Ward Members are keen for every business in the area to succeed. His concern and that of his colleagues was whether the conditions were complied with and the licensing objectives promoted. It was hoped that the deliveries were largely undertaken by cyclists to limit the potential for nuisance to residents. In the event that motorcyclists were employed, they must meet the requirement not to cause a disturbance.

Councillor Harvey expressed some relief that 10A Vauxhall Bridge Road was not open to customers after 23:00 as significant numbers of people would then be arriving and leaving in the early hours of the morning.

The Sub-Committee, referring to Councillor Harvey's concerns, asked Mr Ali whether he was confident he could promote the licensing objectives given that he was now seeking to operate until 02:00 and there was the potential for new

delivery drivers to be employed. Mr Ali replied that he had not originally realised that he had required a premises licence to operate after 23:00. He had opened the premises for a period of two months after 23:00 without a licence before he had been informed by a City Inspector of the need to apply. Following this communication he had then closed the premises after 23:00. However, he added that during the two month period 10A Vauxhall Bridge Road had been open after 23:00 there had been no issues with nuisance from the deliveries. This gave him confidence that public nuisance would not be caused if the application was granted.

Mr Drayan advised that the conditions he had proposed had been very similar in nature to those proposed for Tops Pizza in Great Western Road. After a specific hour, there were deliveries only from the premises. The Tops Pizza premises licence included the requirement (as proposed for 10A Vauxhall Road) that after 23:00 an opaque blind covered the shop window and door so that people walking by would not know the premises was open. As far as he was aware there had not been any problems caused by the granting of the application for Tops Pizza and this had been approximately two years ago.

The Sub-Committee granted the application, subject to conditions. Members considered that the Applicant fully understood the potential issues of operating a home delivery service in a residential area. It was the Applicant's acceptance of the conditions, particularly those proposed by the Responsible Authorities, which enabled the Sub-Committee to grant the application. Members noted that the Applicant would be encouraging the use of bicycles and environmentally friendly vehicles for deliveries.

The Sub-Committee made the point to Mr Ali that it was very important for him to ensure that the conditions on the premises licence were complied with. Residents and the ward councillors had the option to register a complaint with the Council's Noise Team if there was a public nuisance caused by those carrying out the deliveries. In the event of persistent issues, there was the option for a review of the premises licence.

The Sub-Committee attached an additional condition that all tables and chairs would be removed from the outside area by 23.00 each day. The Sub-Committee also made some amendments to the conditions proposed by Environmental Health which provided some additional clarification.

<b>2.</b>	<b>Hours premises are open to the public</b>						
	<table> <tr> <td>Monday to Friday:</td> <td>07:00 to 23:30</td> </tr> <tr> <td>Saturday:</td> <td>08:00 to 23:00</td> </tr> <tr> <td>Sunday:</td> <td>09:00 to 23:00</td> </tr> </table>	Monday to Friday:	07:00 to 23:30	Saturday:	08:00 to 23:00	Sunday:	09:00 to 23:00
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Sunday:	09:00 to 23:00						
	<p>Amendments to application advised at hearing:</p> <p>None.</p>						

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).

### Conditions attached to the Licence

1. The premises will not provide any take away service of food or drink for immediate consumption.
2. Doors and windows will be kept closed after 21:00 hours to prevent transmission of noise except for the immediate access and egress of persons.
3. 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 entire 31 day period.
4. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
5. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
6. 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) any faults in the CCTV system
  - (f) any visit by a relevant authority or emergency service.
7. After 23:00 and until the commencement of the following day's business an

opaque blind which will cover the height and width of the shop window and door at the front of the premises will be drawn to prevent the escape of light from the premises.

8. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents in the vicinity.
9. After 23:00 customers shall not be permitted on the premises and there shall be no sales of hot food or hot drink for consumption either on or off the premises otherwise than by delivery only to a bona fide address.
10. Vehicles used for delivery must have their engines switched off when waiting for the collection of food or drink. All such vehicles must be lawfully parked and not cause an obstruction for other users of the highway. The use of such vehicles shall not cause a nuisance to local residents.
11. Drivers shall wait inside the premises for deliveries of food and/or drink.
12. A notice shall be displayed by the front door stating the restaurant opening hours and that all orders after 23:00 must be phoned through or e-mailed and are for home delivery only.
13. Notices shall be prominently displayed at the exit and in the main window display requesting patrons and drivers to respect the needs of local residents by not loitering outside the premises after 11pm and to leave the area quietly.
14. No noise generated on the premises, or by its associated plant or equipment or delivery vehicles near the premises, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
15. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
16. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
17. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 on the following day.
18. The Licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
19. All tables and chairs shall be removed from the outside area by 23.00 each day.

**3 CHOPSTIX, BASEMENT AND GROUND FLOOR, 29-31 OXFORD STREET, W1**

**LICENSING SUB-COMMITTEE No. 3**

*Thursday 21 March 2018*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Jan Prendergast

Legal Adviser: Barry Panto  
Committee Officer: Jonathan Deacon  
Presenting Officer: Yolanda Wade

Relevant Representations: Metropolitan Police and Licensing Authority.

Present: Mr Gareth Hughes (Counsel, Representing the Applicant), Mr Jon Lake (Managing Director, Applicant Company), PC Toby Janes (Metropolitan Police) and Daisy Gadd and Steve Rowe (Licensing Authority).

<b>Chopstix, Basement And Ground Floor, 29-31 Oxford Street, W1 18/00520/LIPV</b>					
<b>1.</b>	<b>Condition being varied</b>				
	<table><thead><tr><th><u>Current Condition on existing premises licence</u></th><th><u>Proposed variation</u></th></tr></thead><tbody><tr><td>11. No hot takeaway food to be served after 23:00.</td><td>No hot takeaway food to be served after 23:00 on Sunday to Thursday.</td></tr></tbody></table>	<u>Current Condition on existing premises licence</u>	<u>Proposed variation</u>	11. No hot takeaway food to be served after 23:00.	No hot takeaway food to be served after 23:00 on Sunday to Thursday.
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11. No hot takeaway food to be served after 23:00.	No hot takeaway food to be served after 23:00 on Sunday to Thursday.				
	Amendments to application advised at hearing:  None.				
	Decision (including reasons if different from those set out in report):  The Sub-Committee heard from Mr Hughes, representing the Applicant. He referred to the Applicant's supporting statements which had been included in the main report. Mr Hughes stated that the current application was to amend a condition on the existing premises licence from 'no hot takeaway food to be served after 23:00' to 'no hot takeaway food to be served after 23:00 on Sunday to Thursday'. He said that the application did not involve an increase in licensing hours or additional licensable activities as it involved late night refreshment only. Mr Hughes also mentioned that the capacity of the premises would remain the same.  Mr Hughes emphasised that 29-31 Oxford Street was permitted to be open for				

late night refreshment under the existing premises licence until 04:00 on the day following Friday and Saturday under the existing licence. He commented that the Council's policy FFP2 for premises supplying fast food inside the cumulative impact areas was essentially about two aspects. These were dispersal and litter/cleansing late at night. Mr Hughes expressed the view that the application would assist in relation to the policy because currently patrons were having to remain in the premises whilst they consumed their food. They were as a result being detained in the West End Cumulative Impact Area during the late evening and early hours of the morning. Mr Hughes added that takeaway currently took place at the premises until 23:00. He believed permitting takeaway after that time would lead to quicker dispersal from the Cumulative Impact Area ('CIA') towards the underground stations in the area, particularly Tottenham Court Road and Oxford Circus. The application was for Friday and Saturday evenings when the night tube would be in operation.

Mr Hughes said that there had been no issues of crime and disorder at the premises raised by the Police. He also made the point that the premises sold takeaway food 13 hours a day without any concerns raised by Environmental Health. Environmental Health were not objecting to the current application. Mr Hughes advised that the Applicant patrols along the street during the daytime in order to ensure no litter is left there from the premises. The Applicant was prepared to extend the patrols during the night in the event that the Sub-Committee was minded to grant the application. He did not believe patrons would consume the takeaway hot food or hot drink on the street.

Mr Hughes spoke of there being no representations from residents or ward councillors. He offered door staff throughout the evening. He also offered a trial period of 12 months operating the premises in accordance with the amended condition 11 in the event that the Sub-Committee had concerns about the application.

The Council's policy (FFP2) is to refuse applications for premises supplying fast food inside the CIAs, other than applications to vary hours within the Core Hours under Policy HRS1. The policy sets out that the grant of variations or new licences for fast food premises in the CIAs should be limited to exceptional circumstances. The Sub-Committee asked Mr Hughes what the exceptional circumstances were in this particular instance that would justify granting the application. Mr Hughes replied that there were already patrons eating in 29-31 Oxford Street until 04:00. There were a number of customers who wanted the option for takeaway but had to be persuaded to eat the meal at the premises. He re-iterated that they would take the meal and be gone from the CIA rather than remaining within it.

The Sub-Committee asked Mr Hughes if it was the Applicant's position that the application would not attract more people into the CIA then what was the reason for submitting it? Mr Lake replied that the commercial rationale for the application was that patrons were turned away if they specifically requested takeaway. There was an assumption on the part of customers that they were able to continue to take hot food or hot drink from the premises after 23:00.

Mr Lake did not accept that there would be a significant increase in customers



coming into the CIA as a result of the application because the patrons assumed that takeaway could currently be purchased after 23:00. Mr Hughes added that they were catering primarily for people who were already in the CIA.

The Sub-Committee heard from PC Janes on behalf of the Metropolitan Police. He confirmed that the Police had maintained their representation as the application was contrary to the Council's policy. Takeaway was being requested by the Applicant until 04:00 which is significantly beyond Core Hours. PC Janes was firmly of the view that the application would add to cumulative impact.

PC Janes advised that it was the experience of the Police that after patrons left the premises with a takeaway they would often hang around the area, including on the streets and in alleys, whilst they consumed the takeaway before going home. If they did not have the takeaway it was probable they would go straight home. There was evidence as set out in the Council's Statement of Licensing Policy that late night takeaways attracted customers who had been drinking throughout the evening and were intoxicated. He added that there was the likelihood of anti-social behaviour in and around the premises in these instances, including whilst waiting to be served prior to obtaining the hot food and hot drink.

PC Janes confirmed that the premises was currently a low crime generator. He requested that if the Sub-Committee was minded to grant the application, a condition was attached to the premises licence requiring the Applicant to have SIA registered door staff from 23:00 to 04:00.

The Sub-Committee was addressed by Ms Gadd on behalf of the Licensing Authority. She confirmed that the Licensing Authority maintained their representation as the application sought takeaway food on Friday and Saturday for hours that were significantly in excess of the Council's Core Hours policy. The application was contrary to Policy FFP2 and the Council's policy was to refuse the application.

Ms Gadd referred to paragraph 2.5.20 of the Council's Statement of Licensing Policy that 'because the attraction and retention of people by the premises mitigates against their rapid dispersal from the CIAs, the Licensing Authority considers that the grant of variations or new licences for fast food premises in the CIAs should be limited to exceptional circumstances'. She added that it was for the Sub-Committee to decide whether the Applicant had provided exceptional circumstances to warrant granting the application.

Mr Panto invited the Applicant to respond to the point that currently the patrons of the premises were required to consume the hot food or hot drink there. In the event the patrons were permitted takeaway, would they disperse or would they remain in the area? The Council's policy was based on the assumption that the patrons would not disperse from the CIA.

Mr Panto also made the point that the Council's policy had evolved since 2007 when the premises had been permitted to provide late night refreshment (indoors) until 04:00 but had been refused late night refreshment (outdoors)/takeaway. It had not been contrary to the policy to permit eating in at a fast food premises at that time.

Mr Hughes, in response to Mr Panto's comments, remarked that if people were intent on hanging around when eating a takeaway then they might just as well eat inside the premises. He believed there was no evidence that patrons were eating the takeaway on the street up until 23:00. He repeated his offer of door staff to direct patrons towards the underground stations. Mr Lake added that there were other staff in the restaurant to assist. Staff would keep the street clean.

The Sub-Committee refused the application for the addition of late night takeaway hot food and hot drink after 23:00. The Sub-Committee in reaching this decision took into account the application was contrary to policy and the representations received from the Responsible Authorities. The Sub-Committee did not consider that there were exceptional circumstances to grant this application. Members also considered that there would be additional patrons who would be attracted to having a takeaway and visit the premises in the CIA late at night. They would not all disperse with many being retained in the CIA, as referred to in the Council's policy. There was the potential for the patrons to 'refuel' with alcohol either prior to or after seeking the takeaway and visit other establishments.

When given the opportunity to explain why the application would not add to cumulative impact, Mr Hughes had indicated that customers who were intent on hanging around when eating a takeaway might just as well eat inside the premises. The problem with that analysis is that customers already had that option. It had to be assumed, therefore, that the Applicant was seeking takeaway for customers who did not currently wish to eat within the premises. The policy assumption was that a significant number of those customers would remain within the cumulative impact area between 23.00 hours and 04.00 hours on the following day, especially on a Friday and Saturday night. This would clearly add to the cumulative impact in the area and would be greater than the cumulative impact that was already being caused by customers eating within the premises until 04.00.