



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 24th May, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Melvyn Caplan (Chairman), Susie Burbridge and Rita Begum

Also Present: Councillors

Apologies for Absence:

1 **MEMBERSHIP**

2 **DECLARATIONS OF INTEREST**

1 **AD FOOD & WINE, BASEMENT AND GROUND FLOOR, 29 PADDINGTON STREET, W1 (WITHDRAWN)**

This item was withdrawn

2 **SECOND FLOOR, CARRIAGE HOUSE, 29 FLORAL STREET, WC2**

LICENSING SUB-COMMITTEE No. 3

Thursday 24th May 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

Legal Adviser: Horatio Chance
Committee Officer: Tristan Fieldsend
Committee Officer: Kisi Smith-Charlemagne
Presenting Officers: Shannon Pring
Steve Rowe

Relevant Representations: The Licensing Authority, Environmental Health, Covent Garden Community Association and One Local Residents

Present: Mr Luke Elford (Agent, representing the Applicant), Stuart Proctor (Applicant), Miss Daisy Gadd (Licensing Authority) and Mr Anil Drayan (Environmental health)

Second Floor, Carriage House, 29 Floral Street, London WC2E 9DP (“The Premises”) 18/02620/LIPN	
1.	Restaurant - Indoors Monday to Saturday: 08:00 to 23:00 Sunday: 08:00 to 22:30
	Amendments to application advised at hearing: None
	Decision (including reasons if different from those set out in report): The Sub-Committee considered an application by Robinson Webster (Holdings) Ltd for a new premises licence in respect of Second Floor Carriage House, 29 Floral Street, London WC2E 9DP (“The Premises”). The Licensing Officer provided an outline of the application to the Sub-Committee. Mr Elford, representing Jigsaw (“the Applicant”) described the Premises as providing a modern, high end style of dining. It was submitted that the ground and first floors are retail spaces shared between Jigsaw and the shop at Bluebird, whilst the second floor has been converted into a 125 cover restaurant. Mr Elford described the application as being within range and amendments were made to the schedule of proposed conditions on the 21 st and 22 nd May, resulting in the Metropolitan Police withdrawing its representation. Using the submitted plans Mr Elford advised the Sub-Committee where the location of the entry point for entrance to the store is and where staff would be positioned to escort guests to the restaurant lift. Mr Elford then went on to show the Sub-Committee the plans for the restaurant located on the second floor, highlighting the Bar area (hatched in red on the plan) and the Terrace area, he then welcomed questions from the Sub-Committee. The Sub-Committee requested further clarification from the Applicant as to how the application came within the terms of the policy, with particular emphasis on the Cumulative impact area (CIA). The Sub-Committee asked if the Applicant would consider a condition regarding consumption and gave an example, referring to the bar area being open until 20:00 hours and alcohol consumption ending at 20:00 hours, as detailed in condition 3 of the scheduled of proposed conditions. Mr Elford explained that the restaurant had planning permission to

remain open until 22:00 hours and as this was a high end retailer with expensive merchandise, the entrance will be staffed during the restaurants opening hours. There will also be a door bell that guests will use to gain access.

The Sub-Committee requested further information on the intended use of the terrace area. Mr Elford explained that the applicant had planning permission for smoking on the terrace, which would be properly supervised so as not to cause a nuisance. The conditions in the original freeholder's application states that it would not cause nuisance. The Sub-Committee questioned the impact that a restaurant would have on local residents with operating hours after 19:00 hours when considering the licensing objectives. The Sub-Committee also sought confirmation that the advised number of 125 patrons did not include members of staff.

Mr Drayan, representing Environmental Health (EH), summarised his initial concerns relating to separate toilet conditions for staff and a number of issues relating to the new properties directly opposite to the restaurant; this included sound insulation, the view directly into these properties and alternative ventilation in these properties. Mr Drayan then went on to discuss local resident Mr Phillip Clive who was unable to attend the meeting. The Sub-Committee was advised that Mr Drayan had met with Mr Clive who confirmed that his home was not at terrace level and the main window shown in photos is actually a stairwell window and not a residential premises for the avoidance of doubt. Mr Drayan confirmed to the Sub-Committee that he was now satisfied with the conditions proposed as of the 21st May.

Miss Gadd, representing the Licensing Authority, expressed to the Sub-Committee that she still had concerns regarding the restaurant being in the West End CIA. Miss Gadd summarised that patrons would be drinking in the bar area under proposed condition 3, patrons would then be shown to tables where they could have additional drinks with their meal. Miss Gadd asked the Applicant to consider if alcohol may become a predominate factor going forward or if the Premises were to be taken over by a new restaurant, the CIA must be considered and show how the area is not impacted.

Ms Zoe Tallis a local resident provided some background knowledge into the streets quiet nature after 20:00 hours. Ms Tallis was concerned that the restaurant would cause noise nuisance with taxis, deliveries, attracting vermin and drunk and disorderly conduct. Ms Tallis was also concerned with smoking out on the terrace area, stating that her property was older and did not have air conditioning, this meant opening her windows for ventilation. Ms Tallis was concerned with the level of noise and smells such as smoking and food odours entering her premises. In its determination of the matter the Sub-Committee took these issues into account.

Mr David Kener, representing the Covent Garden Community Association accepted most of the conditions, however raised concerns regarding condition 2e, not providing takeaway service of food or drink after 23:00 hours. Mr Kener also felt that the level of tolerance used by the Planning Committee has not considered the public need and presumed that they would have had a different agenda at the time. Mr Kener also raised concerns regarding smoking and the

lack of ventilation for some residents and noise echoing within Floral Street. Mr Kener felt that there had not been a real discussion regarding the dispersal of patrons on what is considered a quiet residential street.

The Sub-Committee summarised the concerns raised by the representatives and asked witness Stuart Proctor to respond to concerns regarding the terrace area, not providing a takeaway service and the dispersal policy. The Sub-Committee also asked Mr Proctor to share in his opinion why he felt the Sub-Committee should grant the licence. Mr Proctor advised the Sub-Committee that his company successfully runs the Stafford Hotel and the Game Bird, both establishments are operated to a high standard. Mr Proctor advised that his company's reputation is far bigger than the Landlord's and has good relationships with their neighbours at their other properties. Mr Proctor then went on to explain to the Sub-Committee about the company's 'Bigger Green Mission' which will see the restaurant produce minimal waste and will not be using any cardboard or plastics. Mr Proctor explained that patrons will be escorted by hosts out of the Premises and helped into taxis.

Mr Proctor also explained that they would like to serve takeaway coffees during the day, but they would not be providing a hot food take away service; Mr Proctor agreed that this wording would be removed from the schedule of proposed conditions. The Sub-Committee asked Mr Proctor where it would anticipate smoking happening outside the restaurant. Mr Proctor explained that there is a court yard currently used by smokers and anticipated that if patrons wanted to smoke outside, they would use this area. The Sub-Committee asked Mr Proctor and Mr Elford if the applicant would consider putting a dispersal policy in place and consider wording along the lines of proposed condition 8, for example no consumption of alcohol after 22:00 hours. Mr Proctor and Mr Elford felt that the applicant would consider such conditions. The Sub-Committee then retired to make its decision.

The Sub-Committee granted the amended application, subject to conditions as set out below. The Sub-Committee considered that the Applicant had taken steps to address the concerns of the parties who had made representations. The steps taken by the applicant included terrace screening for residence privacy, and all activities on the terrace ceasing at 22:00 hours. The holding bar would open until 20:00 hours with a consumption clause implemented. The Sub-Committee summarised that the application supported the licensing objectives, the Sub-committee listened to the concerns regarding the bar and terrace areas of the Premises and was of the opinion that the conditions imposed on the licence would help ensure the promotion of the licensing objectives.

In particular the conditions regarding the terrace to close at 22:00 hours provided reassurance to the Sub-Committee that it would not cause or create any disturbances to local residents. With regards to the internal Bar area it was felt that restricting vertical drinking after 20:00 hours and due to its small capacity it would not become a source of nuisance. The Sub-Committee was pleased to note that the Applicant had agreed a condition regarding the introduction of a dispersal policy. The Sub-Committee felt that this would reduce the impact on residents and not add to the Cumulative impact in the local area.

	<p>The Applicant also agreed to no takeaways because this was an increasing problematic area. Overall having listened to all the evidence and concerns raised by all the residents, the Sub-Committee was satisfied that the application would not add to CIA and would thus promote the licensing objectives. The conditions attached to the licence were considered appropriate and proportionate in the circumstances and therefore granted the application accordingly.</p>
<p>2.</p>	<p>Sale by Retail of Alcohol – On Sales</p> <p>Monday to Saturday: 10:00 to 23:00 Sunday: 12:00 to 22:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>From the end of permitted hours on New Year’s Eve to the start of the permitted hours on New Year’s Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>The Applicant confirmed that there will be no licensable activities on the terrace after 22:00</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application (see reasons for decision in Section 1).</p>
<p>3.</p>	<p>Hours Premises Are Open to the Public</p> <p>Monday to Saturday: 08:00 to 23:00 Sunday: 08:00 to 22:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>From the end of permitted hours on New Year’s Eve to the start of the 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 Sub-Committee granted the application (see reasons for decision in Section 1).</p>

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

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

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

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

7. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

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

(b) "permitted price" is the price found by applying the formula - $P = D + (D \times V)$

Where -

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

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

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

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

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

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

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that subparagraph 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.

Conditions Consistent with the Operating Schedule

9. The premises shall only operate as a restaurant:

- a. in which customers are shown to their table;
- b. where the supply of alcohol is by waiter or waitress service only;
- c. where food is provided 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;
- d. and not provide any take away service
- e. 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 tables meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals

Notwithstanding this condition customers are permitted to take from the premises part-consumed and resealed bottles of wine supplied ancillary to their meal. Food and non-intoxication 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. Notwithstanding condition 9e above, alcohol may be supplied and consumed in the holding bar area until 20:00 (hatched red on the attached plan), by up to a maximum of 15 persons at any one time. Alcohol will only be supplied to customers who are seated by waiter or waitress service only.

11. 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.

12. A direct telephone number for the manager at the premises shall be available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

13. There shall be no admittance or re-admittance to the premises after 22:00 except for patrons permitted to temporarily leave the premises to smoke.

14. 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.

15. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 125 persons. (Final figure shall be determined on clearance of 'pre-opening' conditions and shall be based on whichever gives the lower figure from an assessment of safety capacity or provision of sanitary accommodation but it shall not be more than 125).

16. 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.

17. 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.

18. 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.

19. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

20. No deliveries relating to licensable activities at the premises shall take place between 23:00 and 07:30 on the following day or between 20:00 on Saturday and 10:00 on Sunday.

21. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 20:00 and 07:30 on the following day or between 20:00 on Saturday and 10:00 on Sunday.

22. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.

23. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

24. 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.

25. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

26. 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.

27. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

28. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Premises Licence by the Licensing Authority.

29. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises as constructed. Where there are minor changes to the layout of the premises during the course of construction new plans shall be provided

to the Environmental Health Consultation Team and the Licensing Authority and shall be attached to this licence in substitution of the existing plans, at which time this condition shall be removed from the licence.

30. The premises shall have a dispersal policy in force at all times that will help to promote the licensing objectives. A copy shall be kept for inspection at the premises and provided to the Police and authorised officers of the Council.

31. The terrace area shown on the premises plan shall be closed at 22:00.

3 8-9 JAMES STREET, COVENT GARDEN, WC2 (WITHDRAWN)

This item was withdrawn

The Meeting ended at 11.42 am

CHAIRMAN: _____

DATE _____