



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 9th August, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Melvyn Caplan (Chairman), Susie Burbridge and Aziz Toki

**Also Present:**

**Apologies for Absence:**

1 **MEMBERSHIP**

2 **DECLARATIONS OF INTEREST**

1 **KAYA, 10 LITTLE NEWPORT STREET, LONDON, WC2H 7JJ**

### LICENSING SUB-COMMITTEE No.3

*Thursday 9<sup>th</sup> August 2018*

Membership: Councillor Melvyn Caplan (Chairman) Councillor Susie Burbridge and Councillor Aziz Toki

Legal Adviser: Horatio Chance

Policy Adviser: Kerry Simpkin

Committee Officer: Kisi Smith-Charlemagne

Presenting Officer: Michelle Steward

Relevant Representations: Roxanna Haq (Licensing Authority)

Present: Mr Yap Leong (Applicant representing himself)

**Kaya, 10 Little Newport Street, London, WC2H 7JJ, 18/04929/LIPN (St James's Ward/ West End Cumulative Impact Area) ("The Premises")**

1.	<p><b>Sale by retail of alcohol (off sale):</b></p> <p>Monday to Saturday: 10:00 to 23:00  Sunday: 10:00 to 22:30</p> <p><b>Seasonal variations / Non-Standard Timings:</b></p> <p>None</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 considered an application from Mr Yap Leong (“The Applicant”) for a new Premises Licence in respect of Kaya, 10 Little Newport Street, London, WC2H 7JJ. The Presenting Officer provided an outline of the application to the Sub-Committee. The Presenting Officer advised that Environmental Health and the Metropolitan Police had made representations, but these had been subsequently withdrawn, after conditions were agreed with the Applicant.</p> <p>The Sub-Committee advised the Applicant, that the Sub-Committee had received and reviewed the application and encouraged Mr Leong to provide the Sub-Committee with information regarding his operations, such as the premises size, customers, staff etc. The Applicant explained to the Sub –Committee that the Premises currently operates as a small convenience store that provides non-alcoholic drinks and snacks, the size of the store was 2 x 4 meters. The Applicant advised that he currently runs the Premises solely with help from his Son or Daughter once a week. It was stated that if the Sub-Committee were minded to grant the Premises Licence his family would have greater input in terms of the running and management of the Premises. The Applicant acknowledged that this was too much responsibility for one person to take on individually.</p> <p>The Applicant had applied for a premises licence to sell alcoholic drinks for consumption off the Premises. The Applicant advised the Sub-Committee that the alcohol licence was a necessary choice for his convenience store to survive. The Sub-Committee was also informed that the Applicant was responding to customer feedback to sell alcohol and therefore wanted to give his customers this choice. The Applicant stated that he was operating his store at a financial loss and required the sale of tobacco and alcohol to continue trading. The Applicant informed the Sub-Committee that he had experienced dealing with shop lifters and some intoxicated patrons; the Police had advised the Applicant to use locks on alcohol storage cabinets so as to prevent the theft of Alcohol from the Premises.</p> <p>The Licensing Authority, represented by Roxanne Haq maintained its representation, raising concerns regarding the licensing objectives and the impact of the Premises selling alcohol within the Cumulative Impact Area (CIA).</p>

	<p>The Sub-Committee ensured that the Applicant fully understood condition 20, regarding the requirement for a personal licence holder to be present on the Premises when alcohol was served. The Applicant confirmed that he was training his Son in certain aspects of the business relating to licensing matters and was making attempts to obtain a personal licence. After very careful consideration the Sub-Committee decided to grant the application. The Sub-Committee felt that the Applicant demonstrated that he fully understood the responsibilities of running a licensing premises in the CIA and his understanding of the licensing objectives was good by a well thought out application.</p> <p><i>The Sub-Committee in its determination of the matter had regard to Paragraph 8.43 of the Home Office Guidance on page 60 which states “Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy). Applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate; and why they consider the application should be an exception to policy”</i> The Sub-Committee felt that the Applicant was an experienced shop owner with considerable experience of the local area and all the challenges it had to bring in terms of potential public nuisance and crime and disorder.</p> <p>The Sub-Committee took into account the financial situation of the Applicant when determining the matter and fully appreciate that each application must be considered on its own merits. It did not consider the Applicants financial situation to be the deciding factor whether to grant the application.</p> <p>The Sub-Committee was therefore persuaded that the application should be considered an exception to policy having assessed the evidence on its individual merits and the commitment the Applicant demonstrated. The Sub-Committee felt on balance that the Applicant would manage the Premises in a professional manner and adhere to the conditions it had imposed on the Premises Licence. The Sub-Committee also felt confident that after reviewing all the evidence presented, the Applicant would not add to the CIA and would fulfil and promote the licensing objectives.</p> <p><b>The Committee considered that the conditions it imposed on the Premises Licence to be appropriate and proportionate that would promote the licensing objectives</b></p>
2.	<p><b>Hours open to the public</b></p> <p>Monday to Sunday: 10:00 to 23:30</p> <p><b>Seasonal variations / Non-Standard Timings:</b></p> <p>On New Year’s Eve to the premises shall remain open to the public until 01:00; however the sale of alcohol shall cease at 23:00.</p>

	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee granted the application but restricted the opening hours to core hours.

<b>Conditions attached to the Licence</b>	
<b><u>Mandatory Conditions</u></b>	
<b>Mandatory Conditions</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 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.</p> <p>(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.</p> <p>(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—</p> <p style="padding-left: 40px;">(a) a holographic mark, or</p> <p style="padding-left: 40px;">(b) an ultraviolet feature.</p> <p>5(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.</p> <p>5(ii) For the purposes of the condition set out in paragraph 5(i) above -</p>

(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.

5(iii). Where the permitted price given by Paragraph 5(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.

5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(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**

6. The premises shall only sell alcohol in complete bottles or cans and not open or break them up to sell as individual 'shots' etc.

7. The premises shall not allow credit to customers to encourage them to consume alcohol.
8. The premises shall strictly observe the licensing opening and closing hours each day and to display a prominent sign stating that it is illegal to sell alcohol to under 18.
9. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
10. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
11. 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.
12. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
13. 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
14. No deliveries to the premises shall take place between 23:00 hours and 08:00 hours on the following day.
15. 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 and businesses in the vicinity
16. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
17. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
18. 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.

19. 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
20. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
21. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
22. There shall be no self service of spirits on the premises.
23. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale
24. 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.
25. 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 premises is open
26. 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.
27. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.

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The Meeting ended at 10.30 am

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_