



**CITY OF WESTMINSTER**

# MINUTES

## **Licensing Sub-Committee (2)**

### **MINUTES OF PROCEEDINGS**

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 1st November, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Tim Mitchell (Chairman), Louise Hyams and Shamim Talukder

**Also Present:** Councillor Melvyn Caplan (Item1)

#### **Apologies for Absence:**

#### **1 MEMBERSHIP**

1.1 There were no changes to the membership.

#### **2 DECLARATIONS OF INTEREST**

2.1 There were no declarations of interest.

#### **1 REAL ALE LTD, 4 FORMOSA STREET, LONDON, W9 1EE**

### **LICENSING SUB-COMMITTEE No. 2**

*Thursday 1st November 2018*

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Committee Officer: Tristan Fieldsend  
Georgina Wills

Presenting Officer: Daisy Gadd

Relevant Representations: The Paddington Waterways & Maida Vale Society and five local residents (one in support of the application).

Present: Mr Tim Peyton and Mr Zeph King (Applicants), Councillor Melvyn Caplan (Representing Paddington Waterways & Maida Vale Society and one local resident) and Mr Peter Hahn (local resident).

<b>Real Ale Ltd, 4 Formosa Street, London, W9 1EE (“The Premises”) 18/10770/LIPV</b>	
<b>1. Sale by Retail of Alcohol – On Sales</b>	
<p><u>Current:</u></p> <p>Monday: 12:00 to 21:00 Tuesday to Sunday: 12:00 to 21:30</p> <p><b>Licensable Area</b></p> <p>Basement and Ground Floor</p>	<p><u>Proposed:</u></p> <p>Monday: 12:00 to 21:30 Tuesday to Sunday: 12:00 to 22:30</p> <p>Basement and Ground Floor (including outside area of 3 tables and 6 chairs)</p>
Amendments to application advised at hearing:	
None.	
Decision (including reasons if different from those set out in report):	
<p>The Sub-Committee considered an application by Real Ale Ltd for a variation of a premises licence in respect of Real Ale Ltd, 4 Formosa Street, London, W9 1EE.</p> <p>The Licensing Officer provided an outline of the application to the Sub-Committee and clarified that the current hours for off sales of alcohol listed in the report (at page 3) were incorrect and should read 10:00 to 21:30 on Mondays and 10:00 to 22:00 Tuesday to Sunday. This was due to an error with the hours that had incorrectly been inserted on the current licence at page 34 of the report. It was also confirmed that Environmental Health had withdrawn their representation following the agreement of conditions with the applicant.</p> <p>Mr Peyton and Mr King, the applicants, explained that through their premises they had managed to build up strong relationships with the local community. They had taken an active involvement in various local events and as such, it was considered that they had made a positive contribution to the neighbourhood. The reason why the variation application had been submitted was simply to allow the business to continue to thrive in the local area. It was recognised that concerns had been raised over the proposed variation to the licence; however, no concerns had been submitted by the resident living above the premises or by the landlord of the property. The Sub-Committee was advised also that Environmental Health (EH) had received no complaints of any nature regarding the operation of the premises. Many of the concerns raised about the local area did not relate to the premises who wanted to be a considerate neighbour.</p>	

The applicants provided information on the three aspects of the application. Firstly, it was requested that conditions be removed from the licence in order to enable them to place waste outside the premises for collection more than 30 minutes before the collection time. Other establishments on the street already did this and allowing the premises to do the same would mean they would no longer have to store it internally at the premises, which was potentially unhygienic. In response to a question from the Sub-Committee, it was explained that approximately one bag of waste (consisting of minimal food waste) and some cardboard was generated in waste each day and this was currently being stored in the basement area. The Council collected waste from the street during the morning, however the premises did not open until 12:00 resulting in the applicants having to dispose of the waste themselves. In order for it to be collected by the Council in the morning therefore, the applicants proposed to properly present the waste outside on their demise at close of business the night before and not near their neighbours' frontage. They asserted that an officer from the Environmental Health Service had indicated that they could leave the refuse out overnight in those circumstances and had since withdrawn his objection to the application.

Secondly, it was proposed to permit the placing of tables and chairs outside the premises. Many establishments in the area already were permitted to do this and customers of the premises had requested the same facilities. There was no evidence that their customers were ever drunk or disorderly and to provide reassurance it was proposed for the tables and chairs to be rendered unusable by 21:00 hours every day. As other premises had external tables and chairs until hours later than those being sought, permitting this variation would not be setting a precedent. It would only consist of three small tables and six chairs with no vertical drinking permitted and sales of alcohol by waiter/waitress service only. To provide reassurance that they would not inhibit residents accessing their properties it was proposed to erect a partition to demarcate the proposed area. If all the tables were occupied and a customer wished to smoke, they would be directed around the corner and prevented from taking any alcoholic drinks with them. Due to the limited extent of the external area the Sub-Committee was advised that granting this aspect of the application would not alter the nature of the premises.

Thirdly, it was proposed to extend the hours permitting the on and off sales of alcohol until 21:30 on Mondays and 22:30 Tuesdays to Sundays. No issues had arisen, or been reported, regarding the internal use of the premises and with the proposed external area being rendered unusable by 21:00 the extension in hours would not create any issues. The proposed hours would allow the business to continue to thrive in the local area.

Mr Hahn, a local resident, explained that he had lived in the area for approximately 25 years and his property was located near to the premises. The biggest challenge facing residents was the external behaviour of customers at premises situated locally. Formosa Street was quite narrow and any noise generated not only echoed but was also funnelled down the street. The suggestion that smokers would be directed to the corner away from the premises was of a concern, as this would move the problem towards an even more

residential area. Permitting the use of external tables and chairs had the potential to create a significant noise impact, which was a major concern. These issues had been a persistent problem for a long time and when the applicants had initially been granted a licence in 2017 restrictions had been put in place to ensure residents would be protected. This compromise had worked and therefore surprise was expressed that only a year later an easing of these restrictions was now being proposed.

Councillor Melvyn Caplan, representing the Paddington Waterways and Maida Vale Society and a local resident, addressed the Sub-Committee. It was recognised that the establishment was very well run but residents were requesting that the correct balance needed to be struck in this area. Concern was expressed that the proposed changes would alter the nature of the operation from the one that was originally granted a licence in 2017. Whilst it was originally envisaged for the premises to operate predominantly as an off licence this variation moved it to becoming a potentially vertical drink-led bar with only a very limited food offer. In terms of the tables and chairs the local area already experienced issues through the use of external areas at other premises. The street was very narrow with establishments having small frontages. Residents often experienced issues traversing the street and permitting further tables and chairs would only exacerbate this problem. Particular concern was expressed that smokers from the premises would be directed to the nearby corner of the street. The area was very residential and this had the potential to generate even more noise nuisance in the local area. The licence granted in 2017 struck the right balance for the area. It was explained that the extension in hours was not the biggest issue but the tables and chairs variation applied for would change how the premises operated and as such could create increased levels of disturbance. In terms of the refuse issues the Sub-Committee was advised that permitting the placing of waste on the street overnight because other premises already did it, possibly in breach of their licenses, was not a reason to allow it. A better solution was required and one that did not negatively impact on the local area.

The applicants highlighted that they had been recognised as responsible operators and this was key when deciding whether to permit the use of the external area for tables and chairs. This was a small area where a maximum of six customers would be seated and served alcohol by waiter/waitress service only. The Sub-Committee was advised that a pub operated further down Formosa Street and customers often stood outside drinking vertically to hours later than those requested. The concerns raised over directing smokers to the corner were acknowledged and alternatives would be explored. They wanted to be considerate neighbours and the restrictive nature of the external area would ensure it did not create any nuisance to residents.

Following careful consideration of the application and the evidence provided by all parties the Sub-Committee decided to partly grant the application. It was noted that the area was highly residential and despite the retail nature of Formosa Street this too had a residential aspect to it that helped inform the Sub-Committee's decision. As such, the Sub-Committee considered the proposal to permit the use of the external area for tables and chairs unacceptable in the circumstances. It had been explained that the local area already experienced

disturbance from customers utilising the external areas of other premises and permitting this would only exacerbate this issue. It was recognised that it was only for a maximum of six people but it was considered that any increase in potential disturbance was unacceptable. Concern was also expressed that permitting the use of this area would alter the nature of the premises from one that was predominantly an off licence to one which had the potential to become a drink-led establishment. The current licence was granted in 2017 and it was felt this struck the right balance for the local area but the variation applied for just one year later had the potential to change how the premises operated to the detriment of the local area. Therefore, this aspect of the application was considered inappropriate in the circumstances and refused accordingly.

With regards to the issues over waste disposal the Sub-Committee also decided not to remove current conditions 23 and 24 from the licence. Issues from other premises placing their waste on the street overnight had been experienced and permitting it to occur in this instance would place extra pressure on the local area and have the likely effect of increasing public nuisance. The removal of these conditions was not considered appropriate in the circumstances and would not ensure the licensing objectives were promoted. It was recognised that waste was not collected by the Council whilst the premises was open and it was appreciated that this was a potential problem for the applicant. The two representatives from the applicant company expressed very strong feelings about the situation and clearly thought that the approach of the authority was unreasonable. However, the applicant was not producing a great deal of waste and had managed to make alternative arrangements for its disposal. Despite the withdrawal of the Environmental Health representation, it was not accepted that waste could be left outside the premises overnight as this was highly likely to cause a litter problem. If an exception was made for one operator, others might seek to make the same arrangements and that would potentially make the situation even worse. The applicant was advised, therefore, to contact other waste disposal companies to ascertain if they were able to collect their waste at hours which were more convenient to them. This aspect of the application was considered inappropriate in the circumstances and refused accordingly.

Finally, the extension in hours requested for on and off sales of alcohol were granted. The Sub-Committee considered that the proposed hours were not excessive and with the main concerns raised predominantly relating to other features of the application, and not the hours sought, the Sub-Committee granted this aspect. They were consistent with the Council's core hour's policy and due to the nature of the premises it was considered that the licensing objectives would be promoted. The proposed extension to the opening hours was also granted, aside from on Sundays which would be limited to 22:30 in order to make the hours consistent with core hours. Having heard all the evidence the Sub-Committee was satisfied that this aspect of the application was suitable for the local area and promoted the licensing objectives.

**2. Sale by Retail of Alcohol – Off Sales**

Current:

Proposed:

	<p>Monday: 10:00 to 21:30 Tuesday to Sunday: 10:00 to 22:00</p> <p><b>Licensable Area</b></p> <p>Basement and Ground Floor</p>	<p>Monday: 12:00 to 21:30 Tuesday to Sunday: 12:00 to 22:30</p> <p>Basement and Ground Floor (including outside area of 3 tables and 6 chairs)</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 hours requested but not the changes to the licensable area (see reasons for decision in Section 1).</p>	
<b>3.</b>	<b>Hours Premises are Open to the Public</b>	
	<p><u>Current:</u></p> <p>Monday: 10:00 to 21:30 Tuesday to Sunday: 10:00 to 22:00</p> <p><b>Licensable Area</b></p> <p>Basement and Ground Floor</p>	<p><u>Proposed:</u></p> <p>Monday: 12:00 to 22:00 Tuesday to Friday: 12:00 to 23:00 Saturday to Sunday: 11:00 to 23:00</p> <p>Basement and Ground Floor (including outside area of 3 tables and 6 chairs)</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 hours requested aside from on Sundays, which would be limited to 11:00 to 22:30 hours. The proposed changes to the licensable area were refused (see reasons for decision in Section 1).</p>	
<b>4.</b>	<b>Layout Alteration</b>	
	<p>This variation seeks to include the outside area of the premises so as to include 3 tables and 6 chairs.</p> <p>No further layout alterations have been proposed as part of this variation application.</p>	

	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee refused this aspect of the application (see reasons for decision in Section 1).
<b>5.</b>	<b>Conditions Proposed to be Removed</b>
	<u>Condition 16:</u>  There shall be no tables and chairs placed outside the premises.
	<u>Condition 23:</u>  All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
	<u>Condition 24:</u>  No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 20:00 hours and 08:00 hours on the following day.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee refused this aspect of the application (see reasons for decision in Section 1).

<b>Conditions attached to the Licence</b>
<p><b><u>Mandatory Conditions</u></b></p> <p>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</p> <p>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.</p> <p>3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.</p>

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 Attached after a Hearing by the Licensing Authority**

9. There shall be effective management and training of all staff on at least an annual basis in the sale of alcohol in order to meet the requirement of the Licensing Act 2003 and to provide such records of training to an authorised council officer on request.
10. There shall be a notice on the shop front showing the normal hours of opening and closing, to which licensed activities are permitted.
11. No deliveries to the premises shall take place between 20.00 and 08.00 on the following day.
12. Management will encourage customers to move on from the premises and not cause nuisance both during opening hours and also once the premises have closed.
13. An appropriate cigarette receptacle will be installed outside of the premises to keep cigarette litter to a minimum.
14. The sale of alcohol for consumption on the premises shall at all times be ancillary to the premises remaining a specialist craft beer retail shop (selling alcohol for consumption off the premises).
15. There shall be no bar servery within the basement area.
16. There shall be no tables and chairs placed outside the premises.
17. The number of persons permitted to consume alcohol in the premises at any one time (excluding staff) shall not exceed 20 persons, with no more than 8 persons on the ground floor at any one time.
18. The supply of alcohol for consumption on the premises shall be by waiter or waitress service only and to persons seated.

19. 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.
20. The external door shall be kept closed after 21:00 hours except for the immediate access and egress of persons.
21. Notices shall be prominently displayed at the exit requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
22. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 3 persons at any one time.
23. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
24. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 20.00 hours and 08.00 hours on the following day.
25. No collections of waste or recycling materials (including bottles) from the premises shall take place between 20.00 and 08.00 hours on the following day.
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 approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
28. 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.
29. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
30. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
31. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
32. 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.

34. 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.
35. 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.
36. 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.
37. 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 refusal of the sale of alcohol
  - (g) any visit by a relevant authority or emergency service.
38. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
39. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
40. On sales of beers above 5.5% ABV (alcohol by volume) shall only be sold in ½ or ⅓ pint glasses only.
41. There shall be no self-service of alcohol for consumption on the premises.
42. 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.
43. 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.

**2 BASEMENT AND GROUND FLOOR, 37 - 38 GOLDEN SQUARE, LONDON, W1F 9BS**

**LICENSING SUB-COMMITTEE No. 2**

*Thursday 1st November 2018*

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams and Councillor Shamim Talukder

Legal Adviser: Barry Panto  
Committee Officers: Tristan Fieldsend  
Georgina Wills  
Presenting Officer: Daisy Gadd

Relevant Representations: Environmental Health, The Soho Society and one local resident.

Present: Mr Alun Thomas (Solicitor, Representing the Applicant), Mr Andrew McNeill (Representing the Applicant Company), Mr Gillaume Depoix (Prospective Tenant), Mr Anil Drayan (Environmental Health) and one local resident.

**Basement and Ground Floor, 37-38 Golden Square, London, W1F 9BS (“The Premises”)  
18/10623/LIPN**

**1. Sale by Retail of Alcohol – On and Off Sales**

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

**Seasonal Variations/Non-Standard Timings:**

From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.

On Sundays prior to bank holidays/public holidays 12:00 to 00:00.

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 Halamar (Golden Square) Ltd for a new premises licence in respect of Basement and Ground Floor, 37-38 Golden Square, London, W1F 9BS.

The Licensing Officer introduced the application to the Sub-Committee and

confirmed that one of the local residents had withdrawn their representation following additional information supplied by the applicant.

Mr Thomas, representing the applicant, provided to the Sub-Committee with an overview of the current contractual situation with the site. It was explained that the applicant, Mr Depoix, had agreed a lease for the premises subject to a licence being granted for the hours requested. Mr Thomas confirmed that a meeting had been held with Ms Callingham, a local resident, to try to address some of the concerns she had raised in her representation. Following this meeting it was now proposed to make the following amendments to the proposed conditions on the licence:

- Place the full model restaurant condition on the licence, MC66;
- Include a condition preventing customers smoking from taking drinks or glass containers outside with them; and
- Requiring all sales of alcohol for consumption off the premises to be in sealed containers only and not to be consumed on the premises.

Mr Thomas considered that the main issues concerning the application centred on the opening hours and the fact the hours for the sale of alcohol were 30 minutes in excess of the Council's core hour's policy from Monday to Thursday and one hour on Sundays. The reasons for this was that the applicant wanted to open at 07:00 throughout the week, as they wanted to provide their customers with a breakfast option. In addition, the terminal hours relating to the sale for alcohol had been applied for as these were in line with the hours granted for the planning permission. The premises would operate as a restaurant with the slight extension beyond core hours being sought simply to allow customers to finish their meals. The premises building was being redeveloped and benefited from a current licence. The hours on the application were very similar to those on the existing licence with the proposed footprint of the new premises being slightly larger than the previous premises. If the Sub-Committee was minded to grant the application, the applicant was offering to surrender the existing licence. It was felt the more restrictive nature of the new licence would mitigate any argument that the proposal would increase cumulative impact in the local area.

In terms of the Council's Statement of Licensing Policy (SLP) Mr Thomas recognised that section RNT2 would have to be applied which required the applicant to demonstrate it would not add to cumulative impact (though he did not have to show that it constituted an exception to policy). If the Sub-Committee was satisfied that it would not add to cumulative impact then the hours applied for, which were later than core hours, could be justified based on the application's merits. On the proposed licence, the hours permitting the sale of alcohol would not be in excess of those on the current licence and the opening hours would actually be reduced. The new conditions proposed, including the model restaurant condition, were more restrictive than those currently in place and this would all ensure that the application would reduce cumulative impact in the local area.

Mr Thomas confirmed that customers would be encouraged to leave the premises quietly and was content for the relevant model condition to be placed on the licence requiring this. In addition, the current licence had no capacity

restrictions but this application was seeking to restrict it to a maximum of 130 persons, although operationally this would probably be no more than 100 persons. Overall therefore, this application represented a better offer than what was currently in place and would have the effect of reducing cumulative impact in the local area.

Mr Drayan, representing Environmental Health, requested that proposed condition 23 be amended so that if there were minor changes during the course of construction new plans would have to be submitted to the Licensing Authority. Mr Thomas agreed to this amendment and to the inclusion on the licence of a condition requiring any recorded music to be routed through a sound limiter. Mr Drayan noted that the full model restaurant condition would be added to the licence and therefore, subject to the slight amendments to the conditions, confirmed that he was satisfied with the application.

Ms Callingham, a local resident, confirmed that constructive discussions had been held with the applicant. She was pleased to note that smokers would be unable to take drinks outside with them and any off sales would be in sealed containers. Concern was still expressed however over the proposed opening hour of 07:00 and the potential noise impact this would have on residents. Golden Square was a quiet area in a very noisy location and it was essential these residential areas be protected. Concern was raised over the noise impact deliveries could have in order to cater for the 07:00 opening and requested that the opening hours be reduced accordingly to 08:00 hours. In addition, the new footprint of the building was larger than that which was there previously and therefore there could be an increased number of people visiting the premises. Ms Callingham did have concerns that the application would increase cumulative impact and requested that if the applicant intended to install external tables and chairs at the premises in the future residents be consulted over such plans. In response, Mr Thomas confirmed that the applicant may potentially introduce external tables and chairs at a future date and confirmed that discussions with residents would take place before any such application was submitted. Mr Thomas also confirmed that the premises had a dedicated waste storage area and deliveries would take place through the servicing entrance therefore minimising any potential disturbance to residents. The applicant still wished for the premises to open at 07:00 in order to cater for the breakfast trade but was willing to amend delivery and waste collection hours so that they could only take place between 08:00 and 23:00 hours.

Mr Thomas highlighted that even though the redeveloped premises had a larger footprint than the previous building it was still a small restaurant with more restrictive conditions placed on the licence. The nature of the operation, the surrender of the existing licence and the capacity restriction would all ensure it would not add to cumulative impact. Following a question from the Council's Legal Adviser Mr Thomas confirmed that he was happy for sound limiter and noise nuisance conditions to be added to the licence if the Sub-Committee was minded to grant the application.

Following careful consideration of the evidence provided by all parties the Sub-Committee agreed to grant the application. It was recognised that the premises was located within a Cumulative Impact Area however with the addition of the

	<p>full model restaurant condition on to the licence this provided reassurance that it could not become a drink-led establishment. The licence would be more restrictive than that already existing, which would be surrendered by the applicant, and the Sub-Committee was satisfied that this would ensure there would be no increase in cumulative impact in the local area. The hours applied for were considered appropriate in the circumstances but to ensure residents were protected the hours for the collection of waste and deliveries would be restricted to between 08:00 and 23:00. The inclusion of a capacity limit was also welcomed and following the applicant's evidence, this would be limited to a maximum of 100 persons excluding staff.</p> <p>The Sub-Committee acknowledged the concerns raised by a resident regarding the potential use of external tables and chairs in the future, as it could have the potential to negatively impact on residents' amenity. As such, even though the applicant had not applied for the use of external tables and chairs, it was considered appropriate to strengthen the conditions so that no alcohol would be allowed to be consumed at any external tables and chairs. This then would require any future application proposing to serve alcohol to external tables and chairs to come before a future Sub-Committee meeting and therefore ensure dialogue occurred between the applicant and residents beforehand. Overall the Sub-Committee was satisfied that the nature of the operation and the conditions offered by the applicant, including those imposed by the Sub-Committee, were restrictive enough to ensure that the premises would not add to cumulative impact in the CIA.</p> <p>Having heard all the evidence (with consideration being given to the representations received from the Soho Society and a local resident), the Sub-Committee was satisfied that the licensing objectives would be upheld and promoted and that the application was suitable for the local area.</p>
<p><b>2.</b></p>	<p><b>Hours Premises are Open to the Public</b></p> <p>Monday to Sunday: 07:00 to 00:00</p> <p><b>Seasonal Variations/Non-Standard Timings:</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>On Sundays prior to bank holidays/public holidays 12:00 to 00:30.</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>



<p><b>3.</b></p>	<p><b>Late Night Refreshment – Indoors</b></p> <p>Monday to Sunday: 23:00 to 00:00</p> <p><b>Seasonal Variations/Non-Standard Timings:</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>On Sundays prior to bank holidays/public holidays 23:00 to 00:30.</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>
<p><b>4.</b></p>	<p><b>Recorded Music – Indoors</b></p> <p>Monday to Saturday: 10:00 to 00:00  Sunday: 12:00 to 23:30</p> <p><b>Seasonal Variations/Non-Standard Timings:</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>On Sundays prior to bank holidays/public holidays 12:00 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 Sub-Committee granted the application (see reasons for decision in Section 1).</p>
<p><b>5.</b></p>	<p><b>Hours Premises are Open to the Public</b></p> <p>Monday to Sunday: 07:00 to 00:00</p> <p><b>Seasonal Variations/Non-Standard Timings:</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>

	On Sundays prior to bank holidays/public holidays 12:00 to 00:30.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee granted the application (see reasons for decision in Section 1).

<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> <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;</p>

- (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.

**Conditions Consistent with the Operating Schedule**

9. 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, (iii)
  - (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, and
  - (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.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

10. 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.

11. 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. 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. 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
  - g) any refusal of the sale of alcohol
  - h) any visit by a relevant authority or emergency service.
13. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
14. Patrons temporarily leaving the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers outside with them.
15. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises. There shall be no consumption of alcohol from any tables and chairs that maybe provided outside the premises.
16. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
17. 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.
18. 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.
19. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
20. 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.
21. A Challenge 21 or 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.

22. The premises may remain open for the sale of alcohol, recorded music and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
23. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. The capacity shall not exceed 100 persons in any event excluding staff.
24. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority. If there are minor changes during the course of construction a new set of plans shall be submitted to the licensing authority.
25. No licensable activities shall take place at the premises until premises licence 16/08773/LIPT (or such other number subsequently issued for the premises) has been surrendered.
26. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
27. 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.
28. 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.

**3 61 KINGLY STREET, LONDON, W1B 5QL**

**LICENSING SUB-COMMITTEE No. 2**

*Thursday 1st November 2018*

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Committee Officers: Tristan Fieldsend  
Georgina Wills  
Presenting Officer: Daisy Gadd

Relevant Representations: Licensing Authority and one local resident.

Present: Mr Robert Jordan (Licensing Agent, representing the Applicant), Mr and Mrs Patel (Applicants) and Ms Roxanna Haq (Licensing Authority)

<b>61 Kingly Street, London, W1B 5QL (“The Premises”) 18/09828/LIPN</b>	
<b>1.</b>	<b>Sale by Retail of Alcohol –Off Sales</b>  Monday to Sunday: 10:00 to 20:00
	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 Regency Coffee Boutique Limited for a new premises licence in respect of 61 Kingly Street, London, W1B 5QL. The premises operated as a convenience store and the application was seeking an authorisation to sell alcohol for consumption off the premises.  The Licensing Officer introduced the application to the Sub-Committee and confirmed that Environmental Health and the Police had withdrawn their representations following the agreement of conditions with the applicant.  Mr Jordan, representing the applicant, advised the Sub-Committee that constructive discussions regarding the application had been held with the responsible authorities and local residents. Attempts had been to engage with the sole resident who had made a representation but these had proven unsuccessful. Following these discussions the hours proposed had been scaled back and the conditions to be added to the licence were similar to those operated by comparable premises in the local area. As such, this had resulted in Environmental Health and the Police withdrawing their representations. The applicant was a very experienced operator and had run convenience stores since 1995. The Sub-Committee was advised that during this time no issues had ever been reported at any of his premises. Details of the in-depth training programme staff were required to undertake was provided along with confirmation that a Challenge 25 policy was operated. The Sub-Committee also noted that the only forms of ID accepted at the premises would be either a passport or driving licence. All alcohol on display would be stored behind locked screens outside of the hours permitting the sale of alcohol and CCTV would also be operated at the premises. Therefore, with the restrictive conditions to be placed on the licence and the restricted hours for the sale of alcohol, between 10:00 and 20:00, it was proposed that the premises would not add to cumulative impact in the local area. It was recognised that street drinking was an issue



	<p>locally and as such, no alcohol above 5.5% abv would be sold in addition to no sales of single cans of beer.</p> <p>Ms Haq, representing the Licensing Authority, thanked the applicant for the productive discussions which had taken place. It was acknowledged that restrictive conditions would be placed on the licence and the proposed hours were within the Council's core hours. In terms of policy the application was considered compliant and therefore the Licensing Authority's representation had only been maintained as the burden was still on the applicant to satisfy the members that the application would not add to cumulative impact and a resident had made an objection and was unable to attend the Sub-Committee. Mr Jordan advised the Sub-Committee that no residents in the immediate vicinity of the premises had objected to the application. The Sub-Committee noted where the sole resident who had submitted a representation lived in relation to the premises.</p> <p>After careful consideration the Sub-Committee agreed to grant the application. Whilst it was recognised that the premises was located within a Cumulative Impact Area the operator had demonstrated that he was aware of the importance of promoting the licensing objectives. The conditions proposed were considered appropriate and proportionate in the circumstances with the limited hours permitting the sale of alcohol providing reassurance that the premises would not add to cumulative impact. Street drinking was an issue in the area and therefore restrictions on the strength of alcohol sold and prohibiting sales of single cans of alcohol were welcomed. Having taken into account all the evidence, the Sub-Committee was satisfied that the application was suitable for the local area and had addressed the concerns raised. The applicant had demonstrated that the application would not add to cumulative impact and the conditions proposed would ensure the promotion of the licensing objectives.</p>
<b>2.</b>	<p><b>Hours Premises are Open to the Public</b></p> <p>Monday to Friday: 06:30 to 20:00  Saturday: 07:00 to 20:00  Sunday: 09:30 to 20:00</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 Sub-Committee granted the application (see reasons for decision in Section 1).</p>

<b>Conditions attached to the Licence</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.
  - (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.
- 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.
- 5(ii) For the purposes of the condition set out in paragraph 5(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.

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. Staff training shall be recorded and updated every 6 months Training shall cover the requirements for ID as part of age verification, how to detect proxy sales, the consequences of underage sales (fines and punishment) , drunks , and other relevant matters as regards the licensing act, and the responsibilities of staff.
7. The licence holder shall ensure that a refusals register is kept on the premises and that this shall be immediately available upon request of an authorised officer. The register shall record any refused sale of alcohol.. The refusal register shall be inspected on a regular basis by the DPS and signed by the DPS that they have checked the register  
At least 12 months of refusal register details shall be retained and made available upon request by an authorised officer
8. There shall be a documented reporting structure back to the Designated Premises Supervisor (DPS) and premises licence holder which shall include telephone contact numbers. This reporting document shall be immediately available upon request of an authorised officer

9. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
10. Signage shall be prominently displayed warning customers of the legal penalties for purchasing alcohol for any person under the age of 18 years.
11. The premises shall install and maintain a comprehensive CCTV system as per the following 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 in line with data protection law (such as a section 29 request).

The CCTV system shall be checked regularly to ensure it is working in line with the requirements of the licence.

12. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.
13. 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.
14. 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 refusal of the sale of alcohol
  - (g) any visit by a relevant authority or emergency service.
15. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
16. 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.

17. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
18. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
19. There shall be no deliveries of alcohol before 8am or after 8pm
20. There shall be litter patrols on a regular basis (at least daily).
21. There shall be no single can sales – minimum quantity in can sales to be four cans.
22. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
23. 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.
24. 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.
25. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
26. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.

#### **4 THE ALLBRIGHT CLUB, 24 - 26 MADDOX STREET, LONDON, W1S 1QH**

##### **LICENSING SUB-COMMITTEE No. 2**

*Thursday 1st November 2018*

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams and Councillor Shamim Talukder

Legal Adviser: Barry Panto  
 Committee Officers: Tristan Fieldsend  
 Georgina Wills  
 Presenting Officer: Daisy Gadd

Relevant Representations: Licensing Authority and one local resident.

Present: Mr Robert Jordan (Licensing Agent, representing the Applicant), Mr and Mrs Patel (Applicants) and Ms Roxanna Haq (Licensing Authority)

<b>61 Kingly Street, London, W1B 5QL (“The Premises”) 18/09828/LIPN</b>	
<b>1.</b>	<b>Sale by Retail of Alcohol –Off Sales</b>
	Monday to Sunday: 10:00 to 20:00
	Amendments to application advised at hearing:  None.
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Regency Coffee Boutique Limited for a new premises licence in respect of 61 Kingly Street, London, W1B 5QL. The premises operated as a convenience store and the application was seeking an authorisation to sell alcohol for consumption off the premises.</p> <p>The Licensing Officer introduced the application to the Sub-Committee and confirmed that Environmental Health and the Police had withdrawn their representations following the agreement of conditions with the applicant.</p> <p>Mr Jordan, representing the applicant, advised the Sub-Committee that constructive discussions regarding the application had been held with the responsible authorities and local residents. Attempts had been to engage with the sole resident who had made a representation but these had proven unsuccessful. Following these discussions the hours proposed had been scaled back and the conditions to be added to the licence were similar to those operated by comparable premises in the local area. As such, this had resulted in Environmental Health and the Police withdrawing their representations. The applicant was a very experienced operator and had run convenience stores since 1995. The Sub-Committee was advised that during this time no issues had ever been reported at any of his premises. Details of the in-depth training programme staff were required to undertake was provided along with confirmation that a Challenge 25 policy was operated. The Sub-Committee also noted that the only forms of ID accepted at the premises would be either a passport or driving licence. All alcohol on display would be stored behind locked screens outside of the hours permitting the sale of alcohol and CCTV would also be operated at the premises. Therefore, with the restrictive conditions to be placed on the licence and the restricted hours for the sale of alcohol, between 10:00 and 20:00, it was proposed that the premises would not add to cumulative impact in the local area. It was recognised that street drinking was an issue locally and as such, no alcohol above 5.5% abv would be sold in addition to no sales of single cans of beer.</p> <p>Ms Haq, representing the Licensing Authority, thanked the applicant for the productive discussions which had taken place. It was acknowledged that restrictive conditions would be placed on the licence and the proposed hours</p>

	<p>were within the Council's core hours. In terms of policy the application was considered compliant and therefore the Licensing Authority's representation had only been maintained as the burden was still on the applicant to satisfy the members that the application would not add to cumulative impact and a resident had made an objection and was unable to attend the Sub-Committee. Mr Jordan advised the Sub-Committee that no residents in the immediate vicinity of the premises had objected to the application. The Sub-Committee noted where the sole resident who had submitted a representation lived in relation to the premises.</p> <p>After careful consideration the Sub-Committee agreed to grant the application. Whilst it was recognised that the premises was located within a Cumulative Impact Area the operator had demonstrated that he was aware of the importance of promoting the licensing objectives. The conditions proposed were considered appropriate and proportionate in the circumstances with the limited hours permitting the sale of alcohol providing reassurance that the premises would not add to cumulative impact. Street drinking was an issue in the area and therefore restrictions on the strength of alcohol sold and prohibiting sales of single cans of alcohol were welcomed. Having taken into account all the evidence, the Sub-Committee was satisfied that the application was suitable for the local area and had addressed the concerns raised. The applicant had demonstrated that the application would not add to cumulative impact and the conditions proposed would ensure the promotion of the licensing objectives.</p>
<b>2.</b>	<p><b>Hours Premises are Open to the Public</b></p> <p>Monday to Friday: 06:30 to 20:00  Saturday: 07:00 to 20:00  Sunday: 09:30 to 20:00</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 Sub-Committee granted the application (see reasons for decision in Section 1).</p>

<b>Conditions attached to the Licence</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. (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.

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.

5(ii) For the purposes of the condition set out in paragraph 5(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.

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. Staff training shall be recorded and updated every 6 months Training shall cover the requirements for ID as part of age verification, how to detect proxy sales, the consequences of underage sales (fines and punishment) , drunks , and other relevant matters as regards the licensing act, and the responsibilities of staff.

7. The licence holder shall ensure that a refusals register is kept on the premises and that this shall be immediately available upon request of an authorised officer. The register shall record any refused sale of alcohol.. The refusal register shall be inspected on a regular basis by the DPS and signed by the DPS that they have checked the register  
At least 12 months of refusal register details shall be retained and made available upon request by an authorised officer

8. There shall be a documented reporting structure back to the Designated Premises Supervisor (DPS) and premises licence holder which shall include telephone contact numbers. This reporting document shall be immediately available upon request of an authorised officer

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

10. Signage shall be prominently displayed warning customers of the legal penalties for purchasing alcohol for any person under the age of 18 years.

11. The premises shall install and maintain a comprehensive CCTV system as per the following 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 in line with data protection law (such as a section 29 request).

The CCTV system shall be checked regularly to ensure it is working in line with the requirements of the licence.

12. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.
13. 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.
14. 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 refusal of the sale of alcohol
  - (g) any visit by a relevant authority or emergency service.
15. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
16. 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.
17. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
18. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.

19. There shall be no deliveries of alcohol before 8am or after 8pm
20. There shall be litter patrols on a regular basis (at least daily).
21. There shall be no single can sales – minimum quantity in can sales to be four cans.
22. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
23. 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.
24. 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.
25. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
26. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.

The Meeting ended at 1.53 pm

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

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