



**CITY OF WESTMINSTER**

# MINUTES

## **Licensing Sub-Committee (4)**

### **MINUTES OF PROCEEDINGS**

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 14th November, 2019**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Karen Scarborough (Chairman), Rita Begum and Susie Burbridge

#### **1 MEMBERSHIP**

1.1 There were no changes to the membership.

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

2.1 There were no declarations of interest.

#### **1 1 IRVING STREET, LONDON, WC2H 7AT**

#### **LICENSING SUB-COMMITTEE No. 4**

*Thursday 14th November 2019*

Membership: Councillor Karen Scarborough (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

Legal Adviser: Horatio Chance

Policy Adviser: Aaron Hardy

Committee Officer: Tristan Fieldsend

Presenting Officer: Michelle Steward

Relevant Representations: Licensing Authority and one local resident

Present: Mr Graham Hopkins (Licensing Consultant, representing the Applicant), Mr Ahmad Chahine (Applicant), Ms Angela Seaward (Licensing Authority), Mr Dave Nevitt (Environmental Health) and Mr S.S. Beller (local resident)

<b>1 Irving Street, London, WC2H 7AT (“The Premises”) 19/08807/LIPN</b>	
<b>1.</b>	<p><b>Sale by Retail of Alcohol – On Sales</b></p> <p>Monday to Thursday: 10:00 to 23:00 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:00</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 considered an application by Mr Ahmad Chahine (“The Applicant”) for a new premises licence in respect of 1 Irving Street, London, WC2H 7AT.</p> <p>The Licensing officer introduced the application and confirmed that the Police had withdrawn their representation following the agreement of conditions with the Applicant.</p> <p>Mr Beller, a local resident, requested that additional photos of the Premises be circulated. The Applicant objected to this late submission but the Sub-Committee was of the opinion that they were relevant to the application and could be circulated to all parties. Mr Beller requested that the application be adjourned on the grounds that he had not been served the relevant notice of hearing within the required time period informing him that the Sub-Committee would be considering the application. Following a detailed discussion, the Sub-Committee agreed that the notice had been served correctly by the Licensing Authority and within the necessary time period and that it would be in the public interest for the hearing to continue and for the application to be considered.</p> <p>Mr Hopkins, representing the Applicant, advised that a significant proportion of Mr Beller’s evidence related to planning matters which were separate to licensing considerations. It was also acknowledged that reference would be made to the establishment located at 2 and 3 Irving Street which was also owned by the Applicant and was situated adjacent to the Premises at 1 Irving Street. 2 and 3 Irving Street were not subject to the application however and therefore the Sub-Committee would be aware that the application at 1 Irving Street had to be considered on its own merits. The Legal Adviser to the Sub-Committee stated that planning and licensing were separate regimes. However, the Sub-Committee had to have regard to the recent tables and chairs planning application submitted for the external area which was refused by the City Council’s Planning Department in terms of its impact on the public nuisance licensing objective.</p> <p>Mr Hopkins explained that the Applicant had obtained the lease for 1 Irving Street which was a very small Premises with a maximum number of 40 covers. It would operate as a bistro with the full Model 66 restaurant condition to be</p>

<p>imposed on the licence requiring the supply of alcohol to be ancillary to customers taking a table meal and supplied by waiter/waitress service. A proposed condition had also been agreed with Environmental Health (EH) to permit customers to use the toilets located at 2 and 3 Irving Street. The hours requested for the sale of alcohol were within the City Council's core hours policy and no music would be played in the outside area. Additional conditions had also been agreed with the Police relating to a CCTV provision and introducing a Challenge 25 policy which had resulted in them withdrawing their representation.</p> <p>In response to a question from the Sub-Committee Mr Hopkins advised that permitting an extra 40 people to drink alcohol in a Cumulative Impact Area (CIA) would not add to cumulative impact. The Premises had previously traded as a sandwich shop with a tables and chairs licence permitting customers to sit outside. The establishment at 2 and 3 Irving Street was entirely separate to 1 Irving Street but it was acknowledged that there had been some confusion over the arrangements which had resulted in the recent tables and chairs application for the Premises being refused, however amended plans had been developed and a new application to use this external area had now been submitted. In response to concerns raised in the resident's representation Mr Hopkins advised that no customers from the Premises over spilled on to the pavement. The operator had been running the restaurants at 2 and 3 Irving Street for approximately 10 years during which time he was not aware of any complaints being submitted to EH or the Police. Allegations of underage drinking and drug taking place from their Premises were unfounded and no evidence had been provided to substantiate this claim. The Applicant actively engaged with local residents to ensure any issues were dealt with at an early stage and aside from the one resident representation no other residential objections had been received. The Applicant was a responsible operator who had proved themselves over a significant period of time. The Premises would not operate as a drinking establishment and this would be enforced through the additional conditions agreed between the Applicant and the responsible authorities. In addition, the Sub-Committee was advised that no complaints had been submitted with regards to the restaurant at 2 and 3 Irving Street, whilst the Premises at 1 Irving Street had a history of operating a tables and chairs licence.</p> <p>The Sub-Committee requested clarification from the Applicant on whether the application was seeking on or off sales of alcohol. Mr Hopkins confirmed that on sales had only been applied for and it was proposed that this would cover the internal and external areas of the Premises. The Legal Advisor to the Sub-Committee clarified that as the external area set out on the premises plan was public highway alcohol could only be supplied for consumption in this area if off sales had been applied for as part of the application. As only on sales had been applied for then this would only cover the internal area of the Premises. Moreover, for the purposes of the consultation period in respect of the application, off sales had not been consulted upon so the Sub-Committee could not now consider this request.</p> <p>Ms Seaward, representing the Licensing Authority, confirmed that following discussions with the Applicant a set of appropriate conditions had been agreed</p>
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<p>upon. This included the Council's model restaurant condition and the drawing back of the hours to core hours, therefore addressing any concerns with regards to policy RNT2. The Premises was located within a CIA however and therefore their representation was maintained in order to allow the Sub-Committee to determine whether the application was acceptable for the location or not.</p> <p>Mr Nevitt, representing Environmental Health, was introduced as a witness by the Licensing Authority. Mr Nevitt confirmed that the Premises was very small and the application would appear to be a small extension to an existing restaurant. Restaurant conditions had been agreed with the Applicant and it was confirmed that permitting customers to use the toilets situated at 2 and 3 Irving Street was not a concern. He was aware that the recent tables and chairs application for the external area had been refused. Mr Nevitt confirmed that this area was public highway but it was acknowledged that this was a planning matter. What was being proposed for the internal area was considered acceptable. It was stated that issues around potential smoke and smell nuisance arising from 2 and 3 Irving Street had been raised but following investigations by EH these were deemed to not constitute a public nuisance.</p> <p>Mr Beller, a local resident, addressed the Sub-Committee. He advised that there had been a degree of confusion with regards to whether he was permitted to raise planning matters for the Sub-Committee's consideration in his representation. He subsequently read out correspondence regarding this issue for the Sub-Committee's information. Mr Beller then advised that when considering the application, the restaurant at 2 and 3 Irving Street needed to be part of the discussion as they were also owned by the Applicant. Efforts had been made to contact the Applicant, but this had proven unsuccessful. Mr Beller also stated that it was his opinion that currently the restaurant at 2 and 3 Irving Street was in breach of its lease obligations which prohibited any primary cooking from taking place at the establishment.</p> <p>The Sub-Committee expressed concern that applying for a separate licence for 1 Irving Street from the establishment at 2 and 3 Irving Street created a lack of clarity and could lead to confusion as to how the operation and management of the Premises operated that would fully promote the licensing objectives. Mr Hopkins confirmed that it was the Applicant's intention to submit a joined-up application for all three in the future. In terms of the supply of alcohol Mr Hopkins believed that as the alcohol would be decanted on the Premises and served to the customers located in the external area by a waiter this could constitute an on sale. The Legal Adviser to the Sub-Committee confirmed that any sales of alcohol to customers in the external area would constitute an off sale, as this area was public highway, and the Applicant had only applied for on sales. Therefore, if the Sub-Committee was minded to grant the application the sale of alcohol would only apply to the internal area of the Premises.</p> <p>Mr Beller suggested that alcohol was currently being sold to customers of 2 and 3 Irving Street who were not seated therefore breaching the conditions on the licence. In addition, it was also suggested that alcohol was already being sold to customers located at 1 Irving Street. It was stated that the Premises used to operate as a sandwich bar with a table and chairs licence for a maximum of 16</p>
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	<p>covers. It was proposed however that the Premises would function as a bistro for which it did not have an appropriate licence for. If it was agreed for the Premises to operate as a restaurant then there would normally be appropriate conditions attached to the licence to reduce the impact of fumes and smells which this did not. In any case Mr Beller asserted that currently 2 and 3 Irving Street did not have permission to carry out any primary cooking. Any food supplied at the Premises would probably have to be cooked next door due to its lack of kitchen facilities. The extra fumes and smells generated from catering for an additional 40 people would greatly impact on the local area. Mr Nevitt, confirmed that the licence for 2 and 3 Irving Street did permit primary cooking but if there was conflict with the lease agreement for the property this would not be a licensing issue.</p> <p>In conclusion, Mr Beller advised that the application in his view did not promote the licensing objectives for the following reasons:</p> <ul style="list-style-type: none"> <li>• Public Safety – In order to access toilets customers located at the Premises would have to leave the venue, enter on to the public highway and then enter another establishment.</li> <li>• Prevention of Public Nuisance – Smells and odours emanating from the establishment at 2 and 3 Irving Street through the additional cooking for 40 people located at 1 Irving Street would impact on local residents.</li> <li>• Prevention of crime and disorder – Large numbers of people already congregated outside the Premises having purchased alcohol.</li> <li>• Protection of children from harm – Some of those customers purchasing alcohol were underage.</li> </ul> <p>In response to a question from the Sub-Committee the Applicant explained how the Premises would operate. Mr Nevitt also confirmed that due to a lack of kitchen facilities any substantial food provided at the Premises could either be cold or kept warm on site.</p> <p>Following the detailed discussions between all parties the Applicant informed the Sub-Committee that they would withdraw their application. It had become apparent that separately licensing 1 Irving Street from 2 and 3 Irving Street was a source of confusion, in particular because they were immediately adjacent to one another and were all operated by the same Applicant. It was recognised that it would have been preferable to have submitted an application covering all three establishments to ensure consistency and provide clarity with regards to what was proposed and how the restaurant would operate. The withdrawal of the application would also allow any future proposals to include the provision of off sales of alcohol in relation to the external area. The Sub-Committee noted the withdrawal, thanked the Applicant for taking a common sense and pragmatic approach to the situation and encouraged the Applicant to enter into dialogue with Mr Beller when submitting a fresh application.</p>
2.	<p><b>Late Night Refreshment – Indoors</b></p> <p>Friday to Saturday: 23:00 to 00:00</p>

	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The applicant informed the Sub-Committee that they had withdrawn their application (see reasons for decision in Section 1).
<b>3.</b>	<b>Recorded Music - Indoors</b>  Friday to Saturday: 23:00 to 00:00
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The applicant informed the Sub-Committee that they had withdrawn their application (see reasons for decision in Section 1).
<b>4.</b>	<b>Hours Premises are Open to the Public</b>  Monday to Thursday: 08:00 to 23:30 Friday to Saturday: 08:00 to 00:30 Sunday: 08:00 to 22:00
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The applicant informed the Sub-Committee that they had withdrawn their application (see reasons for decision in Section 1).

## **2 THAI THO SOHO, RUPERT STREET, LONDON, W1D 6DP**

The application was granted under delegated authority.

## **3 28A LEICESTER SQUARE, LONDON, WC2H 7LE**

The application was granted under delegated authority.

## **4 BASEMENT, 21 RUPERT STREET, LONDON, W1D 7PJ**

The application was granted under delegated authority.

The Meeting ended at 11.20 am

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

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