



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Thursday 5th March, 2020**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Murad Gassanly (Chairman), Jim Glen and Aicha Less

1 MEMBERSHIP

There were no changes to the membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

1 COYA, NEWTON HOUSE, 118-119 PICCADILLY, LONDON, W1J 7NW

LICENSING SUB-COMMITTEE No. 5

Thursday 5 March 2020

Membership: Councillor Murad Gassanly (Chairman), Councillor Jim Glen and Councillor Aisha Less

Legal Adviser: Horatio Chance

Policy Adviser: Aaron Hardy

Committee Officer: Georgina Wills

Presenting Officer: Michell Steward

Relevant Representations: David Nevitt (Environmental Health)

Present: Matthew Butt and Alan Thomas (Legal, Representatives, Applicant)
Stephen Vickary (Representative of Freeholder, Applicant), Oliver Flamant (CEO, Coya), Richard Brown (Legal Representatives, Objectors) Mr Gary Crocker, (local resident), Mr Mike Dunn (local resident), Mr Philip Bell (local resident),

Coya, Newton House 118 – 119 Piccadilly London (West End Ward) (“The Premises”) 20/00187/LIPV

1. Conditions being Varied

Current:

18. The rear doors leading to Down Street Mews shall not be used except in case of emergency.

The application does not propose any changes to licensable activities, permitted hours, capacity or other conditions.

Proposed:

18. The rear doors leading to Down Street Mews shall not be used by customers except in case of emergency.

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

The Sub-Committee had before it an application for a variation of a premises licence currently operating as a restaurant with a bar area. The Applicant was seeking to vary Condition 18 of the premises licence which reads “*The rear doors leading to Down Street Mews shall not be used except in case of emergency*” to 18. “*The rear doors leading to Down Street Mews shall not be used by customers except in case of emergency*”. There was no request to change any of the licensable activities, permitted hours, capacity or other conditions. The Metropolitan Police withdrew their representation following a site visit. The Premises is not situated in the Cumulative Impact Zone.

Matthew Butt, the Applicant’s Legal Representative provided an historical outline of the Premises licensing applications and explained that the Conditions which were imposed by a former Licensing Sub-Committee in February 2011 was erroneously agreed by the Applicant. The Sub-Committee was advised that Condition 18 governed the usage of the rear doors of the Premises and needed to be varied to ensure that the establishment continued to operate as a restaurant. Mr Butt advised that the Applicant had failed to articulate the need for employees to have free access to the rear doors and commented that the entrances to both the staff room and staff changing rooms were through these doors. He referred to page.23 of the Agenda which contained the Minutes of the Licensing Sub-Committee held on 3 February 2011 and commented that it had been recorded that the rear doors had been intended to be used by VIP and celebrity patrons. The Chair commented that the Minutes of the Sub-Committee held on 3 February 2011 had been accepted as an accurate record of the Meeting. The Sub-Committee noted that there were several mechanisms available to the Applicant which would have enabled them to earlier address their concerns over Condition 18.

Mr Butt informed that Down Street Mews was used and accessed by a mixed group which included residents, commercial proprietors and their patrons. He

<p>commented that the vicinity was in use 24 hours and that staff accessing the area would not cause further disturbances. The Sub-Committee was informed that there was a Private Members Club that operated in the late evening in the vicinity. He advised that all disturbances should not be solely attributed to staff from Coya Restaurant. Mr Butt referred to Page 49 of the Agenda which contained a Licensing Acoustic Assessment Report of the Premises and highlighted that it had found that staff usage of the rear doors would not cause disturbances if Condition 18 was varied. He commented that only one complaint had been lodged about the Premises and that this was in relation to a noise limiter and that no reference to this specific incident had been included in any of the objectors submission.</p> <p>Mr Butt reminded the Sub-Committee that all employees were legally entitled to breaks and these rights could be infringed if staff access to the restrooms were restricted. He commented that access to staff rooms were via the rear doors and that the alternative entry to this area was through the 'dining area'. He advised that the rear doors would have restrictive use and that additional Conditions proposed by the Applicant and those by the Sub-Committee would mitigate the concerns of residents and interested parties. Mr Butt advised that deliveries would be between 08:00hrs to 18:00hrs. A SIA registered street marshal would be stationed in the Mews from 22:00 to supervise activities. Mr Butt advised that the Premises would have a written procedure which stipulated the restrictive use of Down Street Mews and that the document would be used as part of the induction for all staff as well as being made available for inspection. There will also be measures in place to control and manage waste and to ensure that the area is kept clean. All waste would be stored in accordance with an approved refuse storage plan.</p> <p>Mr David Nevitt, Environmental Health Officer, informed the Sub-Committee that he was present at the Licensing Sub-Committee on 3 February 2011. He confirmed that servicing arrangements and staff usage of the rear doors was not discussed at this meeting. Mr Nevitt advised that Down Street Mews had a mixed occupancy which comprised of offices, residential properties and commercial venues. There is no history of complaints in relation to the Premises. Mr Nevitt confirmed that Down Street Mews was used by both residents and commercial groups. He advised that residents bedrooms also overlooked the Mews and commented that potential nuisance could be caused during the hours between 23:00hrs and 07:00hrs. The Sub-Committee was informed that the nuisances which emanated from the vicinity could be classified as being LMAX noises which are known for being small and having a high and short impact. These include 'slamming of doors' during deliveries and servicing, Mr Nevitt advised that these concerns could be mitigated by installing self-clamping doors, identifying noise sources and implementing measures to eliminate them.</p> <p>A site visit to the Premises was undertaken by Environmental Health and recommendations to reduce the impact of noise nuisances were made. The Sub-Committee was informed that the proposal to station a SIA registered street marshal in the Mews was welcomed and was advised that the staff member would need to be able to identify potential 'audio leakages' and eliminate them.</p>

Richard Brown, the objectors Legal Representative, advised that Down Street Mews was used for numerous activities which included the storage of commercial waste bins. Mr Brown informed that there were no direct internal connections between the Restaurant and staff rooms and that access to the latter was via the rear doors only. The Sub-Committee noted that there have been 20 objections lodged in relation to the Application and one of support. Mr Brown commented that noise emanating from the Premises were transient and therefore would not generate an Environmental Health visit. The continual accessing and existing of staff through the rear doors will exacerbate this concern. Mr Brown highlighted that the Condition 18 had been in place since 2011 and commented that the Applicant had not sought to amend the directive and would have been in continual breach of their Licensing Agreement up to this period.

The Sub-Committee was advised that a pre-discussion had been held with the Applicant and it was acknowledged that staff access to the rear doors were integral to the Premises servicing arrangements and therefore a necessity in order that the business itself could run efficiently. Mr Brown commented that access to the rear doors should have time restrictions and that this should also be applied to deliveries and refuse disposals. The Sub-Committee was informed that the stationing of a SIA registered street marshal at the Mews was welcomed and advised that the staff member should be closely supervised.

There were also representations from Mr Bellam, Mr Gary Crocker, Mr Mike Dunn, Mr Philip Bnager and these were on the grounds of noise nuisances and disturbances. The Sub-Committee was advised that noise nuisance had continued to occur despite the Applicant implementing the recommendations made by Environmental Health. The Sub-Committee was informed that residents were supportive of the Premises and acknowledged that the usage of the rear doors in Down Street Mews was necessary. There have been engagements between residents and the Applicant and both parties have agreed to a Memorandum of Understanding.

Following questions from the Sub-Committee, the Applicant stated that there was in fact no 'internal passage' between the staff rooms and the Premises. The Sub-Committee was advised that access to the rear doors would be required until 00:00hrs and this was primarily to allow for refuse disposal and also to prevent waste from accumulating. Mr Nevitt advised that Environmental Health had assessed the doors and confirmed that improvements to the Premises had been made and that Conditions proposed by the Service had been implemented. The Sub-Committee commented on the importance of the Premises having a good 'management plan' and also the Plan being enforced. The Sub-Committee also noted the collective concerns of the Objectors in particular for the rear doors being accessed until 00:00hrs by the Premises' staff. The concerns over the Applicant adhering to the conditions imposed on the Premises License was also noted.

Having carefully considered the evidence before it by all parties the Sub-Committee granted the Application and agreed the variation of Condition 18. There were also Conditions imposed which prohibited the usage of rear doors in

	<p>Down Street Mews between 23:00hrs and 06:00hrs during Sunday to Wednesday and 00:00hrs to 06:00hrs Thursday to Saturday. A Condition which required a SIA registered street marshal to supervise activities in Down Street Mews from 22:00hrs until all staff had left was included. The Sub-Committee also included a Condition which required a written procedure on the limited use of Down Street Mews to be available for inspection by the Licensing Authority and for the document to be part of staff induction and the SIA registered street marshal supervised by Managers. In addition, a Condition which required the prevention of litter or waste from the Premises accumulating in Down Street Mews and for storage of refuse to be undertaken in accordance with the approved refuse storage arrangements was added. A further Condition stipulated that all remedial works to the rear doors associated with the premises as recommended by Environmental Health should be undertaken within 14 days of the notice to ensure quiet closure and avoid noise from slamming</p> <p>The Sub-Committee commented on the importance of balancing the needs of both residents and commercial premises and were encouraged by the dialogue which had occurred between the parties. The Sub-Committee was of the opinion that the Conditions imposed on the licence were appropriate and proportionate and would ultimately have the effect of promoting the licensing objectives and therefore granted the Application accordingly.</p>						
2.	<p>Hours Premises are Open to the Public</p> <table> <tr> <td><u>Current:</u></td><td><u>Proposed:</u></td></tr> <tr> <td>Monday to Sunday: 10:00 to 01:30</td><td>No Change</td></tr> </table> <p>Seasonal variations/ Non-standard timings:</p> <table> <tr> <td>The hours for licensable activities and the opening hours may be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</td><td>No Change</td></tr> </table>	<u>Current:</u>	<u>Proposed:</u>	Monday to Sunday: 10:00 to 01:30	No Change	The hours for licensable activities and the opening hours may be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.	No Change
<u>Current:</u>	<u>Proposed:</u>						
Monday to Sunday: 10:00 to 01:30	No Change						
The hours for licensable activities and the opening hours may be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.	No Change						
	<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>						
3.	<p>Sale by Retail of Alcohol</p>						

On, off sales or both			Current :		Proposed:	
			Both		No Change	
	Current		Proposed Hours		Licensable Area	
	Start	End	Start	End	Current:	Proposed:
Monday	10:00	00:00	No Change		Basement and Ground Floor	No Change
Tuesday	10:00	00:00				
Wednesday	10:00	00:00				
Thursday	10:00	01:00				
Friday	10:00	01:00				
Saturday	10:00	01:00				
Sunday	10:00	00:00				
Seasonal variations/ Non-standard timings:		Current:			Proposed:	
		The hours for licensable activities and the opening hours may be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.			No Change.	
	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).					

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
Mandatory:	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.

4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible

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

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

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

10. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

Conditions attached after a hearing by the licensing authority

11. The licence holder shall maintain a comprehensive CCTV system that ensures all areas of the licensed premises are monitored, including all entry points, and which enable frontal identification of every person entering in any

light condition. All cameras shall continually record whilst the premises are open to the public and the recordings shall be kept available for a minimum of 31 days with time and date stamping. Recordings shall be made available to a duly authorised City Council officer or a police officer together with facilities for viewing. The recordings for the preceding 31 days shall be made available immediately on request. The CCTV system shall be operated in accordance with the Data Protection Act 1998.

12. The maximum number of persons accommodated in the premises at any one time (excluding staff) shall not exceed:
 - o 140 persons in the basement
 - o 80 persons on the ground floor.
13. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, is swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
14. The highway and public spaces in the vicinity of the premises are kept free of litter from the premises at all material times to the satisfaction of the Council.
15. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
16. Substantial food and non-alcoholic beverages, including drinking water, shall be available throughout the licensable hours in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
17. There shall be a personal licence holder on the premises whenever alcohol is sold at the premises.
18. The rear doors leading to Down Street Mews shall not be used by customers except in case of emergency.
 - a) The rear doors leading to Down Street Mews shall not be used between 23:00 and 06:00 during Sunday to Wednesday and 00:00 to 06:00 Thursday, Friday to Saturday except for the purposes of staff leaving the premises at the end of their shift or as an emergency exit.
 - b) No deliveries to the premises shall take place via Down Street Mews between 18.00 and 08.00 on the following day.
 - c) A SIA registered street marshal shall be employed from 22:00 until all staff have left the Premises to supervise activity in Down Street Mews.
 - d) Written procedures concerning the limited use of Down Street Mews permitted shall be available for inspection by the licensing authority. These will be provided to all staff as part of their induction and to the

SIA registered street marshal to be supervised by Management.

- e) 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 Down Street Mews, 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.
- f) Any work to the rear doors associated with the Premises to be marked on the Premises Plan to ensure a quieter closure and to avoid noise from slamming as recommended by Environmental Health shall be fully addressed within 14 days of the notice being given.

19. The sale of alcohol at the premises shall only be to persons taking a table meal there except:-

- 1) to a maximum of 25 persons in the basement holding lounge area cross hatched black on the plan and 15 persons in the ground floor holding bar area cross hatched black on the plan; or
- 2) to persons attending a pre-booked private function where substantial food must be available as part of the booking.

20. The supply of alcohol shall be by waiter or waitress service except during pre booked private functions.

21. A sound limiting device located in a separate and remote lockable cabinet from the volume control shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service's Community Protection Department to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of officers from the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement with the Environmental Health Service.

22. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

23. Loudspeakers shall not be located in the entrance lobby or outside the premises building.

24. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

25. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate

access and egress of persons.

26. Sales of alcohol for consumption off the premises shall be in sealed containers and only be supplied with, and ancillary to, a take-away meal.
27. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents in the vicinity.
28. No entertainment, performance, service, or exhibition involving nudity or sexual stimulation which would come within the definition of a sex establishment in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Greater London Council (General Powers) Act 1986 (whether or not locally adopted), shall be provided.
29. There shall be no striptease or nudity, and all persons shall be decently attired at all times.
30. No authorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) is inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or is distributed to the public, that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services.
31. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
 - o dry ice and cryogenic fog
 - o smoke machines and fog generators
 - o pyrotechnics including fire works
 - o firearms
 - o lasers
 - o explosives and highly flammable substances
 - o real flame
 - o strobe lighting.
32. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.
NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
33. The playing of live music shall be restricted to no more than 4 performers at any one time.
34. 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 to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.

35. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises directly off the street.
36. A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
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, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received
 - (d) any incidents of disorder
 - (e) seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system or searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
38. On Thursdays, Fridays and Saturdays from 10pm at least 2 SIA licensed door supervisors shall be on duty whilst the premises is open for business.
39. The hours for licensable activities and the opening hours may be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

The Meeting ended at 12.00 pm

CHAIRMAN: _____

DATE _____