



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 30th July, 2020**, This will be a virtual meeting.

**Members Present:** Councillors Jacqui Wilkinson (Chairman), Jim Glen and Maggie Carman

#### 1 TRISHNA, 15 - 17 BLANDFORD STREET, LONDON, W1U 3DG

Granted under delegated authority.

#### 2 HERITAGE, 18 RUPERT STREET, LONDON, W1D 6DD

### WCC LICENSING SUB-COMMITTEE NO. 3

Thursday 30<sup>th</sup> July 2020

Membership: Councillor Jacqui Wilkinson (Chairman), Councillor Jim Glen and Councillor Maggie Carman

Officer Support: Legal Officer: Barry Panto  
Policy Officer: Kerry Simpkin  
Committee Officer: Andrew Palmer  
Presenting Officer: Michelle Steward

### Application for a New Premises Licence [20/01712/LIPN]

#### Full Decision

#### Premises

Heritage  
18 Rupert Street  
London W1D 6DD

## **Applicant**

Filimonov Restaurants Ltd (Dimitri Filimonov, Owner and Andrew Harwood, Chief Financial Officer)

Represented by Marcus Lavell and Andrew Wong of Keystone Law

## **Cumulative Impact Area?**

West End

## **Ward**

St James's

## **Summary of Application**

This is a new application to replace an existing licence. The new application is on similar terms to the existing licence, but the applicants are asking for slightly longer hours as set out below. The applicant has amended the application to reduce the hours originally sought in that application for licensable activities. The information below sets out the details for both the original hours sought, the amended hours and the difference between what they have now and what they are now applying for. Essentially, they are now seeking an additional 30 minutes for all activities from Monday to Saturday.

The premises operate as a restaurant, but this new application is also seeking to introduce a new drink-led element for up to 25 persons until core hours. The maximum capacity for the ground floor of the premises is 120 seated customers. The applicant has provided submissions to explain why they want this facility and why, in their opinion, this element of the application can be granted as an exception to policy. If this element is granted, it will potentially allow up to 25 customers to purchase and consume alcohol at the bar area without the need to purchase any food, though the applicant asserts that they want to encourage such customers to also eat food. All customers have to be seated so there can be no vertical drinking.

## **Proposed Activities and Hours**

### **Retail Sale of Alcohol [On and Off sales]**

#### **Original application**

Monday to Sunday: 10.00 to 01.30 on the following day  
New Year's Eve extension to the start of permitted hours on New Year's Day.  
An additional hour on the day when British Summertime commences.

### Application as now amended

Monday to Wednesday: 10.00 to 00.30 on the following day

Thursday to Saturday: 10.00 to 01.30 on the following day

Sunday: 12.00 to 23.30

New Year's Eve extension to the start of permitted hours on New Year's Day.

An additional hour on the day when British Summertime commences.

### Compared to existing licence 20/00408/LIPDPS

Monday to Wednesday: 10.00 to Midnight [plus 30 mins]

Thursday to Saturday: 10.00 to 01.00 on the following day [plus 30 mins]

Sunday: 12.00 to 23.30 [No change]

### Late Night Refreshment [Indoors and Outdoors]

#### Original application

Monday to Sunday: 23.00 to 01.30 on the following day

New Year's Eve extension to the start of permitted hours on New Year's Day.

An additional hour on the day when British Summertime commences.

#### Application as now amended

Monday to Wednesday: 23.00 to 01.00 on the following day

Thursday to Saturday: 23.00 to 01.30 on the following day

Sunday: 23.00 to Midnight

New Year's Eve extension to the start of permitted hours on New Year's Day.

An additional hour on the day when British Summertime commences.

### Compared to existing licence 20/00408/LIPDPS

Monday to Wednesday: 23.00 to 00.30 on the following day [plus 30 mins]

Thursday to Saturday: 23.00 to 01.00 on the following day [plus 30 mins]

Sunday: 23.00 to Midnight [No change]

### Recorded Music

#### Original application

Monday to Sunday: 10.00 to 01.30 on the following day

New Year's Eve extension to the start of permitted hours on New Year's Day.

An additional hour on the day when British Summertime commences.

### Application as now amended

Monday to Wednesday: 10.00 to 01.00 on the following day  
Thursday to Saturday: 10.00 to 01.30 on the following day  
Sunday: 12.00 to Midnight

New Year's Eve extension to the start of permitted hours on New Year's Day.  
An additional hour on the day when British Summertime commences.

### Compared to existing licence 20/00408/LIPDPS

Monday to Wednesday: 10.00 to 00.30 on the following day [plus 30 mins]  
Thursday to Saturday: 10.00 to 01.00 on the following day [plus 30 mins]  
Sunday: 12.00 to Midnight [No change]

### Hours premises are open to the public

#### Original application

Monday to Sunday: 10.00 to 01.30 on the following day  
New Year's Eve extension to the start of permitted hours on New Year's Day.  
An additional hour on the day when British Summertime commences.

### Opening hours have not been formally amended, but it is assumed that they will be amended as follows to reflect the reduced hours for licensable activities

Monday to Wednesday: 10.00 to 01.00 on the following day  
Thursday to Saturday: 10.00 to 01.30 on the following day  
Sunday: 12.00 to Midnight  
New Year's Eve extension to the start of permitted hours on New Year's Day.  
An additional hour on the day when British Summertime commences.

### Compared to existing licence 20/00408/LIPDPS

Monday to Wednesday: 10.00 to 00.30 on the following day [plus 30 mins]  
Thursday to Saturday: 10.00 to 01.00 on the following day [plus 30 mins]  
Sunday: 12.00 to 23.30 [plus 30 mins]

### **Representations Received**

- Licensing Authority (Karyn Abbott)
- Police (PC Dave Morgan) – withdrawn prior to the hearing on the basis that conditions 9, 11, 19 and 43 below (as amended in some cases) had been agreed by the applicant.

## **Brief summary of issues raised by objectors**

- The main concern expressed relates to the potential for the premises to sell alcohol and to provide hot food and drink for extended hours within the cumulative impact area.
- There is also a concern about the proposal to seek a drink-led element for up to 25 persons until midnight as that is contrary to policy.

## **Policy Position**

For the most part, this application is for a restaurant as defined in policy and the Council's model restaurant condition (MC66) has been offered to ensure that alcohol is for consumption as ancillary to a substantial table meal. Customers must be seated and served by waiter or waitress service. There is no policy presumption to refuse the application to extend the hours by 30 minutes (compared to the existing licence) which must therefore be determined on merit. However, the applicant must still demonstrate that the increase in hours will not add to cumulative impact.

This application also includes an element that does not appear on the current licence. The applicants are seeking authority to sell alcohol to up to 25 persons in an area shaded green on the licensed plan. This element can be drink led and is contrary to policy for that reason, though there is a further overriding condition stating that no alcohol shall be supplied to persons after core hours except as ancillary to a table meal.

The drink-led element of the application is restricted to core hours. Had this been a variation to an existing licence that already allowed the premises to operate, even in part, as a bar, the policy would not have been to refuse an application to vary those hours for a similar purpose up to core hours. The policy does state that the problems in the CIA are generally later at night than the core hours. However, the existing licence does not permit any drink-led activity. It is a restaurant licence that does not permit any customers to consume alcohol without food. Paragraph 2.4.2 of policy does include some narrative which indicates that the granting of licences for new uses which include bars will not generally be granted in the CIA to the full extent of core hours as these would generally add to cumulative impact.

As the premises is situated in a Cumulative Impact Area, there is an overriding requirement, in all cases, for the applicant to demonstrate that the granting of the application will not add to cumulative impact.

## **DECISION**

Mr Lavell presented the application on behalf of Filimonov Restaurants Ltd and explained why they wanted to increase the hours of operation by 30 minutes on Monday to Saturday evenings and why they also sought permission for up to 25 persons to be able to purchase an alcoholic drink without food up until core hours.

He explained that the Swiss Small Plate concept was similar to that of a Spanish tapas bar. Part of the reason for wanting longer hours was in response to the Covid-19 situation but the application had been made prior to lockdown. There was a desire to operate longer hours from an operational point-of-view. There was no policy to refuse the application and it was considered that an additional 30 minutes of trading as a restaurant would not add to cumulative impact.

It was envisaged by the applicant that there may be persons who may want to have a less formal premium dining experience and there might also be occasions when persons do not want to eat and just want a drink whether it is for coffee or an alcoholic drink. Mr Lavell stated that the applicant would prefer to sell food to all customers, and it was his assertion that most customers would eat something. The ambition of the applicant was to “convert” those who only wanted to drink into diners.

Mr Lavell made references to paragraphs from policy in support of his application, though the members did not entirely agree with his interpretation of the policy, particularly when some of the paragraphs were quoted out of context. In particular, he quoted paragraph 2.4.21 which was addressing the possibility of granting applications for the sale of alcohol in cumulative impact areas until 20.00 hours. That was not appropriate when core hours were being sought for the operation of a bar area within a restaurant. That element of the application was clearly contrary to policy and Mr Lavell had to identify reasons why the application could be granted as an exception to policy.

Despite the confusing reference to paragraph 2.4.21 of the Council’s policy statement, Mr Lavell did proceed to explain why he was asserting that the grant of this application would not add to cumulative impact or otherwise undermine the licensing objectives. He indicated that the premises would remain a restaurant and that the “bar” area was a relatively small area and the drink-led element would cease at core hours. There would be no vertical drinking. The “bar” area could not easily be seen from the street and the “bar” use would not be advertised. It was also hoped and anticipated that many persons who only intended to have an alcoholic drink would actually decide to eat some food from the menu, even if that was just a couple of small plates. The capacity of the premises was 120 persons and the 25 persons who could consume alcohol without food were included within that capacity figure so there was no overall increase in capacity.

Ms Abbott, on behalf of the Licensing Authority, set out the concerns of the Licensing Authority, primarily based on policy. It was noted that the Metropolitan Police had withdrawn their objection on the basis that additional conditions had been agreed with the applicant. It was also noted that there were no objections from any residents or any residential amenity societies.

There was a separate issue regarding off-sales and the potential use of an external seating area at the front of the premises that had been identified on the plans submitted with the application. This external area was shown as part of the licensed premises which meant that any alcohol served to that area would be an on-sale rather than an off-sale. The usual approach in Westminster is not to permit a licensed premise to include part of the highway within its own licensed area. That is because the applicant has no right to use that area in connection with licensable

activities unless the highway authority has given its permission and a tables and chairs licence is in place for that area.

Mr Lavell explained that the plan was the one attached to the current licence and asserted that the licensing authority had much better control of the premises if the external area was included as part of the licensed premises. The conditions had been drafted to reflect that proposal, but the licensing authority had suggested alternative conditions so as to make it clear that sales to the external area were off-sales.

The members did agree with the licensing authority that sales to the external area should be treated as off-sales but also recognised that the premises had already been operating with the plan which appeared at page 40 of the report. The members decided, exceptionally, to allow the operator to include the external area as part of the licensed premises and the conditions have been imposed on that basis. However, a further condition was also imposed to make it clear that the use of that area for the sale and consumption of alcohol was subject to that area being appropriately licensed for the use of tables and chairs on the highway.

The applicant is advised that this decision is without prejudice to the right of the planning authority to take enforcement action in any case where there is considered to be an alleged breach of planning control. Planning Permission is also required for the use of tables and chairs on the highway and the Licensing Sub-Committee understands that the most recent planning permission for that use expired on 30<sup>th</sup> June 2020.

Mr Lavell was asked if the applicant needed off-sales at all if the external area was to be included as part of the licensed premises. He indicated that his clients did want off-sales so they could provide alcohol that was ancillary to a takeaway meal. A further condition was therefore imposed to that effect.

The members decided to grant the application as requested but subject to the imposition of additional conditions. The members have concluded that the granting of the application subject to the conditions set out below will not add to cumulative impact and will promote the licensing objectives.

This was a very marginal decision by the Licensing Sub-Committee. These premises are situated in the heart of the West End Cumulative Impact Area. The members are granting both the extension of hours and the drink-led element on an exceptional basis, having regard to the specific aspects of this application. The applicant has explained their desire to convert customers who only want to have a drink into customers who also want to eat. Whilst that is a very laudable ambition, it cannot constitute an exception to the Council's licensing policy. Every applicant could express such an intention.

The key aspect of this decision is that the premises must operate as a restaurant and any drink-led element must be ancillary to that use. The applicant is therefore advised that it must manage the area shaded green so as to ensure that it does not routinely operate as a dedicated bar area with very little or no food being consumed. In granting the application, the members want to ensure that the "bar" area does not become a destination venue in its own right for those who want to drink alcohol and

who have no desire to eat food at all. Noting that Mr Lavell had indicated that the bar would not be advertised, it has decided to add a further condition stating that “The facility for some customers to drink alcohol without the need for that consumption to be ancillary to the consumption of any food shall not be promoted or advertised in any external notices (including the distribution of such notices) or on the applicant’s website”.

There was one final concern regarding the potential for the area shaded green to be used as a bar. The applicant had made it clear that the sales of alcohol in that area would have to cease after core hours unless that was ancillary to a table meal. However, that gives rise to the potential for customers who are not intending to have food to purchase their drinks before core hours and to continue consuming that alcohol after core hours. On a Friday or Saturday night, that consumption could continue for an additional 90 minutes beyond core hours. Since it is the actual consumption of alcohol that gives rise to concerns about undermining the licensing objectives, the members have also decided to amend condition 11 below so that it reads that “No Alcohol shall be supplied to persons *or consumed* after 23.30 on Monday to Thursday; Midnight on Friday and Saturday and 22.30 on Sunday except as ancillary to a table meal”. Anyone who has been drinking alcohol without food before those hours will only be allowed to continue that drinking after those hours if a table meal is also purchased.

To assist the management in the enforcement of the strict requirements above, it has also been decided to impose a further condition to the effect that notices shall be prominently displayed in the area shaded green so as to clearly indicate that alcohol can only be consumed in that area after 23.30 on Monday to Thursday; Midnight on Friday and Saturday and 22.30 on Sunday if that consumption is ancillary to a table meal.

Mr Lavell was also asked to confirm if the current licence had been transferred to the applicants as the copy of the licence at page 45 of the report still identified the holder as being Brindisa Tapas Kitchens Ltd. He was also asked if the applicants would be prepared to surrender the licence in the event of this application being granted. He confirmed that the licence had been transferred and that his clients would be prepared to surrender the licence if the application was granted in full. A condition has been inserted to that effect.

**The application is granted subject to the following conditions in addition to the Mandatory conditions applicable to this type of application:**

9. The Premises shall operate primarily as a Restaurant, with the sale of alcohol ancillary to said operation.
10. Save for customers (limited to 25 at any one time) in the area shaded green on the attached plan, 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) 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 (except chopsticks),
- (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 for consumption on the premises, otherwise than for consumption by persons who are seated in the premises (including any external areas at the front of 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.

11. No Alcohol shall be supplied to persons or consumed after 23.30 on Monday to Thursday; Midnight on Friday and Saturday and 22.30 on Sunday except as ancillary to a table meal.
12. The facility for some customers to drink alcohol without the need for that consumption to be ancillary to the consumption of any food shall not be promoted or advertised in any external notices (including the distribution of such notices) or on the applicant's website.
13. Notices shall be prominently displayed in the area shaded green so as to clearly indicate that alcohol can only be consumed in that area after 23.30 on Monday to Thursday; Midnight on Friday and Saturday and 22.30 on Sunday if that consumption is ancillary to a table meal.
14. The sale and supply of alcohol for consumption in any external areas to the front of the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.
15. All outside tables and chairs shall be rendered unusable by 23.00 each day.
16. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
17. Sales of alcohol for consumption off the premises shall be in sealed containers and shall only be supplied with and ancillary to a takeaway meal.
18. There shall be no takeaway of hot food or hot drink after 23.00 hours.
19. The sale of alcohol for consumption on the premises shall be limited to persons seated.

20. During the hours of operation, 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.
21. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
22. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and to leave the area quietly.
23. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before collection times.
24. Loudspeakers shall not be located in the entrance lobby or outside the premise building.
25. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
26. The premises licence holder shall ensure that any patrons smoking outside the premises do so on an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
27. A direct telephone number for the manager at the premises shall be publically available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
28. 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.
29. No fumes, steam or odours shall be emitted from the licenced premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
30. The number of persons accommodated at any one time (excluding staff) shall not exceed the following: Ground Floor – 120 persons.
31. When regulated entertainment is taking place and/or after 23:00 hours all external doors and windows shall be kept closed save for immediate access and egress of persons.
32. 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 preceding 31 day period.

33. A staff member from the premises who is conversant with the operation of the CCTV shall be on the premises at all times when the premises are open to the public. Subject to relevant data protection legislation, this staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
34. 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 concerning crime and disorder;
  - d) Any incidents of disorder;
  - e) All seizures of drugs or offensive weapons;
  - f) Any refusal of sale of alcohol.
35. There shall be no striptease or nudity and all persons shall be decently attired at all times unless the premises are operating under the provisions of a Sexual Entertainment Licence.
36. A challenge 21 proof of age scheme shall be operated at the premise 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. 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.
38. 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.
39. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
40. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
41. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

42. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
43. The premises shall operate in accordance with a Dispersal Policy which is to be completed, regularly reviewed and kept on the licensed premises at all times. A copy of the most recent Dispersal Policy shall be made immediately available to the Police Licensing Team, the Environmental Health Consultation Team and the Licensing Authority upon request.
44. No licensable activities shall take place at the premises pursuant to this licence until premises 20/00408/LIPDPS (or such other number subsequently issued for the premises) has been surrendered.

4<sup>th</sup> August 2020

**3 UNITS 4 & 5, TROCADERO, COVENTRY STREET, LONDON, W1D 7DH**

**WCC LICENSING SUB-COMMITTEE NO. 3**

Thursday 30<sup>th</sup> July 2020

Membership: Councillor Jacqui Wilkinson (Chairman), Councillor Jim Glen and Councillor Maggie Carman

Officer Support:      Legal Officer:          Barry Panto  
                                 Policy Officer:          Kerry Simpkin  
                                 Committee Officer:      Andrew Palmer  
                                 Presenting Officer:      Michelle Steward

**Application for a Variation of a Premises Licence [19/14057/LIPV]**

**Full Decision**

**Premises**

Haidilao  
Units 4 and 5  
Trocadero  
13 Coventry Street  
London W1D 7AB

**Applicant**

UK HAIDILAO PTE. LTD

Represented by Gary Grant of Counsel and also Andrew Wong and Marcus Lavell of Keystone Law.

Also attending to provide evidence in support of application - Mr Andrew Bamber,  
Licensing Consultant

### **Cumulative Impact Area?**

West End

### **Ward**

St James's

### **Summary of Application**

This is an application to vary the licence for this restaurant so as to increase the hours of trading in the basement until 2.30 am with all licensable activities terminating at 2 am. The details are set out below and also indicate how the granting of this application will impact on what is already permitted. The premises are fully conditioned to operate as a restaurant in accordance with policy and there are no proposed changes in relation to the sale of alcohol.

According to the applicant, one of the main reasons for the application is that persons attending the premises to dine take a much longer time than a normal restaurant due to the "Chinese Hot Pot" style of cuisine where customers cook their own food.

Residents (and up to 5 bona fide guests per resident) from the adjacent hotel within the Trocadero development (the Zedwell Hotel) already have 24-hour access to these premises, though it was pointed out at the hearing that the hotel had not yet opened.

### **Proposed Activities and Hours**

#### **Retail Sale of Alcohol [On and Off sales] NO CHANGES PROPOSED**

Monday to Thursday:	10.00 to 23.30
Friday and Saturday:	10.00 to Midnight
Sunday:	12.00 to 22.30
Sunday before BH	12.00 to Midnight
Residents and Guests	24 hours every day of the week

#### **Late Night Refreshment [Indoors]**

Monday to Thursday:	23.00 to 02.00
Friday and Saturday:	23.00 to 02.00
Sunday:	23.00 to 02.00
Sunday before BH	23.00 to 02.00
Residents and Guests	24 hours every day of the week
New Year's Eve extension to start of licensable activities on New Year's Day	

### Compared to existing hours [Indoors]

Monday to Thursday: 23.00 to 23.30 [plus 2.5 hours]  
Friday and Saturday: 23.00 to Midnight [plus 2 hours]  
Sunday: N/A [plus 3 hours]  
Sunday before BH 23.00 to Midnight [plus 2 hours]  
Residents and Guests No change  
New Year's Eve extension to start of licensable activities on New Year's Day [No change]

### Exhibition of Films

Monday to Thursday: 10.00 to 02.00  
Friday and Saturday: 10.00 to 02.00  
Sunday: 12.00 to 02.00  
Sunday before BH 12.00 to 02.00  
Residents and Guests 24 hours every day of the week  
New Year's Eve extension to start of licensable activities on New Year's Day

### Compared to existing hours [Indoors Only]

Monday to Thursday: 10.00 to 01.00 [plus 1 hour]  
Friday and Saturday: 10.00 to Midnight [plus 2 hours]  
Sunday: 12.00 to 22.30 [plus 3.5 hours]  
Sunday before BH 12.00 to Midnight [plus 2 hours]  
Residents and Guests No change  
New Year's Eve extension to start of licensable activities on New Year's Day [No change]

### Plays, Performance of Dance, Recorded Music and anything similar [All Indoors]

Monday to Thursday: 10.00 to 02.00  
Friday and Saturday: 10.00 to 02.00  
Sunday: 12.00 to 02.00  
Sunday before BH 12.00 to 02.00  
Residents and Guests 24 hours every day of the week  
New Year's Eve extension to start of licensable activities on New Year's Day

### Compared to existing hours [Indoors Only]

Monday to Thursday: 10.00 to 23.30 [plus 2.5 hours]  
Friday and Saturday: 10.00 to Midnight [plus 2 hours]  
Sunday: 12.00 to 22.30 [plus 3.5 hours]  
Sunday before BH 12.00 to Midnight [plus 2 hours]  
Residents and Guests No change  
New Year's Eve extension to start of licensable activities on New Year's Day [No change]

### Hours premises are open to the public

Monday to Thursday: 08.00 to 02.30  
Friday and Saturday: 08.00 to 02.30  
Sunday: 08.00 to 02.30  
Sunday before BH 08.00 to 02.30  
Residents and Guests 24 hours every day of the week  
New Year's Eve extension to start of licensable activities on New Year's Day

### Compared to existing hours

Monday to Thursday: 08.00 to Midnight [plus 2.5 hours]  
Friday and Saturday: 08.00 to 00.30 [plus 2 hours]  
Sunday: 08.00 to 23.00 [plus 3.5 hours]  
Sunday before BH 08.00 to 00.30 [plus 2 hours]  
Residents and Guests No change  
New Year's Eve extension to start of licensable activities on New Year's Day [No change]

### Representations Received

- Environmental Health (Sally Fabbricatore)
- Licensing Authority (Karyn Abbott)
- Clive Davidson, 5 Coventry House, 35 Haymarket

### Brief summary of issues raised by objectors

- The main concern is about the potential for the additional hours to add to cumulative impact by operating for additional hours until 2.30 am.

### Policy Position

There is no policy to refuse this application (as the proposal is for the premises to continue operating as a restaurant in accordance with policy RNT2). The application must, therefore, be determined on merit. There is no policy to refuse the application simply because the hours sought now exceed core hours. However, the applicant must still demonstrate why this application will not add to cumulative impact.

### DECISION

Mr Grant introduced the application and explained the purpose of the application. The restaurant had opened in April 2019. It was a fine dining restaurant with an average spend of £50 per person. The restaurant catered for tourists but also for the local Chinese and Asian community. The focus of the restaurant was on food which is why this application was not seeking to extend the hours for the sale of alcohol. The restaurant will continue to operate pursuant to the Council's full model licensing condition set out at condition 15 below. There had been no licensing issues since the restaurant had opened.

Customers of the restaurant expect to have a long, languid meal but that was not possible with the current licensing hours, especially as the restaurant was frequently very busy. Mr Grant explained that customers often had to wait for over two hours to get a table and it was not unusual for there to be at least 200 persons waiting in the queue. Mr Grant also explained that the premises was licensed and conditioned so as to provide a 24-hour service to customers of the adjacent Zedwell Hotel, though that hotel was not due to be completed for some time.

Neither the Environmental Health Service nor the Licensing Service had strong objections against the application, though it was acknowledged that the applicant had to demonstrate why any increase in licensable activities would not add to the existing cumulative impact in the area. There was some concern about the late hours being sought and that concern was clearly shared by the local residential objector, though he had not attended the hearing to amplify his concerns. Mr Grant did assert that the local resident might be pleased with the removal of queuing from the premises after 9 pm but it was also clear that the resident did have concerns as to potential for his sleep to be disturbed as a result of any extension of hours.

Mr Grant made a number of observations as to why this application would not add to cumulative impact. He pointed out that the existing operation had not caused any problems and that this proposal did not involve any increase in the hours for the sale of alcohol (though the members did note that customers might continue to consume alcohol for additional hours thereafter). Mr Grant also referenced the fact that they would be removing queues after 9 pm as people queuing would now be held within a waiting area on the ground floor of the premises. The applicant had further agreed to have SIA supervision at the premises from 7 pm, increasing to 2 supervisors from 11 pm. It was also agreed that there should be no new entry to the premises after 1 am. Mr Grant finally noted that the police had withdrawn their objection upon the applicant agreeing to their additional proposed conditions.

The members had regard to all the written and oral submissions (including a letter of support from the Freeholder of the Trocadero) and also to the evidence contained within the report from Andrew Barber. He pointed out that there was no actual bar in the premises and his visit seemed to confirm that the focus of the restaurant and the clientele was, indeed, food and not drink. It was also noted that the operational style of this restaurant was one where customers cooked their own food at the table. However, all service was by a waiter or waitress. It was also important to notice that the restaurant itself was located in the basement. The ground floor operated as a retail unit and would be adapted to accommodate waiting customers but there would be no sale of alcohol or provision of late-night refreshment from that floor. Mr Grant was asked if consumption of alcohol was permitted on the ground floor. On taking instructions, he confirmed that they would like the option for alcohol to be served to the waiting customers on the ground floor.

Questions are often raised as to what might happen if a premises changes hands and a new operator takes over. That is always a risk, but it is also recognised that each case must be judged on its individual merits. As the premises were conditioned to operate as a restaurant and could not be drink led, there was no policy presumption to refuse the application. Members considered that the conditions should ensure that the premises will not add to cumulative impact, irrespective of the



operator. A change in operator might be a greater concern for individuals living closer to the premises, such as the local resident who objected to this application. However, he would always have the potential to bring a review of the licence if he identified a problem that was directly associated with these specific premises.

The evidence suggested that the current operator was sophisticated and that it would manage the premises effectively so as to ensure that it did not undermine any of the licensing objectives. The members therefore concluded that the licensing objectives would be promoted by granting the application, subject to the additional conditions referred to. The members were also satisfied that the granting of this specific application would not add to cumulative impact.

A number of adjustments were made to conditions, all of which were discussed at the hearing. Conditions 11 and 12 below restrict access and egress to the premises via the adjacent hotel, albeit that the conditions cannot take effect until the hotel is completed and operational. The wording of condition 11 has been amended to clarify that access between 01.00 and 08.00 is also limited to the hotel residents and their bona fide guests.

**The application is granted subject to the following conditions in addition to the Mandatory conditions applicable to this type of application:**

It was noted that two additional mandatory conditions did have to be inserted on the licence that were not identified in the report as follows:

**Additional Mandatory Condition as Film Exhibitions are included in Premises Licence**

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.

**Additional Mandatory Condition relating to door supervision**

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.

**Special Conditions that will apply in addition to the Mandatory Conditions**

**Annex 3 – Conditions attached after a hearing by the licensing authority**

11. Access to the premises between 01:00 and 08:00 shall only be via the internal door (as shown on the attached plans) from the adjacent hotel and shall be restricted to hotels residents and up to 5 bona fide guests per resident.
12. Egress from the premises between 02:30 and 08:00 shall only be via the internal door (as shown on the attached plans) from the adjacent hotel.
13. The supply of alcohol between the hours of 23:30 (Monday to Thursday), midnight (Friday and Saturday) and 22:30hrs (Sunday, midnight on Sundays

before bank holidays) and 10:00 hours on the following day shall be limited to residents from the adjacent hotel and their guests. Hotel residents' bona fide guests shall be limited to a maximum of 5 guests per resident.

14. The provision of late-night refreshment between the hours of 02:00 and 10:00 hours shall be limited to residents from the adjacent hotel and their guests. Hotel residents' bona fide guests shall be limited to a maximum of 5 guests per resident.
15. The basement of 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) 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 for consumption on the premises, 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.

16. All sales of alcohol for consumption off the premises shall be in sealed containers and ancillary to a takeaway meal only and shall not be consumed on the premises.
17. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
18. There shall be no more than 280 customers (excluding staff) in the basement of the premises at any one time.
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. All entrance doors and windows to be kept closed after 23:00 hours or when regulated entertainment is taking place except for immediate access and egress of persons.

21. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
22. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
23. 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 23.00 hours and 08.00 hours on the following day.
25. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.
26. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 hours on the following day.
27. 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.
28. 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.
29. 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.
30. 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.

31. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system, searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
32. There shall be no cinema style showing of films
33. 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.
34. 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.
35. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
36. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
37. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
38. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
39. 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 Services 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.

40. No fumes, steam or odours shall be emitted from the licenced premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
41. Loudspeakers shall not be located in the entrance lobby or outside the premise building.
42. 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 unless seated in an authorised external area.
43. The premises licence holder shall ensure that any patrons smoking outside the premises do so on an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
44. 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.
45. There shall be no striptease or nudity and all persons shall be decently attired at all times unless the premises are operating under the provisions of a Sexual Entertainment Licence.
46. There shall be no sale of alcohol or provision of late-night refreshment from the ground floor.
47. SIA Staff will be deployed at the Premises as follows:
  - 1 SIA Door Supervisor from 7pm to 11pm
  - 2 SIA Door Supervisors from 11pm to 3am
48. There shall be no new entries to the premises after 1am until close, daily (notwithstanding the effect of conditions 11 to 14 above).
49. There shall be no queueing on the highway after 21:00hrs daily.

4<sup>th</sup> August 2020

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

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