



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday, 11<sup>th</sup> February 2021**, This was a virtual meeting.

**Members Present:** Councillors Jim Glen (Chairman), Susie Burbridge and Aziz Toki

#### 1. MEMBERSHIP

There were no changes to the Membership of the Sub Committee.

#### 2. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

#### 3. 10 AM: CUMBERLAND FOOD & WINE, 11 GREAT CUMBERLAND PL, LONDON W1H 7LU

Application withdrawn at the applicant's request.

#### 4. 1:30 PM: BASEMENT & GROUND FLOOR, 294 ELGIN AVENUE, LONDON W9 1JS

### LICENSING SUB COMMITTEE (3)

*Thursday, 11 February 2021*

**Members Present:** Councillors Jim Glen (Chairman), Susie Burbridge, and Aziz Toki.

**Officer Support:** Legal Officer: Vivienne Walker  
Policy Officer: Kerry Simpkin  
Committee Officer: Cameron MacLean  
Presenting Officer: Kevin Jackaman

**Present:** Mrs Gosia Vasilev (on behalf of the applicant)

**Representations:** Representations had been received from the Environmental Health Service (EHS); the Metropolitan Police Service (MPS);<sup>1</sup> and residents.

**Applicant:** Mr Dragan Romanic  
**Ward:** Maida Vale

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<sup>1</sup> Subsequently withdrawn after agreement between the MPS and the applicant regarding a reduction in the proposed hours for the sale of alcohol both on and off the premises.

**CIA<sup>2</sup>:** Not applicable

## **Summary of Application**

The application was for a new premises licence.

## **INTRODUCTION**

The Chairman welcomed everyone to the meeting and introduced the Members of the Sub Committee and the Council Officers who would be supporting the Sub Committee. The Chairman explained the procedure that would be followed at the meeting before inviting the Presenting Officer, Mr Kevin Jackaman, to present the report.

## **PRESENTATIONS AND SUBMISSIONS**

### **Mr Kevin Jackaman, Senior Licensing Officer**

Mr Jackaman summarised the application as set out in the report before the Sub Committee. He stated that the applicant, Mr Dragan Romanic, would be represented by Mrs Gosia Vasilev, the Premises General Manager and proposed Designated Premises Supervisor (DPS). He stated that, following consultation with the Metropolitan Police Service (MPS), the applicant had amended the application and reduced the hours applied for the sale of alcohol both on and off the premises.

Mr Jackaman stated that representations had also been received from the Environmental Health Service (EHS), the Paddington Waterways & Maida Vale Society (PWMVS), and residents. However, after agreement with the PWMVS on proposed conditions and operating hours, it too had withdrawn its representation.

Regarding the representations by residents, Mr Jackaman confirmed that neither resident would be attending today's hearing, but that a further submission had been made by one of the residents and this was included in the Additional Information Pack circulated to Members.

In conclusion, Mr Jackaman stated that the Premises was located within the Maida Vale Ward and was not within a cumulative impact area.

### **Mrs Gosia Vasilev, General Manager and Proposed Designated Premises Supervisor (on behalf of the applicant, Mr Dragan Romanic)**

Mrs Vasilev introduced herself and stated that she had been working at the premises for 15 years and knew the area and the shopping parade very well. She stated that the business [The Peppermint] was a small independent business which had been trading in Maida Vale for 25 years, first, at 302 Elgin Ave, and now at the current address, 294 Elgin Ave.

She said that the business had always had a good reputation as a friendly, local eatery surrounded on the parade by several corporate entities making it necessary to work hard to sustain the business given the competition of neighbouring premises. However, there was nothing the business could have done to prepare itself for the Coronavirus pandemic, which had had a devastating effect on the business.

Mrs Vasilev stated that the changes that the applicant wished to introduce were in direct response to the Coronavirus pandemic and that the applicant had agreed to all

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<sup>2</sup> Cumulative Impact Area

the conditions that had been proposed in an effort to allow the business to survive and continue to serve the Maida Vale community.

In addressing the concerns raised by residents, Mrs Vasilev made the following points.

1. That it was not the intention to turn the premises into a bar as confirmed by the applicant's agreement to the following proposed Conditions set out in Appendix 4 on Page 58 of the report before the Sub Committee:

Condition 11

*The supply of alcohol for consumption on the premises shall only be to a person seated taking a table meal there and for the consumption by such person as ancillary to their meal.*

Condition 12

*"The supply of alcohol for consumption on the premises shall be by Server, Waiter or Waitress service only."*

Condition 20

*Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables and ancillary to their meal.*

2. Vagrancy: vagrants [street drinkers] bought the cheapest alcohol available from stores with an off-licence, not from licensed restaurant premises.
3. Noise from the Applicant's Kitchen: in 25 years of trading, the applicant had never been made aware of noise nuisance from the premises' kitchen. However, the applicant would do whatever could reasonably be done to minimise any noise.
4. If it had not been for Coronavirus, the applicant would have met with residents to discuss any concerns they might have had about the application and to reassure residents that the applicant did not wish to cause any business on the part of resident or be the source of any public nuisance.

In response to a request by the Chairman, Mrs Vasilev stated that the applicant would be willing to agree to amending proposed Conditions 11 & 12<sup>3</sup> to add the words:

*"... at all times".*

In answering several questions by Members, Mrs Vasilev provided the following information.

1. The number of covers presently possible had been significantly reduced because of the Coronavirus Regulations
2. There were two small tables seating six persons outside the premises and that, if it was necessary to obtain a licence, the applicant would be willing to reduce the hours at which alcohol could be consumed outside the premises.

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<sup>3</sup> Condition 11: The supply of alcohol for consumption on the premises shall only be to a person seated taking a table meal there and for the consumption by such a person as ancillary to their meal"; and

Condition 12: Supply of alcohol for consumption on the premises shall be by server, waiter or waitress service only."

3. The basement comprised a kitchen, baking area, a room with fridges and an office. No customer covers were provided in the basement area.
4. Referring to the plans of the premises, the only licensed areas would be on the ground floor as indicated by the red line on the Plan.

The Chairman noted that the outside seated area was within the proposed licence area. Therefore, proposed Condition 19 should be amended to read, as follows:

*“Sales of alcohol for consumption off the premises shall be in sealed containers only.”<sup>4</sup>*

Mrs Vasilev confirmed that the applicant agreed the proposed amendment to Condition 19.

### **Mr Anil Drayan, Environmental Health Service (EHS)**

Mr Drayan stated that EHS had only maintained its representation as the application was going before the Sub Committee. He stated that the EHS was satisfied with the proposed conditions as agreed with the applicant.

Regarding the capacity of the premises, Mr Drayan noted that there was one means of escape on the ground floor which would normally restrict the capacity of the premises to 60 persons. Referring to the Plans, he had calculated that the premises seating plan could accommodate about 40 persons inside and six persons outside. Therefore, it was likely that the premises would be operating with a capacity of less than 60 persons and, therefore, he did not require a condition on a licence stipulating a maximum number of persons on the premises at any one time. He stated that, if the basement area was to be used for customers, then he would wish to make the capacity of the premises a condition of the licence.

Regarding the tables and chairs outside the premises, Mr Drayan stated that the EHS was satisfied that 10:30 PM was a suitable time at which to end licensable activities. He noted that the EHS would normally allow outside licenced areas to such as this operate until 11 PM if, as in the present case, there had been no previous concerns about the premises. He noted that the outside space was a private forecourt used by the applicant as a seated area for customers.

Regarding the Conditions on Page 59 of the report, Mr Drayan noted that proposed Conditions 24 and 29 were the same and that the list of proposed conditions should be suitably amended.

Regarding the complaint about noise from the premises' kitchen, Mr Drayan stated that, if this noise was occurring during the night, the EHS would, likely, have been notified and would have taken appropriate action. However, no actionable noise complaints had been received.

In response to Member's questions, Mr Drayan provided the following information.

1. Given the possibility that the premises could be taken over by another operator, the Sub Committee, if it so wished could impose a condition of the licence that the premises' capacity be set at 60 as that would be in accordance with fire regulations as it would be the maximum capacity at which the premises could operate.

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<sup>4</sup> There being no requirement to include the words "... save for any external seating area shown on the plan".

2. It was a policy of the EHS, in response to a request by the Sub Committee, that, if there were representations on an application by residents, not to withdraw its representations, even if the EHS had no objections to the application, so that it could assist the Sub Committee and residents with any questions they might have, or requests for information.
3. Licensable activities would only take place on the ground floor.
4. Regarding waste collections, the applicant had agreed to the following proposed Conditions:

Condition 31

*“All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.”*

Condition 32

*“No waste or recycling materials, including bottles, shall be moved, removed from or placed in outside areas between 21:00 hours and also hundred hours on the following day unless placed outside during the scheduled collection times.”*

### **Questions from Officers**

in response to a question by Vivienne Walker, Legal Adviser, regarding how the applicant would implement proposed Condition 21, which stated –

*“When accepting delivery orders including alcohol, staff must remind the customer the premises operates Challenge 25. Customers will be asked to provide ID on delivery if they look younger than 25. Restaurants must notify delivery drivers if an order contains alcohol. Similar procedures shall be implemented in respect of online orders.”*

Mrs Vasilev stated that the applicant had contacted Deliveroo about the procedures adopted by its drivers for inspecting customers' ID and would be contacting Uber Eats to request the same information. She stated that for online orders, the customer would have to state that they were of a legal age to buy alcohol before placing an order. Mr Drayan stated that Condition 21 was a standard condition requested by the Metropolitan Police Service (MPS). It was further strengthened by the requirements of proposed Condition 22 which stated:

*“Sales of alcohol consumption of the premises shall only be supplied with, and ancillary to, a takeaway meal.”*

### **SUMMING UP**

The Chairman invited the parties to sum up their presentations. Both Mr Drayan and Mrs Vasilev stated that they had nothing further to add to their presentations.

### **ADJOURNMENT**

At this stage in the proceedings, the Chairman adjourned the meeting to allow Members to retire to consider their decision. He stated that the Sub Committee would not announce its decision today but that a summary of the decision would be sent to the various parties within five working days.

The Chairman then closed the live part of the virtual meeting.

## DECISION

It was the Sub Committee's decision to **Approve** the application, as set out in the Summary Decision attached to these minutes as an appendix.

## REASONS FOR THE DECISION

Having read the report by the Director of Public Protection and Licensing that was before it; the written submissions of the applicant and those parties and objecting to the application; and, having heard a presentation on behalf of the applicant and the applicant's responses to several questions, the Sub Committee was satisfied that, in accordance with the Home Office Guidance,<sup>5</sup> it was appropriate and proportionate to **Approve** the application.

In reaching its decision, the Sub Committee took the following matters into consideration.

1. The premises had operated in the same location for over 25 years and there was no history of any significant complaints associated with the premises.
2. The complaint about "washing-up" noise emanating from the premises' kitchen area was not actionable.

Sub Committee was satisfied that the Environmental Health Service (EHS), based on the evidence submitted to the Sub Committee, would have acted in response to noise complaints if they had received complaints and if the complaint proved to be warranted.

3. The Environmental Health Service (EHS) had stated it had no objections to the application and had only maintained its representation to the Sub Committee in accordance with a policy decision not to withdraw its representations when there were representations by residents on an application.
4. The Applicant had agreed to the conditions proposed by the Metropolitan Police Service (MPS) and the Environmental Health Service (EHS), as amended by the Sub Committee.

In conclusion, the Sub Committee was satisfied that, in all circumstances, it was reasonable, proportionate and appropriate to grant a licence.

The Meeting ended at 2.05 PM

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

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

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<sup>5</sup> Revised Guidance issued under section 182 of the Licensing Act 2003, April 2018

## APPENDIX

### WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3 ("The Committee")

Thursday, 11 February 2021

- Membership:** Councillor Jim Glen (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki
- Officer Support:** Legal Adviser: Vivienne Walker  
Policy Officer: Kerry Simpkin  
Committee Officer: Cameron Maclean  
Presenting Officer: Kevin Jackaman
- Parties Present:** Mrs Gosia Vasilev, General Manager and Designated Premises Supervisor  
Anil Drayan: Environmental Health Service ("EHS")

### APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF BASEMENT AND GROUND FLOOR 294 ELGIN AVENUE LONDON W9 1JS – 20/10761/LIPN

#### FULL DECISION

#### Premises

Basement and Ground Floor  
294 Elgin Avenue  
London  
W9 1JS

#### Applicant

Mr Dragan Romanic represented by Mrs Gosia Vasilev, General Manager and Designated Premises Supervisor

#### Cumulative Impact Area?

The Premises are not located within the West End Cumulative Impact Area or the Special Consideration Zone.

#### Ward

Maida Vale

#### Summary of Application

This is a new application for a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises proposes to operate as an independent eatery, serving fresh food and coffee with an external seating area.

#### PROPOSED LICENSABLE ACTIVITIES AND HOURS

##### Sale by Retail of Alcohol (On and Off Sales)

##### On Sales

- Monday to Saturday: 10:00 to 22:30 hours;
- Sunday: 12:00 to 22:30 hours

Seasonal Variations: None

#### Off Sales Hours

- Monday to Saturday: 08:00 to 22:30 hours;
- Sunday: 10:00 to 22:30 hours

Seasonal Variations: None

#### Hours Premises are open to the Public

- Monday to Sunday: 07:30 to 22:30 hours

Seasonal Variations: None

#### **Representations Received**

- Metropolitan Police Service (Cheryl Boon) (Withdrawn)
- Environmental Health Service (Anil Drayan)
- Objector No. 1 (Withdrawn)
- Objector No.2
- Objector No.3

#### **Summary of issues raised by Objectors**

- The premises currently keep very long opening hours, far in excess of other restaurants in the area. The premises were granted longer hours by the Council, but have never kept those extended hours, and so, it is impossible to determine how this will impact local residents.
- The restaurant's kitchen faces behind the establishment and onto the rear yard of homes on Elgin Mews South. The washing of dishes and other kitchen activities conducted on the premises can be heard by homes on the Mews.
- The application had the potential to increase public nuisance, anti-social behaviour and crime in the locality.

#### **Policy Position**

- HRS1
- RTN1

### **SUBMISSIONS AND REASONS**

The Presenting Officer, Mr Jackaman summarised the application to the Sub-Committee. He confirmed that this was an application for a New Premises Licence made on behalf of the Applicant Mr Dragan Romanic ("The Applicant"). It was confirmed that the Applicant since submitting their application amended the hours for the Sale of Alcohol On and Off the Premises from Monday to Friday 07:30 to 22:30, Saturday 08:00 to 22:30 and Sunday 09:00 to 22:30 to the hours mentioned above. It was confirmed that the Licensing Authority had received 3 local representations with one being withdrawn prior to the hearing. The remaining two local objectors did not attend the hearing. The Metropolitan Police Service had also made representations but, after agreeing the proposed conditions as part of the operating schedule with the Applicant, subsequently withdrew their representation. The Premises are located



within the Maida Vale Ward and are not within the West End Cumulative Impact Area or the Special Consideration Zone.

Mr Anil Drayan on behalf of the EHS addressed the Sub-Committee and stated that he was satisfied with the application and the conditions agreed.

Mr. Drayan stated that there is only one means of escape on the ground floor at the Premises, therefore, the maximum capacity for the Premises is sixty persons. He was satisfied that the use of the tables and chairs outside the premises could end at 22:30 hours, as it is a private forecourt. He stated that the Council normally allow outside licensed areas to operate until 23:00 hours.

Mr Drayan stated that regarding the noise complaint in the kitchen area at the Premises, he was pleased that the Applicant had agreed to monitor how they operate during the daytime and evenings, thereby minimising public nuisance. Mr Drayan advised that the reason why EHS had maintained their objection was due to the resident's concerns in relation to public nuisance and was present to help and assist the Sub-Committee in any questions they may have regarding the application.

Mrs. Vasilev, representing the Applicant stated that she had worked at the Premises for more than fifteen years and knew the area and customers very well. The business has been operating in the area for some twenty-five years. Mrs Vasilev said they are surrounded by other competitors and with the effect of COVID-19, this has had a detrimental impact on the business. She explained that the main purpose of the application was for financial reasons in order to help enable the Premises to survive during COVID-19 restrictions and long term.

Mrs Vasilev stated that during the twenty-five years the Premises have operated, they have had no complaints about noise from the kitchen at the Premises. She stated that she would be happy to meet with anyone who has concerns, but due to COVID-19 she was not able to do so at present.

Mrs Vasilev stated that she wanted to reassure the neighbours that it was not the Premises intention to bring nuisance to the area. Therefore, she has agreed to all the conditions and amended conditions proposed in order to mitigate the residents' concerns.

Mrs Vasilev explained the layout of the plan attached to the application and confirmed that there would be no service to customers in the basement area.

The Sub-Committee noted that licensable activities are to be carried out on the ground floor only and this is indicative of the Premises Plan.

The Sub-Committee sought confirmation from the Applicant as to how the Premises would implement condition 21 should the application be granted. Condition 21 reads *"when accepting delivery orders including alcohol, staff must remind the customer the premises operates Challenge 25. Customers will be asked to provide ID on delivery if they look younger than 25. Restaurant staff must notify delivery drivers if an order contains alcohol. Similar procedures shall be implemented in respect of online orders"*.

Mrs Vasilev responded that the Premises have contacted Deliveroo, who confirmed that their drivers do ask for identification on delivery. She also stated that for online orders, customers would be required to confirm that they were of the required legal age and entitled to buy alcohol before placing an order. At this point, Mr Drayan

confirmed that this type of condition was a standard condition requested by the Metropolitan Police Service.

The Sub-Committee was pleased to note that the Premises would operate as an independent boutique eatery.

Having carefully considered all the submissions made by all parties both orally and in writing, the Licensing Sub-Committee decided to **grant** the application subject to the amended conditions.

The Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives.

In reaching its decision, the Sub-Committee took into consideration all relevant matters which are not limited to the following:

1. The Premises had operated in the location for over twenty-five years and there was no history of any significant complaints associated with the Premises;
2. Mr. Drayan on behalf of the EHS stated that he had no objections to the application and had only maintained the representations to the Sub-Committee in accordance with the policy decision not to withdraw representations when there were representations by residents on an application;
3. The Applicant had shown a willingness to engage and work with all parties by amending their application by reducing the hours for the sale of alcohol and agreed to the conditions proposed by the Metropolitan Police Service and the EHS.
4. The Applicant demonstrated that they were a professional Operator that would run the Premises in an efficient and effective manner that would help promote the licensing objectives given the assurances and undertakings to work in collaboration with local residents and the Responsible Authorities.

In conclusion, the Sub-Committee was satisfied that, in all of the circumstances of the case, it was, appropriate and proportionate to **grant** the licence.

The application was granted as follows:

## **LICENSABLE ACTIVITIES AND HOURS**

### **Sale by Retail of Alcohol (On and Off Sales)**

#### On Sales

- Monday to Saturday: 10:00 to 22:30 hours;
- Sunday: 12:00 to 22:30 hours

Seasonal Variations: None

#### Off Sales Hours

- Monday to Saturday: 08:00 to 22:30 hours;
- Sunday: 10:00 to 22:30 hours

Seasonal Variations: None

#### Hours Premises are open to the Public

- Monday to Sunday: 07:30 to 22:30 hours

Seasonal Variations: None

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

**Conditions imposed by the Committee after a hearing**

9. 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 are 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 the Police or authorised officer throughout the entire 31-day period.
10. 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 are open. This staff member must be able to provide a Police Officer or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. The supply of alcohol for consumption on the premises shall only be to a person seated taking a table meal there and for the consumption by such a person as ancillary to their meal at all times.
12. The supply of alcohol for consumption on the premises shall be by Server, Waiter or Waitress service only at all times.
13. 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.
14. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
15. 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 ejection of patrons;
  - (c) any complaints received concerning crime and disorder;
  - (d) any incidents of disorder;
  - (e) all seizures of drugs or offensive weapons;
  - (f) any faults in the CCTV system;
  - (g) any refusal of the sale of alcohol;
  - (h) any visit by a relevant authority or emergency service.
16. Notices shall be prominently displayed at all exits and the outside smoking area requesting patrons to respect the needs of local residents and to leave the area quietly.
17. 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 self-service of Alcohol.
19. Sales of alcohol for consumption off the premises shall be in sealed containers only.
20. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables and ancillary to their meal.
21. When accepting delivery orders including alcohol, staff must remind the customers that the premises operate Challenge 25. Customers will be asked to provide ID on delivery if they look younger than 25. Restaurant staff must notify delivery drivers if an order contains alcohol. Similar procedures shall be implemented in respect of online orders.
22. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
23. 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.
24. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
25. All outside tables and chairs shall be removed or rendered unusable by 22:30 hours each day.
26. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
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. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
29. The capacity of the premises shall be limited to a maximum of 60 persons.
30. No deliveries to the premises shall take place between 23:00 hours and 07:00 hours on the following day.
31. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
32. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 21:00 hours and 07:00 hours on the following day unless placed out during the scheduled collection times.

**This is the full decision reached by the Licensing Sub-Committee.**

**This Decision takes immediate effect.**