



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Thursday 24th June, 2021**, This will be a MS Teams virtual meeting.

Members Present: Councillors Murad Gassanly (Chairman) and Louise Hyams

Apologies for Absence: Councillor Maggie Carman

1. MEMBERSHIP

1.1 THERE WERE NOT CHANGES TO THE MEMBERSHIP.

2. DECLARATIONS OF INTEREST

2.1 THERE WERE NO DECLARATIONS OF INTEREST.

Order of Proceedings

2. 10 AM: BATHURST DELI - NEW PREMISES LICENCE APPLICATION

2.1 THE APPLICATION WAS GRANTED UNDER DELEGATED AUTHORITY.

3. 1 PM: CHUCS - PREMISES LICENCE VARIATION

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 5 **("The Committee")**

Thursday 24 June 2021

Membership: Councillor Murad Gassanly (Chairman) and Louise Hyams

Officer Support	Legal Advisor:	Horatio Chance
	Policy Officer:	Kerry Simpkin
	Committee Officer:	Sarah Craddock
	Presenting Officer:	Kevin Jackaman

**Application for a Variation of Premises Licence – Chucs 25 Eccleston Street
London SW1W 9NP 21/01924/LIPV**

FULL DECISION

Premises

25 Eccleston Street
London
SW1W 9NP

Applicant

Chucs Restaurant Ltd

Cumulative Impact Area

None

Ward

Knightsbridge and Belgravia

Summary of Application

The Sub-Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises trade as an Italian inspired restaurant and is not in the West End Cumulative Impact Zone nor within the Special Consideration Zone. The Premises have had the benefit of a licence since 2009. The Applicant seeks by way of variation the following: -

- To remove Condition 10 on the licence so that tables and chairs can be left on the forecourt until the premises closing time.
- To Amend the Opening Hours to benefit from the breakfast trade Monday to Saturday 08:00 hours Sunday to 10:00 hours.

Condition 10 reads:

The tables and chairs shall be removed from the forecourt by 20:30 each evening.

Proposed Condition by the Applicant:

Up to and including 30th September 2021, the tables and chairs on the forecourt shall be rendered unusable by 23:00 each evening. From 1st October 2021, the tables and chairs on the forecourt shall be rendered unusable by 20:30 each evening.

Following consultation, the applicant amended the application in so far as Condition 10 relates so that the variation will be for a time limited period until 30th September

2021. The Premises also have the benefit of a tables and chairs licence valid until 30 September 2021.

Additional papers were produced by the applicant which contains an Operational Management Statement, menu and a revised condition 10 (highlighted above) together with a written submission from Richard Brown of Westminster Citizens Advice representing Mrs Pindar a local resident.

Activities and Hours

- As per the premises licence save for the variations applied for.

Representations Received

- Environmental Health Service (Ian Watson).
- Mr John Lindquist 56 Ebury Street London (Withdrawn).
- Sharon Pindar 33 Eccleston Street London.
- Victoria And Dermot Butler 58 Ebury Street London (Withdrawn).

Summary of Representations

- The removal of Condition 10 of the license would mean that outside tables would be used until 23:30 to 00:00. This would definitely disturb us as alcohol is allowed to be served until these hours inside, and now would be outside.
- This is a residential area and it is not appropriate to have outdoor eating and drinking beyond 8.30pm. Originally, this site was La Bottega and closed at a more reasonable time. We did not object to the change in time to 8.30pm, when Chucs originally took over the site, as it seemed a sensible compromise to help them establish their restaurant. However, this "slow creep" is not acceptable.
- The noise would carry directly into our homes, as would smoke etc. It would also change the character of this residential area and having people sat outside after dark, within a very short distance from our home, would potentially represent a threat to my own person safety and that of my daughters.
- We wish to register our objection to the Application to amend the existing license, as this Application does not honour the undertaking made by the proprietors of Chucs to limit their operations as per Condition 10 and would enable Chucs to provide a full service to customers on the forecourt from early in the morning to late at night with no proven ability to prevent the 'public nuisance', envisaged under item Md) of the Application.

Policy Considerations

Policies HRS1 and RTN1 apply under the City Council's Statement of Licensing Policy ("SLP"). There are no CIA implications to consider. Applications outside the West End Cumulative Impact Zone will generally be granted subject to the application meeting the requirements of policies CD1, PS1, PN1 and CH1.

DECISION AND REASONS

Mr Kevin Jackaman presenting officer confirmed that this was an application for a variation of premises licence for the Premises at 25 Eccleston St, London SW1W 9NP. The application has been made by Chucs Restaurant Limited. The Applicant has applied to remove condition 10 from the current licence which restricts the use of the external terrace area and amend the opening hours at the Premises. Full details can be found at page 38 and 39 of the report. Following consultation, the applicant amended the application so that condition 10 will now be varied for a time limited period up to 30 September 2021. The amendment of the opening hours is per the hours on the initial application. Representations have been received by the Environmental Health Service (Mr Watson). There have also been 3 representations received from interested parties however following the amendment made to the applicant, 2 of these were withdrawn. The remaining objector was not in attendance however written submissions have been made on their behalf by Mr Richard Brown of Westminster CAB. The Premises are situated in Knightsbridge and Belgravia Ward and do not fall within any area of cumulative impact.

Ms Helen Ward Solicitor appearing on behalf of the Applicant advised the Sub-Committee that the Premises Chucs is a collection of small boutique restaurants and the focus is on a relaxed family Mediterranean atmosphere. Menus and photos have been included to give you a feel of the Premises. Chucs in Belgravia is the flagship restaurant and it opened in 2019. Previously, the restaurant was brought by Chucs but ran in a similar Mediterranean way but is more of a café format. The application before the Sub-Committee is in two parts namely, breakfast opening and permission for tables and chairs to be on the forecourt beyond 20:30 hours. The temporary nature of the application relates to the tables and chairs on the forecourt and this is dealt with by an amendment to condition 10.

Ms Ward stated that the application only seeks to amend the opening hours and there is no extension sought for licensable activities. It is purely to allow the Premises to serve breakfast from 08:00 Monday- Saturday and 10:00 on Sundays. The current opening hour is a bit late to serve breakfast. Ms Ward stated that the applicant is mindful of the Council's policy on opening hours. There have been no complaints from residents for the breakfast service. The capacity for the external area would also be very low.

Ms Ward advised that in relation to the external areas these are detailed on the Premises plan. There are 2 forecourt areas which are included in the licensable areas of the premises. One runs alongside Ebury Street where there are 5 tables and chairs and the second is on Eccleston Street which has 2 tables. The Premises also has a pavement licence which was granted under the Business and Planning Act 2020 and that is within a separate area of a parking bay. This specific area has a pavement licence which runs until September 2021 and that allows 4 tables and 8 chairs to be used until 23:00 hours.

When the application was made, there was no objections and the EH officer said there are no complaints regarding the use of the outside area or noise. Condition 10 allows the use of the tables and chairs in the forecourt area (known as the terrace) until 20:30 hours. This application is looking to extend this until 23:00 hours. Following the representations made, we are now temporarily seeking this to co-inside with the Pavement licence until September 2021.

The Sub-Committee noted that if the Applicant was to use the tables and chairs outside beyond 20:30 hours after September then a further variation of the licence is required. The current terminal hour of 20:30 hours was offered with the premises

licence of the previous restaurant. However, now the Premises trades more formally and as a full-service restaurant, this means seating is required before 19:30 to allow customers to complete their meal. The Applicant would therefore like the flexibility to seat their customers in the external areas for longer. This is especially given for the lower risk of Covid spreading from person to person when outdoors.

Ms Ward then went on to explain to the Sub-Committee what operational measures the Applicant had considered that could be put in place to ensure there is no noise disturbance to neighbours and these include;

- the fact that the capacity outside is low.
- There is no more than 2 customers per table and it is not possible to move the tables to create larger groups as there are planters in place and this will disrupt the service flow.
- Furniture is used to avoid noise escaping, an awning is in place whilst the Premises are open and will continue to stay in place if the hours are increased.
- A form of barrier is being explored so that this can be positioned at the end of the seating on Ebury Street. This all has the effect of reducing noise escape from that particular area.
- The external area does have 2 staff on duty at any time and the Premises will ensure one of those is part of the management team.
- Additionally, a dedicated telephone number has been provided to the objectors and is available to any resident who has concerns.
- Contact has been made with the residents and a member of staff has met with some of them which has resulted in a number of issues being resolved and withdrawal of their representation.

Ms Ward advised that the applicant are extremely concerned that they are good neighbours with residents. The Premises operate with an operational management plan that is included in evidence and this is backed up with staff training and a robust management structure.

Ms Ward said that she wanted to touch upon a procedural point in that some of the points raised in Mr Richard Brown's submission raise new points which were not included in the original representation. She said that we must be open and transparent in respect of some of the allegations. The comments do not provide any details of the alleged Covid breaches or the incidents that occurred. Unfortunately, the objectors are not here to expand on this which makes it difficult to address. The Applicant takes their duties very seriously and we do not accept this is an accurate reflection of the staff, restaurant or customers at Chucs.

Ms Ward pointed out to the Sub-Committee that from the evidence it is not possible to have large groups gatherings. There is a photo included in the agenda report which we have looked at carefully and the people present are not drinking or smoking but may well be on their way into the restaurant or indeed may not have been customers at all.

Mr Watson appearing on behalf of EHS addressed the Sub-Committee. Mr Watson confirmed that he had been dealing with these premises for a long time and was well versed with its history which the Sub-Committee were advised about. He talked the Sub-Committee through the plan of the ground floor.

Mr Watson said that the historic conditions on the licence include off-sales which were from the previous café. The licence is subject to full table meal and there is no dedicated bar service as such. When the application came in, the EHS submitted its

objection initially just to see whether it would attract residential objections. The 3 residential objections concerned the external terrace. This area was something I previously discussed in 2019 with regard to the new alterations and new assessment of capacities. One of those considerations was about removal of conditions and hours of the external terrace. The capacity was increased to 100 patrons inside the Premises. With the pandemic, the capacity cannot be satisfied fully.

Mr Watson said that he contacted the Applicant to see whether they were prepared to amend the application in line with the time limited licence under the Business and Planning Act so that it gave the Applicant some leeway for additional hours. At this point, there was no indication of the extension of the provisions of the Business and Planning Act however we now know that provisions are currently going through Parliament.

Mr Watson stated that the Premises never applied for a fast-track licence and did not initially apply for a pavement licence. The current pavement licence was applied for in March and expires on 30 September 2021.

Mr Watson advised that EH have had no history of noise or complaints from the Premises. Some of the concerns raised regarding cooking smells and cigarette butts being thrown in basements have not come to the attention of EH by way of complaint.

Mr Watson stated that he had spoken with Ms Ward about the measures the Applicant could implement to deal with potential nuisance for the later hours. He said that the discussion included the placing of an awning which would help reduce sound. The barriers would help deflect noise to the roadway. If these were put in place, it would mean the terrace would not be compliant with the Health Act 2006 and there would be no smoking on those tables. Smoking is allowed under the pavement licence scheme. It would be interesting to know if people can currently smoke on the external tables on the terrace.

Dealing with concerns raised from kitchen smells Mr Watson said that the Premises was not permitted to have a high-level extract system. The Applicant, however, did submit a planning application and it was refused by objections. The Premises as I understand it do have a ventilation/extract system in place. Residents can complain to the Council and those matters will be investigated.

Mr Watson said that he had no objection to the earlier opening hours for the breakfast offer and if residents have concerns about smoking, smells or excess use of outside areas then they should contact the Council so these matters can be investigated.

The Legal Advisor to the Sub-Committee went through proposed conditions with the parties and this included a slight revision to the proposed Condition 10 so that the condition would read: -

“Up to and including 30th September 2021, the tables and chairs on the Forecourt shall be rendered unusable by 23:00 each evening. For the avoidance of doubt and thereafter from 1st October 2021, the tables and chairs on the forecourt shall be rendered unusable by 20:30 each evening”.

Model Condition 24 being the requirement to provide a telephone number was also discussed and agreed together with a condition regarding the management and monitoring of the outside area by staff. Ms Ward did state that whilst she agreed with the principle of the latter condition, its wording should not be too rigid as it was essential for the condition to work effectively in practice daily and is not breached by the Applicant.

The Chairman commented that 2 members of staff do not need to be present at all times but just need to monitor and manage the outside area but this could easily be dealt with by 1 staff member on duty, but it was down to the Applicant to manage this properly by having robust procedures in place when it came to the dispersal of customers.

The Sub-Committee noted the Applicant's undertaking that there will always be sufficient staff to ensure someone can be reallocated to look after the external area if a member of staff were to go home sick.

The Sub-Committee realises that it has a duty to consider each application on its individual merits. It welcomed the fact that the Applicant had engaged with local residents and took on board the many concerns they had raised which resulted in the revision of the application and subsequent amendment to Condition 10.

The Sub-Committee considered the potential for public nuisance in relation to the later hours applied for but took the view that the sale of alcohol was ancillary to a table meal where customers had to be seated. The Sub-Committee appreciated that the Applicant is to put in place the various measures contained within the Operational Management Statement to ensure the promotion of the licensing objectives and that a telephone number for the Manager at the premises will be made available to residents. This requirement is now conditioned on the Premises Licence.

The Sub-Committee was persuaded by the various undertakings and guarantees given by the Applicant, including the logging of complaints by staff, the ongoing commitment to work with residents and the day to day management of the Premises, in particular the outside space which seats a small number of tables and chairs and would not be a spot where customers are likely to loiter, gather and cause nuisance. The Sub-Committee noted that the awning and potential barriers would act as a sound buffer and would help reduce the risk of nuisance. Therefore, the Applicant is strongly encouraged to installing these temporary barriers in close consultation with EHS.

The Sub-Committee noted that the variation application which relates to the placing of tables and chairs to the later terminal hour of 23:00 hours should be granted on a time limited basis for a period of three months in accordance with the revised Condition 10 (noted below as Condition 8). Accordingly, the Applicant is reminded to apply for a further variation beyond this date if it still wants to continue with the later hours, but this is wholly dependent upon the outside terrace area being managed well and free from complaint by local residents.

The Sub-Committee also noted that due to the current Covid guidelines, the Applicant does not accept tables of more than 6 so there are not multiple tables of the same number and at the same and these are staggered to help the general flow of the restaurant and customers dispersing the Premises. The Sub-Committee was reassured also that there are two means of escape to the front and side and no mixing of rooms when customers are leaving their tables.

The Sub-Committee considered the evidence for the earlier time for the breakfast hours and concluded that the evidence in this respect did not justify a refusal of those earlier hours and the Premises operates with full restaurant conditions in any event where the sale of alcohol is ancillary to a person taking a table meal so customers are seated. It was noted by the Sub-Committee that EH did not object to these earlier times and this part of the application was approved and granted.

The Sub-Committee considers that the conditions it has imposed on the Premises Licence will mitigate the concerns of those who had objected. The Sub-Committee

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

Having carefully considered the Sub-Committee papers and the submissions made by all of the parties, both orally and in writing, **the Sub-Committee has decided**, after taking into account all of the individual circumstances of this application and the promotion of the four licensing objectives:

1. **To grant permission for the amendment to the Opening hours are open to the Public** to benefit from the breakfast trade Monday to Saturday 08:00 hours and Sunday 10:00 hours. There are no seasonal variations.
2. **That Condition 10 on the Premises Licence is varied so that tables and chairs** can be left on the forecourt terrace until 23:00 hours each evening. This will be for a limited period until **30 September 2021** after which time tables and chairs shall revert back to the original timing of 20:30 hours as specified in Condition 8 below.
3. To add conditions in the terms specified below.
4. That the varied licence is subject to any relevant mandatory conditions.
5. That the existing conditions on the licence shall apply in all respects except in so far as they are varied by this Decision.
6. That the varied licence is subject to the following additional conditions imposed by the Sub-Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing

7. 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.
8. Up to and including 30th September 2021, the tables and chairs on the forecourt shall be rendered unusable by 23:00 each evening. For the avoidance of doubt and thereafter from 1st October 2021, the tables and chairs on the forecourt shall be rendered unusable by 20:30 each evening.
9. All staff shall be trained in relation to the above of drugs and alcohol on the premises.
10. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
11. Staff shall be trained in relation to Health & Safety and the Fire Safety requirements.

12. The premises shall be equipped with all necessary fire safety fittings and equipment.
13. All sales of alcohol for consumption 'off' the premises shall be in sealed containers only.
14. 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.
15. The supply of alcohol on the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
16. The supply of alcohol on the premises shall be by waiter or waitress service only.
17. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
18. There shall be no sale of draught beer.
19. No licensable activities or the consumption of alcohol shall take place in the basement.
20. The number of persons accommodated inside the premises at any one time (excluding staff) shall not exceed 100 persons.
21. All refuse must be properly presented and cannot be left on the highway for more than 2.5 hours.
22. 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.
23. 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.
24. There shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
25. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.

26. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
27. 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.
28. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
29. There shall be no sales of alcohol for consumption off the premises after 23.00.
30. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
31. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
32. 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.
33. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
34. 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.
35. The hours for sale of alcohol 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.
36. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is in operation. This telephone number and/or is to be made available to residents and businesses in the vicinity.
37. The Premises Licence Holder shall ensure that 1 member of staff is responsible for monitoring and managing the forecourt terrace area when the premises is in operation.

This is the Full Decision of the Licensing Sub-Committee which takes effect forthwith.

The Licensing Sub-Committee
24 June 2021

The Meeting ended at 2.00 pm

CHAIRMAN: _____

DATE _____