



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** Committee held on **Thursday 1st June, 2017**, Room 23.1 - 23rd Floor, Portland House, Bressenden Place, Westminster, London SW1E 5RS.

Members Present: Councillors Peter Freeman (Chairman), Susie Burbridge and Rita Begum

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

Councillor Rita Begum declared a prejudicial interest in respect of Clarendon Public House, 52 Cambridge Street as Councillor Adam Hug had written in support of the application on behalf of the Westminster Council Labour Group. She did not discuss the application with the Sub-Committee and took no part in the decision making process.

3 CLARENDON PUBLIC HOUSE, 52 CAMBRIDGE STREET, SW1

LICENSING SUB-COMMITTEE No. 5

Thursday 1st June 2017

Membership: Councillor Peter Freeman (Chairman) and Councillor Susie Burbridge

Legal Adviser: Horatio Chance

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Relevant Representations: In support - one Councillor and 38 x residents

Objecting - Environmental Health, 4 local residents.

Present: Mr Mark Browning (Solicitor, Representing the Applicant), Mr Justin Salisbury (owner), Jason Clark (Operations Manager), Mr Liam Judge

(General Manager), Lady Diana Brittan and Ms Julia Colt (local residents in support of application) and Ms Sally Thomas (Environmental Health).

Declaration: Councillor Rita Begum declared a prejudicial interest as Councillor Adam Hug had written in support of the application on behalf of the Westminster Council Labour Group. She did not discuss the application with the Sub-Committee and took no part in the decision making process.

Clarendon Public House, 52 Cambridge Street, SW1 17/03218/LIPV	
1.	Proposed removal of condition
	To remove condition 30 on the existing premises licence, which reads: 'The use of the basement is restricted to hotel residents and their bona fide guests only with a maximum of 4 guests per adult resident or to patrons who are eating in the restaurant'.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Mr Browning, representing the Applicant, and in advising the Sub Committee, referred to a large number of residents supporting the application with four residents objecting to the application. Mr Browning stated that some of the concerns set out in the written representations were in his opinion unfounded. These included the concerns that the Applicant was seeking to trade longer hours and that there would be extended use of the basement garden area. Mr Browning clarified that there were conditions which restricted the use of the garden with the doors to the garden kept closed after 20:00. The Applicant as a result of the condition on the existing premises licence would need to ensure that noise did not emanate from the basement to such an extent that it caused a nuisance. Mr Browning drew the Sub-Committee's attention to the premises being a hotel and there being an incentive to prevent noise being created in the basement so that guests were not upset. There is a restaurant on the ground floor. Mr Browning referred to the premises previously being a pub. It was proposed that the basement would be a bar with food available. Mr Browning placed emphasis on a number of the residents who had written in support of the application living in close proximity to the premises. He requested that two residents be able to address the Sub-Committee in support of the application and give evidence. Lady Brittan stated that she had lived in Alderney

Street for twelve years, a couple of minutes' walk from the premises. She valued the facilities on offer which she described as friendly, safe and not noisy. She said that she would not have entered the premises on her own in its previous incarnation as a 'rough' pub. It was difficult she believed to find a room as good as the basement of the premises for larger events. She had used the room a couple of times for her charity. She was not aware of any residents in the area objecting to noise at the establishment and it had been much noisier before when it had been a pub. In response to a question from the Sub-Committee, Lady Brittan stated that she visits the premises on average about once a fortnight. She had not witnessed any problems with noise or customers dispersing.

The Sub-Committee also heard from Ms Colt, who lives in Cambridge Street. She informed the Sub-Committee that she had not been keen to visit the Clarendon when it had been a pub as it was quite intimidating with a large crowd outside. When the premises had become a hotel/café she had found it welcoming and she visited for breakfast or lunch. Ms Colt stated that the Premises had benefited her quality of life in that it enabled her to be a part of the community due to her family circumstances. It was also possible to organise private events at the premises such as a children's birthday party.

Mr Browning added that there had been three Temporary Event Notices applied for in the basement of the premises up until 01:00 and there had been no issues. He did not believe that the Council's Noise Team had received any noise complaints in relation to the premises. He wished to reassure residents who did have concerns about the application that there would be no change in the style and nature of the operation and this would not result in any adverse impact on them.

The Sub-Committee heard from Ms Thomas, on behalf of the Council's Environmental Health department. She confirmed that there had been no recorded noise complaints received. She had maintained her representation in order to be of assistance to the Sub-Committee and to provide advice during the hearing in the event any objectors had been present. She advised that the Clarendon is not located in one of the Council's designated cumulative impact areas and the proposed removal of condition 30 was not contrary to the Council's policy. There is no direct access to the basement from the street. It could only be accessed via the restaurant and down the stairs. Ms Thomas referred to the condition on the existing premises licence that the maximum capacity is 60 people for the basement. She also informed the Sub-Committee that this is a well contained area and there was unlikely to be any noise breakout from the basement particularly when management were operating a hotel above.

The Sub-Committee asked Mr Browning whether it was the intention of the Applicant to operate the basement as a vertical bar for 60 people and remove the existing tables and chairs. Mr Browning replied that there would be a combination of people sitting and standing. Both the bar and snack menus and the restaurant menu were available to customers in the basement. There were private functions taking place currently, including cocktail parties. He sought to reassure the Sub-Committee that it would not be the vertical bar of the past when the Clarendon had been a pub. It was a different style of operation.

The Sub-Committee asked Mr Browning to comment on the written representation from Mrs Nickerson which had referred to the French windows being open into the rear garden with noise causing disturbance to the neighbours. Mr Browning replied that it was his understanding that there had been a function on a Sunday afternoon at approximately 17:00 hours and the condition on the existing premises licence stipulates that the windows must be closed at 20:00. It was stated that the doors were closed most of the time as the premises are air conditioned.

The Sub-Committee also requested further information on the comment from the same representation regarding noise from the premises' air conditioning units. Mr Browning replied that the units at the back of the premises were the ones being referred to. Sound attenuation measures had been taken in relation to these with the units being placed in insulation boxes. They complied with the statutory guidelines. Ms Thomas advised that she had visited the premises before the representation had been made so had not specifically taken a look at the units. It was the case that units needed to obtain planning permission. Residents had the option to call the Council's Noise Team and they would be able to visit the premises to inspect these units.

Members of the Sub-Committee in deciding to grant the application for the deletion of condition 30 on the premises licence considered that provided the Applicant ran the premises as set out at the hearing the application would promote the licensing objectives. Mr Browning had given assurances that the basement would not be run as a vertical drinking establishment and that there would not be a notable change in the business model. It was proposed that the basement would be operated with a relaxed lounge ambience.

The Sub-Committee noted that there had been no complaints to the Council's Noise Team and the premises appeared to be well run as suggested by residents who had written and spoken in support of the application. It was not proposed to increase the number of patrons in the basement (there is a capacity of 60) or operate longer hours there. Members also noted that the doors to the basement garden area would continue to be kept closed after 20:00 hours. The Sub-Committee was advised by Environmental Health that noise was unlikely to emanate from the basement as sound was well contained and it was in the interests of the Applicant to ensure that its hotel guests were not adversely affected.

There were a number of conditions on the existing premises licence which the Applicant was required to comply with in relation to the basement and the premises in general. In the event that noise did emanate from the premises and cause nuisance to local residents, the Sub-Committee recommended that the residents contact the Council's Noise Team. Any persistent lack of compliance with the conditions could potentially lead to a review of the premises licence.

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

price.

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

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

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

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Additional Conditions

9. 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.
10. All ground floor windows to the premises are to be kept closed after 21.00 hours.
11. All outdoor furniture to the forecourt is to be removed or rendered unusable after 21.00 hours each day.
12. No drinks shall be consumed in the ground floor forecourt area after 21.00 hours.
13. 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.
14. Waiter or waitress service is to be available to all persons seated at indoor tables and chairs.
15. Signs are to be displayed requesting patrons to not chain bikes to neighbours railings or drink in front of neighbours premises.
16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
17. After 21.00 hours the entrance door shall be kept closed except for the immediate access and egress of patrons.
18. Children under the age of 16 are permitted on the premises only when accompanied by an adult for the purpose of taking a table meal and will be off the premises by 21:30.
19. A sound limiting device shall be located in a separate and remote lockable cabinet from the volume control 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's Community Protection Department so as to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of officers from the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the applicant only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement with the Environmental Health Service.
20. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Services.

21. Any additional sound generating equipment shall not be used on the premises without being routed through the sound limiter device.
22. 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.
- 22b. 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 premise 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.
23. A mobile number of members of management at the premises shall be made available to any persons wishing to comment about the operation of the premises.
24. No loudspeakers shall be located in the ground floor entrance area or the basement garden.
- 25a. No refuse, including bottles, shall be moved, removed or transferred to or in outside areas between 2300 hours and 0800 hours.
- 25b. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 hours and 08.00 hours on the following day.
- 25c. No deliveries to or collections from the premises shall take place between 23.00 hours and 08.00 hours on the following day.
26. 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.
27. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
28. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
29. The ground floor 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 after 23.00, and
- (v) where alcohol shall not be sold or supplied, 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.

- 30. The number of persons accommodated at any one time (excluding staff) shall not exceed the following:

Ground Floor - 60 persons
Basement - 60 persons
With no more than 120 persons at any one time.
- 31. All drinks consumed within the forecourt area shall only be by patrons seated at tables.
- 32. The doors to the basement garden area shall be kept closed after 20.00 hours daily and no person shall use the garden after this time.
- 33. There shall be no more than 10 smokers using the basement garden area at any time.
- 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 doors shall be maintained effectively self closing and not held open other than by an approved device.
- 36. On the ground floor and basement there shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
- 37. 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.
- 38. 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.
- 39. Flashing or particularly bright lights on or outside the premises shall not cause

a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.

40. There shall be no more than 15 smokers in the forecourt area at any time which must be contained within a designated area to be shown hatched on the plan.

4 LA GOCCIA, THE PETERSHAM & THE DELI, KING STREET, COVENT GARDEN

LICENSING SUB-COMMITTEE No. 5

Thursday 1st June 2017

Membership: Councillor Peter Freeman (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

Legal Adviser: Horatio Chance
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, Metropolitan Police, Licensing Authority, 1 Amenity Society and 1 local resident.

Present: Mr Alun Thomas (Solicitor, Representing the Applicant), Mr Farhaan Mir (Director, Applicant Company), Mr Andy Hicks (Director, Capital and Counties), Ms Sally Thomas (Environmental Health), PC Bryan Lewis (Metropolitan Police) and Mr David Sycamore (Licensing Authority).

**La Goccia, The Petersham & The Deli, King Street, Covent Garden
17/03369/LIPN**

1. Late Night Refreshment (Indoors)

Monday to Saturday: 23:00 to 00:30

Amendments to application advised at hearing:

None.

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

This was an application for a new premises licence to operate two restaurants and a delicatessen ('deli') within the King's Court development. Mr Hicks informed the Sub-Committee that there was on site security at all times and there was a sizeable cleaning team there. The Capital and Counties development also had its own CCTV system. In response to a question from the

Sub-Committee, Mr Hicks advised that the external courtyard was in the region of 2000 square feet. Mr Thomas added that it was intended to have external seating in the courtyard for the two restaurants with a capacity of 30 for both of these areas. The external tables and chairs would be rendered unusable at 23:00 each day. Mr Hicks was also able to provide the information that the gated courtyard area would be closed from 00:30 to 06:00. Mr Thomas stated that this would mean that the restaurants would have to vacate at 00:30 and that this would prevent anti-social behaviour within the area. It was explained to the Sub-Committee that there would be retail units and residential units within the mixed development, including in a building above the restaurant. Mr Hicks said the strategy for the residential units were likely to be decided after the summer.

Mr Mir provided the Sub-Committee with some background information setting out the vision on the three premises which were the subject of the application. In respect of the Petersham restaurant, Petersham Nurseries had started as an operating garden centre in Richmond. A tea house had been added there and then a restaurant with a top chef, Skye Gyngell and then a retail store. It was the aim to run an a la carte restaurant in Covent Garden along the same lines as Petersham Nurseries. Mr Mir explained that there are three fundamental principles in relation to the operation. It cares about nature, the origins of the goods and also having a relaxed aesthetic. Mr Mir also spoke about La Goccia restaurant and the deli, the other premises being featured in the application which were all under the same ownership. La Goccia was intended to be a family friendly, open all day operation which would offer a menu of Italian small plates. The deli would have Italian products including pastas and cheeses.

Mr Thomas addressed the Sub-Committee on the requirements for the three individual premises. Off sales only were being sought for the deli. La Goccia and The Petersham were subject to the Council's model restaurant condition, MC66. Mr Thomas referred to off sales for the three premises commencing at 08:00 which is in keeping with the Council's Core Hours policy Monday to Saturday. In respect of the on-sales commencement hours, Mr Thomas commented that an earlier start time (08:00 had been applied for in respect of the three premises) was often granted for restaurants where alcohol such as champagne or a Bloody Mary was ancillary to a table meal as it was in this case.

Mr Thomas referred to an area of dispute between the Applicant and the parties objecting to the application being the terminal hour for alcohol of midnight Monday to Thursday which is half an hour beyond Core Hours. He commented that he was of the view the Applicant was within policy in terms of the use as the La Goccia and The Petersham are restaurants, notwithstanding that they are located in the West End Cumulative Impact Area. The proposed terminal hour for late night refreshment and closing time was 00:30 Monday to Saturday. The proposed closing time on Sunday was 23:00.

Mr Thomas said that the Responsible Authorities had initially made a representation because the Applicant had proposed to have the Council's Model Condition 38 on the premises licence. He had met officers and also Mr Kaner of Covent Garden Community Association. The Applicant had now offered the full restaurant condition MC66. He made the point that there is a holding bar. However, this could only be used prior to consuming a meal and customers

would have to be seated. There would be a maximum of 30 people in the bar area.

Mr Thomas referred to Mr Nicholson's written representation and his objection to the lateness of the closing time. Mr Nicholson had expressed concerns about intoxicated customers and Mr Thomas remarked on this point that there were no such issues at the Petersham Nurseries restaurant in Richmond and it was unlikely to happen at the London restaurant. Mr Nicholson had also expressed concerns that the application would set a precedent for bars in the neighbourhood who would want to increase their hours. Mr Thomas responded at the hearing that all applications were considered on their merits and the Sub-Committee was unlikely to grant an application for a bar down the road as a result of this application being granted. Mr Thomas stated that when he had met Mr Kaner, Mr Kaner was largely content with the application but wanted to ensure procedures regarding deliveries were in place.

Mr Thomas took the Sub-Committee through the updated proposed conditions. These included that off-sales from the deli area would only be permitted from 08:00 to 23:00 on Monday to Saturday and 10:00 to 22:30 on Sundays which was in keeping with Core Hours. He advised the Sub-Committee that there was a servicing plan under the planning permission. It was now proposed that there would be no deliveries, movement of waste or recyclable materials, including bottles and also collections of waste or recyclable materials, including bottles between 23:00 and 07:30. Mr Thomas added that Mr Kaner had requested that these did not take place between 20:00 and 08:00 but this was not acceptable to the Applicant.

Mr Thomas confirmed that it was not proposed that there would be any takeaway, which is set out in MC66 and was included elsewhere in the proposed conditions. He explained that he had included a works condition in the proposed conditions to take into account the phased opening of the three premises in the application. The Sub-Committee was advised that the deli would open first in September 2017 and the restaurants following suit in December 2017. He suggested that as the works progressed, the plans would be updated to show the areas that were ready and those that were not ready to operate. The whole area was hatched black at the moment as it was not ready to operate. When the deli was signed off, the hatching would be removed from the plan. When the restaurants were ready, the hatching there would be removed from the plan.

Mr Thomas wished to address the Sub-Committee on the Council's policy. He said that he anticipated that the Responsible Authorities' representations would refer to the hours for licensable activities being later than Core Hours Monday to Thursday and in respect of the opening times. It was the Applicant's case that restaurants in the main caused much less impact than other types of uses such as pubs and nightclubs. He took the view that restaurants in the Council's policy were generally encouraged and the Sub-Committee was more likely to be minded to grant beyond Core Hours. He referred to transport being accessible via the Covent Garden underground station. Only background music was played.

The Sub-Committee asked Mr Thomas and Mr Mir a number of questions. Mr

Mir was asked whether the food offer was similar to Petersham Nurseries. He replied that the food offer was bespoke to the King Street site. However, it would be the same calibre of food and sustainable. Mr Thomas and Mr Mir were asked about the access between the three premises. Mr Thomas advised that it was possible to go between the two restaurants. The holding bar existed for both restaurants. All the servicing and back of house facilities were shared. Mr Mir stated that he was looking to replicate the customer experience in Richmond – where there were two complimentary offers. The Petersham restaurant could be accessed from Floral Street. The holding bar was next to La Goccia but could be used for the Petersham. La Goccia could be accessed from King Street or Floral Street either via the alley or through the retail store. Both restaurants could also be accessed via the courtyard. In terms of the deli, Mr Thomas informed the Sub-Committee that it could be accessed via King Street or the courtyard or indirectly via Floral Street. Mr Thomas was asked about the security in relation to the restaurants. He replied that there were members of staff. It was confirmed that there were no SIA security staff because La Goccia and the Petersham were restaurants. The Petersham was more likely to be booked rather than customers walking in on the off chance.

The Sub-Committee asked Mr Thomas and Mr Mir whether there was any intention to have takeaway deliveries from the premises which could potentially cause nuisance to local residents. Mr Mir replied that there was no intention to have an arrangement with an external company for takeaway deliveries.

The Sub-Committee heard from the Responsible Authorities. PC Lewis stated that the Police had maintained their representation as the hours were beyond the Council's Core Hours in the West End Cumulative Impact Area. There were not any specific concerns in respect of crime and disorder.

Ms Thomas on behalf of the Council's Environmental Health department ("EH") confirmed that her representation was based on the premises being located in the West End Cumulative Impact Area and proposed hours being later than Core Hours. She referred to MC66 having been proposed and that the holding bar did have controls with customers only drinking there prior to a substantial table meal at either of the two restaurants and having to be seated. Ms Thomas asked Mr Thomas whether there was any plan to use the holding bar prior to a meal between 08:00 and 10:00 Monday to Sunday. He replied that it was unlikely to be a problem for the Applicant if the holding bar was not used prior to 10:00.

Ms Thomas also referred to there being no takeaway after 23:00 and no regulated entertainment. The Sub-Committee was advised that the courtyard would not be used for licensable activities after 23:00 and any alcohol consumed there would be ancillary to a substantial table meal.

Mr Sycamore for the Licensing Authority drew the Sub-Committee's attention to the fact that there was an overall capacity proposed in excess of 300 people. Even though Mr Thomas had sought to describe what was available in terms of transport and Capital and Counties security, it was still the case that a substantial number of people would be leaving the premises and dispersing into the West End Cumulative Impact Area. The Applicant needed to justify that the

application including the two restaurants would not add to cumulative impact. Mr Sycamore referred to paragraph 2.5.14 of the City Council's Statement of Licensing Policy setting out that 'new restaurant premises will generally be granted the core hours'. It was for the Sub-Committee to consider whether any hours should be granted beyond core hours. He welcomed that MC66 was now being proposed as a condition and that off-sales would now be in keeping with core hours. Mr Sycamore requested that the holding bar should be core hours which would encourage people to wind down. He also queried whether the deli complied with policy.

Mr Thomas provided clarification that the entire capacity was 330 people. This took into account La Goccia Restaurant 120 (plus 30 in the holding bar), The Petersham Restaurant 120 and two external areas for the restaurants each with a capacity of 30. This was believed to be more than the 300 permitted for planning and it would also be necessary to look at whether this was acceptable given the number of toilets.

Mr Thomas was given the opportunity to respond to the comments of the Responsible Authorities. He stated that the amended proposed hours for the deli were within core hours. The holding bar was within policy as it was being used prior to a meal. Given that the holding bar had to be used prior to customers consuming a substantial table meal the Applicant would not object to the holding bar being restricted to core hours.

A discussion ensued between Mr Sycamore and Mr Thomas as to whether the holding bar was separate from the restaurant and not compliant with Policy RNT2 (restaurants within the cumulative impact areas). Mr Wroe identified that there was some confusion with the amended condition 2 on the Applicant's proposed conditions as it began with 'notwithstanding condition 1' (condition 1 being MC66. However, Mr Wroe made the point that the indication from the Applicant at the hearing was that the holding bar was not a separate bar where customers could drink without food. It would only be used by customers prior to having a substantial table meal at one of the two restaurants. Mr Thomas confirmed that this was the intention of the Applicant.

After careful consideration of the application, the Sub-Committee granted terminal hours for the restaurants in line with the Council's Core Hours for the application (the hours granted were late night refreshment 23:00 to 23:30 Monday to Thursday and 23:00 to midnight Friday and Saturday; for off sales 08:00 to 23:00 Monday to Saturday and 10:00 to 22:30 on Sunday; for on sales 10:00 to 23:30 Monday to Thursday, 10:00 to midnight Friday and Saturday and 10:00 to 22:30 on Sundays and for the opening hours 08:00 to 23:30 Monday to Thursday, 08:00 to midnight Friday and Saturday and 08:00 to 22:30 on Sundays). The Sub-Committee also granted Core Hours for the deli which is in keeping with the amended hours proposed by the Applicant.

The Sub-Committee noted that as referred to by Mr Sycamore, the City Council's policy is that new restaurant premises will generally be granted Core Hours. The Sub-Committee had no reason to grant less than Core Hours as it appeared as though the premises were likely to be well run and managed, therefore promoting the licensing objectives. The Sub-Committee did not grant

the full hours applied for beyond Core Hours by the Applicant later in the evening as the Sub-Committee was not satisfied at this point in time that new premises with a substantial overall capacity of 330 would not add to cumulative impact in the West End Cumulative Impact Area.

The Sub-Committee also gave particular careful thought to the conditions. In relation to the holding bar, the Sub-Committee attached the condition that 'Notwithstanding condition 1 (9 below), in the area hatched on the attached plan, alcohol may be supplied and consumed by up to a maximum of 30 persons who are seated and dining at the premises prior to their meal'. The Council's model capacity condition was amended so that 'No licensable activities shall take place at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. Such capacity shall not exceed La Goccia Restaurant 120 (+30 in holding bar), The Petersham Restaurant 120 and two external areas for the restaurants 30 + 30'.

The Sub-Committee did not consider that it was necessary to have a condition which specifically reflected the phased opening of the three premises in the application. A condition was therefore attached on the basis that 'No licensable activities shall take place at the premises or part of the premises until the premises or part of the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the licence by the licensing authority'. The Sub-Committee were also keen to introduce a condition which prevented takeaway deliveries, which Mr Mir had indicated that he did not wish to pursue as this was likely to cause nuisance in an already densely populated area. The condition attached to the premises licence was 'No delivery service of food or drink shall be provided from the premises'.

2. Sale by retail of alcohol (On and Off)

Monday to Saturday:	08:00 to 00:00
Sunday:	08:00 to 22:30

Amendments to application advised at hearing:

The Applicant had agreed the Council's model restaurant condition, MC66, for La Goccia and The Petersham restaurants. The model restaurant condition sets out that there will be no off sales of alcohol after 23:00. The Applicant had also proposed a condition that off-sales from the deli area would only be permitted from 08:00 to 23:00 on Monday to Saturday and 10:00 to 22:30 on Sundays. The terminal hour for off sales Monday to Saturday was therefore being amended to 23:00 throughout the site for the two restaurants and the deli.

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

	The Sub-Committee granted 08:00 to 23:00 Monday to Saturday and 10:00 to 22:30 on Sunday for off-sales and 10:00 to 23:30 Monday to Thursday, 10:00 to midnight Friday and Saturday and 10:00 to 22:30 on Sundays for on-sales.
3.	Hours premises are open to the public
	Monday to Saturday: 08:00 to 00:30 Sunday: 08:00 to 23:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee granted 08:00 to 23:30 Monday to Thursday, 08:00 to midnight Friday and Saturday and 08:00 to 22:30 on Sundays.

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for

consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

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

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,

- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Additional Conditions

9. Within the areas marked 'La Goccia restaurant', 'The Petersham restaurant' and 'external courtyards' on the enclosed 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,
- 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, 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.

10. Notwithstanding condition 9, in the area hatched on the attached plan, alcohol may be supplied and consumed by up to a maximum of 30 persons who are seated and dining at the premises prior to their meal.
11. Within the area marked 'deli' the supply of alcohol shall be restricted to off sales only.
12. Off sales of alcohol from the deli area shall only be permitted from 08:00 to 23:00 on Monday to Saturday, and 10:00 to 22:30 on Sundays
13. 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.
14. 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.
15. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
16. All windows and external doors shall be kept closed after 23:00 hours, except for the immediate access and egress of persons.
17. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
18. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
19. Alcohol consumed outside the premises building shall only be consumed by patrons seated in the designated external seating area.
20. No drinks shall be taken outside after 23.00 hours.
21. All outside tables and chairs shall be rendered unusable by 23.00 each day.
22. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
23. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.30 hours on the following day.
24. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.30 on the following day.
25. No deliveries to the premises shall take place between 23.00 and 07.30 on the following day.
26. 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 sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.

27. The number of persons permitted in the premises at any one time (excluding staff) to be assessed agreed with the District Surveyor and ECHT.
28. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. Such capacity shall not exceed La Goccia Restaurant 120 (+30 in holding bar), The Petersham Restaurant 120 and two external areas for the restaurants 30 + 30.
29. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
30. A Challenge 21 or 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.
31. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
32. There shall be no self service of spirits on the premises.
33. 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.
34. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry 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.
35. 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.
36. 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
- g) any refusal of the sale of alcohol
- h) any visit by a relevant authority or emergency service.

- 37. No licensable activities shall take place at the premises or part of the premises until the premises or part of the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the licence by the licensing authority.
- 38. No delivery service of food or drink shall be provided from the premises.
- 39. No licensable activities shall take place in the basement.