



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** Committee held on **Thursday 9th April, 2015**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

Members Present: Councillors Tim Mitchell (Chairman), Louise Hyams and Aziz Toki

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 "26 GREEK STREET", 26 GREEK STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 9th April 2015

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams and Councillor Aziz Toki

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, Metropolitan Police and The Soho Society.

"26 Greek Street", 26 Greek Street, W1 15/00736/LIPV
Application adjourned.

4 SHACKFUYU, 14 OLD COMPTON STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 9th April 2015

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams and Councillor Aziz Toki

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, 3 local residents and a company representing residents

Present: Mr Jack Spiegler (Solicitor, representing the Applicant), Ms Dinah Meister (DPS & Operations Manager), Ms Cliona Coleman and Mr Ian Watson (Environmental Health) and Mr Drinkwater (in his personal capacity but also as Director of Profitsale Ltd, representing residents of Old Compton Street and Greek Court) and Mr Eric Babak (local resident).

Shackfuyu, Basement and Ground Floor, 14 Old Compton Street, W1 15/00761/LIPV	
1.	Proposed Variation of layout
	<p>Reconfiguration of the kitchen and restaurant bar area on the basement floor. The changes include the introduction of a bar counter in the area formerly designated as a kitchen.</p> <p>Note: There is no change to the ground floor plan.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee initially heard from Mr Spiegler, representing the Applicant. He explained that there were two aspects to the application. Firstly, it was proposed to remove the 'there shall be no draught sales of alcohol' condition in order to be able to sell Japanese beers on tap. He did not believe that any representations had been made objecting to this. Secondly, there was the reconfiguration of the kitchen and restaurant bar area on the basement floor. There were no changes to the ground floor layout. There was a kitchen and service bar in the existing basement layout in the plans and these were being swapped in the updated plans. This would lead to a reduction in the licensable area.</p> <p>Mr Spiegler wished to assure those present that there were conditions on the</p>

existing licence which ensured that the premises would continue to operate as a restaurant and there was no intention to amend these. The supply of alcohol at the premises would only be to seated customers having a table meal who would be served by waiter or waitress only. The bar in the basement would continue only to be accessible to customers having a meal. He requested that the Council's model restaurant condition was not imposed by the Sub-Committee as there were already restaurant conditions on the existing licence and he didn't think that it was appropriate in the circumstances. His client had agreed the Council's model conditions in respect of CCTV and maintaining an incident log with the Police to promote the licensing objectives should the Sub-Committee be minded to grant the application. A capacity of 25 had also been agreed with the Responsible Authorities in the basement. Mr Spiegler added that he had written to the residents setting out the position, including the food led nature of the operation. He did not believe that there was any adverse cumulative impact caused by the application in the West End Stress Area as there were no proposed changes to the hours for the licensing activities permitted on the existing licence, the licensable area was being reduced and model conditions had been agreed to promote the licensing objectives. In response to a question from the Sub-Committee, Ms Meister informed Members that there were 68 covers for the premises on the ground floor.

The Sub-Committee next heard from Ms Coleman for Environmental Health. She advised that her principal concern had been the loss of a secondary exit in the basement but after a site visit she had found that the arrangements were satisfactory. She had requested that the Council's model restaurant condition was applied but appreciated that the premises would in any event be required to operate as a restaurant with alcohol being ancillary to food and being served by waiter or waitress. The licensable area had been reduced and a capacity of 25 had been agreed for the basement. Her concerns had now been addressed. There was no need for the works conditions to be attached to the licence as this work had already been undertaken.

Mr Drinkwater addressed the Sub-Committee. He made the point that the plans suggested this was a proposed layout but the works had already been carried out. He was confused regarding the suggested decrease in licensable area because the previous operator had not used the basement as a bar area at all, despite the bar area being shown on the existing plans. Mr Spiegler responded that whilst the area had previously been used as a kitchen, the existing plans had permitted a bar area in the basement and the bar area on the updated plans was smaller than on the existing plans. Mr Spiegler confirmed that the application was retrospective as the works had been carried out when the application had been submitted. The Chairman explained to the residents that there were inherent risks to this approach with the Sub-Committee yet to make a decision on the application.

Mr Drinkwater stated that the fact that there was a bar being proposed in the basement created the potential for public nuisance and extra stress in the West End. Residents, including those living above the restaurant, wished to encourage businesses but maintain the character of the area. He also had some concerns that the style of the restaurant with 'fast food' could lead to a high turnover of customers.

The Sub-Committee asked Mr Drinkwater about his comments in his written representation that the fire doors which open onto Greek Court should only be used in an emergency. This was a condition on the existing licence and the Chairman wished to know whether there were issues arising from the fire doors. Mr Drinkwater replied that there had been problems with noise from the fire doors being open which had affected residents. The owners had generally been reasonable. He clarified that smokers from other restaurants were not able to use Greek Court as it was gated. The Sub-Committee asked the Applicant whether there would be any need to open the fire doors. Mr Spiegler replied that an upgrade of the air conditioning system was being installed and there were no issues with complying with the condition.

Mr Babak owns flats with windows facing Old Compton Street and his specific concern was that customers of Shackfuyu would drink alcohol in front of the premises and talk loudly. The Chairman advised him that the licensable area did not include an outside area and off-sales were not permitted. If glasses were taken outside this would be a breach of the premises licence and would be observed by licensing inspectors.

Mr Spiegler stated that his client resisted the description of the menu provided as 'fast food'. The average sitting time for customers was an hour and a half and there was no takeaway food. Mr Spiegler and Ms Meister were prepared to agree a condition proposed by the Sub-Committee that 'there shall be no takeaway of food or drink at any time'. In order to address any concerns regarding customers not having a meal after having a drink, a condition was agreed that the 'bar area shall only be used as a waiting area for customers waiting to be seated in the restaurant. Alcohol shall only be served to customers in this area who will be bona fide taking a substantial table meal in the restaurant'. Ms Meister described how the premises would operate in order that customers had a meal after consuming alcohol. There would be someone to meet and greet the customer with a seating chart. Customers would be given a buzzer whilst waiting for a table and would then be buzzed when the table was ready.

The Sub-Committee asked what draught beers the Applicant wished to sell. Ms Meister stated that it was envisaged that there would be only one single Japanese draught beer available to customers which was likely to be premium in terms of pricing. The Applicant was content for a condition to be attached to the licence that 'draught sales of alcohol shall be limited to a single Japanese beer'.

The Sub-Committee granted the application. Members fully appreciated that a retrospective application leads to concerns. However, whilst the previous management may not have operated a bar at the premises, this had been permitted under the existing licence. The licensable area in the updated plans had been reduced from the existing plans and there were no changes to the permitted hours for licensable activities. There were conditions on the existing licence which the Applicant would be required to comply with which ensured that the establishment would be a restaurant, the fire doors could only be opened in an emergency and there could be no drinking outside. The conditions on both the existing licence and the condition that the Applicant had agreed at the

	<p>hearing defined the bar as a holding bar prior to a table meal being consumed. If a new operator wanted to turn the premises into a bar it would be necessary to apply for a variation of the licence. Their scope would be severely limited by only one Japanese beer being permissible in terms of draught sales of alcohol.</p>
2.	Proposed Variation of Condition
	<p>To remove condition 18 on the current licence which reads:</p> <p><i>There shall be no draught sales of alcohol</i></p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>This was amended, following discussions at the hearing, to 'draught sales of alcohol shall be limited to a single Japanese beer'.</p> <p>See reasons for decision in Section 1.</p>

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 shall take all reasonable steps to 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 in a manner which carries a significant

risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children

- (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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (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;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) 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.
5. The responsible person shall ensure that no alcohol is dispensed 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).
6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
7. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) 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 a holographic mark.
8. The responsible person shall 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: 25ml or 35ml; and
 - (iii) still wine in a glass: 125ml; and
- (b) customers are made aware of the availability of these measures.

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.

Additional Conditions

9. Alcohol may be sold or supplied:

- (a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10:00 to 00:00.
- (b) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12:00 to 23:30.
- (c) On Christmas Day: 12:00 to 22:30;
- (d) On New Year's Eve, except on a Sunday, 10:00 to 23:00.
- (e) On New Year's Eve on a Sunday, 12:00 to 22:30.
- (f) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

NOTE - The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (b) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's

naval, military or air forces;

- (g) the taking of alcohol from the premises by a person residing there;
- (h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

- 10. Alcohol shall not be sold or supplied unless the premises have been structurally and bona fide used, or intended to be used, for the purposes of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises.
- 11. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
- 12. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- 13. The supply of alcohol shall be by waiter or waitress service only.
- 14. 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.
- 15. The supply of alcohol at 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. Draught sales of alcohol shall be limited to a single Japanese beer.
- 17. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
- 18. All tables and chairs shall be removed from the outside area by 23.00 each day.
- 19. Customers waiting for a table will be asked to wait in the bar area.
- 20. 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.

21. All extractor fans shall be switched off at 23:00 hours.
22. The bar area shall only be used as a waiting area for customers waiting to be seated in the restaurant. Alcohol shall only be served to customers in this area who will be bona fide taking a substantial table meal in the restaurant.
23. The bar is not allowed to have a name separate from the restaurant name.
24. The bar is only for customers waiting for their tables and not to be used as a separate space (e.g. not by customers not eating on the premises).
25. Greek Court shall not be used for storage, deliveries or refuse and the exit door to Greek Court shall not be used except in an emergency.
26. 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.
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 are 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 request
28. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any visit by a relevant authority or emergency service
29. The number of persons accommodated at any one time in the Basement shall not exceed 25 persons (excluding staff). The capacities are based on the drawings reference number 01/B-05.03.15
30. There shall be no takeaway of food or drink at any time.