



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** Committee held on **Thursday 20th July, 2017**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Tim Mitchell (Chairman), Susie Burbridge and Jan Prendergast

Also Present: Councillor Glenys Roberts

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 Councillor Glenys Roberts declared that she lived near the premises and would be addressing the Sub-Committee both in her capacity as a Ward Councillor representing local residents and as a local resident herself.

1 DEAN AND DELUCA, 117 MOUNT STREET, W1

LICENSING SUB-COMMITTEE No. 2

Thursday 20th July 2017

Membership: Councillor Tim Mitchell (Chairman), Councillor Susie Burbridge and Councillor Jan Prendergast

Legal Adviser: Horatio Chance

Policy Adviser: Chris Wroe

Committee Officer: Toby Howes

Presenting Officer: Heidi Lawrance

Relevant Representations: Environmental Health, a Ward Councillor and 10 local residents.

Present: Ms Clare Eames (Solicitor representing the Applicant Company), Mr John Barton (Chief Operating Officer UK, Applicant Company), Mr Ian Watson

(Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau, representing Dr Ahmed Tahoun), Dr Ahmed Tahoun (local resident and also representing Tetiana Torbina, Jacqueline Hurst, Bernard Looney, Ahmed Nassar and Mountcurzon) and Councillor Glenys Roberts (representing local residents as Ward Councillor and also addressing the Sub-Committee as a local resident).

Declarations of Interest: Councillor Glenys Roberts declared that she lived near the premises and would be addressing the Sub-Committee both in her capacity as a Ward Councillor representing local residents and as a local resident herself.

Dean And DeLuca, 117 Mount Street W1	
1.	Sale by retail of alcohol:
	<p>On sales:</p> <p>Monday to Saturday: 10:00 to 23:00 Sunday: 12:00 to 22:30</p> <p>Off sales:</p> <p>Monday to Saturday: 08:00 to 23:00 Sunday: 10:00 to 22:30</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>Ms Clare Eames (Solicitor representing the Applicant Company the “Applicant”) began by introducing Mr John Barton, Chief Operating Officer in the UK for the Applicant, Dean And DeLuca. Ms Eames had worked closely with Mr Barton and his team to ensure that the application would meet the licensing objectives. She stated that the Premises had formerly been a butchers and then referred to the photograph of the Premises, highlighting the entrance to the Premises. The Sub-Committee was advised that the new butchers was to the rear of the premises in a separate building and was not part of the licensed premises applied for in this application. The Committee was given to understand that as part of the community lease with Grosvenor Estate, the Applicant was required to provide a butchers to the community and to provide at least eight community events a year. Ms Eames stated that the hours applied for followed pre-application consultation with City Council officers and the application was within core hours, save for an early start for permitted retail of alcohol on Sundays. The Applicant had met with Ian Watson from Environmental Health to address issues relating to public safety and noise. Discussions had also taken place with PC Sandy Russell from the Metropolitan Police who had not made any representations.</p>

Ms Eames stated that a stakeholders meeting had been held between the Applicant, residents' associations and other community stakeholders in order to ensure people were aware of the Applicant's intentions and the application before the Sub-Committee reflected the discussions at this meeting. There had been changes to the application since the stakeholders meeting and further engagement with residents to alleviate their concerns. This included conditions stating that the provision of alcohol will be ancillary to the main use of the premises as a food retail store and that there be no deliveries between 23:00 to 08:00 hours Monday to Sunday, however the Applicant would desire an earlier permitted delivery time for fresh produce. Ms Eames stated that alternatively, deliveries could be made to the butchers if fresh produce could not be delivered at an earlier time, although the preference was to be able to deliver to the licensed Premises with an earlier permitted time. In respect of on sales of alcohol, a condition had been agreed that this commence no earlier than 10.00 hours Monday to Sunday, as opposed to 07:00 hours proposed originally. A further condition agreed included that alcohol shall only be sold for consumption on the Premises after 21:00 to persons attending a pre-booked, bona fide private function or event to which members of the public would not be permitted. Capacity conditions had also been agreed with Environmental Health limiting the basement capacity to 20 persons and to four persons for the proposed outside licensed area at any one time. Ms Eames advised that 10 seats were proposed for the basement and some people may be standing during private functions.

Ms Eames stated that Mr Barton was an experienced retail operator and that the Applicant fully intended to bring the former butchers back into life as a community asset. The Premises would offer around 1,200 products, including around 100 different wines or beers and this would not include spirits. Alcohol would account for around 5% of total sales, of which 87% would comprise of off-sales, and although alcohol sales was only a small element of the operation, it remained an essential component to it. The approach taken to the application was to treat it as if the Premises was located in a cumulative impact area, even though it was not. Ms Eames concluded her initial submission by stating that she felt that this approach, coupled with pre-application consultation with City Council officers and the conditions agreed following discussions with Environmental Health and residents would help the Applicant meet and promote the licensing objectives.

Mr John Barton (Chief Operating Officer UK, for the Applicant) then addressed the Sub-Committee and stated by way of background that Dean And DeLuca was a gourmet food-led brand that was established in 1977 in the USA. There were presently 57 stores worldwide and this application would establish the first store in Europe. Dean And DeLuca offered high quality food products, including dairy and bakery products and it had always been the intention to have a branch in Westminster as the company was a heritage brand and it was hoped that up to 10 more branches would open in locations in Europe in future. Mr Barton stated that the Applicant welcomed being responsible for returning a butchers to the area and although the company was mainly a food brand, it wished to offer a small element of alcohol to increase the customer offer. He reiterated that globally alcohol only accounted for 5% of sales and only 13% of that was on sales. The intention was to serve wine by the glass and this would be ancillary to

the food offer. With regard to food sources, Mr Barton advised that cheese would be sourced from Neil's Yard and coffee from Monmouth Coffee Company.

In reply to questions from Ms Eames, Mr Barton advised that if the concerns raised by residents turned out to be well founded, this would have a significantly detrimental effect on the Applicant's reputation and he appreciated the comments made by residents. He emphasised that the premises would not be a wine bar and the events specified in the application would be food-led. There would be eight community events per year as part of the community lease and if any more events were planned, this would be in consultation with Grosvenor Estate. Mr Barton felt that the majority of people who decide to buy wine at events would more than likely place an order for it to be delivered to them at a later date, as opposed to purchasing at the event itself.

The Sub-Committee sought clarification with regard to the number of events taking place after 21:00 each year. In acknowledging that the Premises would generally close at 21:00 save the events, it was asked whether the events would primarily be cheese and wine tasting or similar kind of events. Concerning deliveries, the Sub-Committee sought further information about the possibility of delivering at the butchers and at what earlier time would the Applicant wish to have deliveries of fresh produce. The Sub-Committee commented that a terminal hour of 23:00 hours was quite late for deliveries and collection of waste and asked the Applicant's views in how it could address concerns about public nuisance at this later hour, particularly as noise from motorcycle deliveries and waste and recycling would make a greater impact, thereby causing nuisance. The Sub-Committee welcomed the proposal to use Vegeware disposables that were biodegradable. Members asked whether the Applicant would consider undertaking deliveries only by bicycles or electric vehicles in order to reduce noise. Confirmation was also sought on the total number of tables and chairs in the external area and whether it was within the curtilage of the building.

Ms Eames advised the Sub-Committee that the Premises would only be used for private events after 21:00, some of which would include the eight community events as required by the community lease. The core trading hours would terminate at 21:00, save the events, from Monday to Saturday, although on Sunday it was likely that the Premises would close earlier at around 17:00. Ms Eames stated that deliveries would only take place at the butchers if the permission to deliver fresh produce to the premises earlier than 08:00 hours could not be obtained, and she further added that permission to deliver fresh produce from 07:00 hours would be desirable. She asserted that deliveries were not associated with licensable activities and that if a premises licence had not been applied for, deliveries could occur at any time. However, the scale of deliveries would be small and the hours for deliveries had been agreed with Environmental Health and there was no evidence that such small scale deliveries would cause public nuisance to residents. In respect of waste and recycling, there had also been discussions with Environmental Health and this was undertaken by third party operators, and so in Ms Eames view, this could not be licensed. However, she acknowledged that it was within the Sub-Committee's remit to amend the conditions relating to the hours for deliveries and waste and recycling collection if it considered that this would better serve the licensing objectives. Ms Eames confirmed that the condition agreed with

Environmental Health for the outside area limited the total amount of persons to four and four tables and chairs would be placed there. She also confirmed that the outside area was also within the curtilage of the building and therefore not part of the public highway.

Mr Barton stated that the Applicant would be happy to request that delivery companies use electric vehicles or bicycles. In relation to private events, in addition to the eight community events, he advised that there would be times when the Applicant would want to hold events specifically targeted at a food industry audience and a database of potential guests would be developed to assist in inviting the appropriate people to such events. On behalf of Mr Barton, Ms Eames indicated that the Applicant would be content to limit the number of events to up to four a month, although it was unlikely that there would be more than two events a month apart from in December and around Easter.

The Sub-Committee asked whether a definition of what constituted beer or wine had been drawn up and would the ground floor be excluded from use during the private events and what would be the capacity limit if it was used for events. In addition, Members asked what the maximum floor area for retail of alcohol on the ground floor was. With regard to the condition limiting alcohol to those attending a private event after 21:00, clarification was sought as to whether guests would wish to purchase alcohol for off sales, even when alcohol was supplied to them at the event at no cost. The Sub-Committee sought clarification as to whether the Applicant intended to provide a takeaway delivery service and commented that very well-known companies had been a source of public nuisance in a number of areas across Westminster.

Mr Chris Wroe (Policy Adviser) referred to an email on page 46 of the report from Ms Eames to Councillor Glenys Roberts which had indicated that the Premises would only be used after 21:00 hours for pre-booked, private functions which would take place in the basement area of the Premises where capacity is limited to 20 persons and off sales of alcohol would terminate at 21:00 hours. Mr Wroe then sought further clarification as to whether this constituted part of the Applicant's proposals.

In reply to the Committee's and Mr Wroe's queries, Ms Eames advised that it was not intended to use the ground floor for consumption of alcohol generally, however during events, the ground floor may be used in addition to the basement. She stated that the District Surveyor had not suggested a capacity limit in relation to the ground floor. Ms Eames advised that no more than 15% retail space would be used for alcohol products on the ground floor and alcohol would be ancillary to the use of the Premises as a food store. The Applicant stated to the Sub-Committee that the basement was more conducive to the consumption of wine than the ground floor. Ms Eames contended that private events were not licensable for the purposes of the 2003 Licensing Act, however the Applicant wanted the flexibility to provide off sales of alcohol during such events.

Mr Barton suggested a capacity of 30 persons for the ground floor and advised that it was intended to provide a takeaway delivery service between 09:00 and 18:00 hours and that this would mainly consist of deliveries to corporate

organisations as part of the Applicant's business model. Mr Barton added that there was no intention to use Deliveroo to carry out the takeaway deliveries and it was envisaged that most deliveries would take place between 11:00 and 15:00 hours.

Mr Ian Watson (Environmental Health) then addressed the Sub-Committee and advised that the City Council's waste and recycling collection times for Mount Street were 06:30 to 08:30 and 16:00 to 18:00 Monday to Sunday. He confirmed that the Premises was physically separate to the butchers and that the sale of alcohol would be restricted to the Premises only. Because of the location of the Premises in close proximity to a number of residents, the hours of operation needed to be extensively considered and Mr Watson felt that restricting use of the outside area, which was a private forecourt, to a terminal hour of 21:00 hours was appropriate in the circumstances. He confirmed agreement of conditions with the Applicant as referred to earlier by Ms Eames limiting on sales of alcohol from 10:00 to 21:00 Monday to Sunday, save when private, pre-booked events were taking place at the Premises and the provision of alcohol remaining ancillary to the main use of the Premises as a food retail store. Mr Watson advised that a capacity of 20 persons for the basement was appropriate as there was only a single means of escape in event of a fire. The capacity of persons for the outside area was also subject to waiter or waitress service and tables and chairs would be rendered unusable after 21:00 hours. With regard to the ground floor, Mr Watson advised that it was not usual to set a capacity limit for a retail space as customers would be constantly arriving and leaving. Mr Watson felt that the deliveries, waste and recycling collection and the outside area conditions would help limit potential public nuisance.

Mr Watson stated that the City Council actively encouraged Premises to use electrical vehicles and bicycles in respect of deliveries, whilst the intention of the Applicant to host private events would be limited and for internal use only, with up to a maximum of 50 persons in attendance in view of Mr Barton's reference to limiting the number of persons to the ground floor to 30 persons. It was noted that staff to customers ratio had not been specified in the application. Mr Watson suggested that conditions be added in respect of all off sales of alcohol being in sealed containers only and a condition restricting the total retail space for off sales of alcohol to 15%. Mr Watson suggested that as the outside area could not be used for consumption of alcohol after 21:00 hours, this area could only be used by smokers and he suggested that there be conditions specifying an appropriate number. Mr Wroe advised that model condition 17 could apply in respect of limiting the number of smokers, whilst model condition 57 could also apply to prevent guests from taking alcohol outside after 21:00.

Ms Eames advised that there would be approximately 10 staff on the Premises at any one time, with 80% located on the ground floor and 20% in the basement. It was not felt that a doorman was necessary during the private events in view of the limited numbers involved.

Mr Richard Brown (Solicitor, Citizens Advice Bureau, representing Dr Ahmed Tahoun) addressed the Sub-Committee and began by stating that although the issues raised had been partially addressed, concerns still, however, remained, particularly in respect of on sales of alcohol. Residents had assumed that the

private events would only take place in the basement and not on the ground floor in addition and this meant that the total capacity of persons attending such events had increased from 20 to 50 persons and he felt that this was likely to impact on the licensing objectives. In light of this, Mr Brown sought clarification with regard to BMI standards for WC provision. He stated that on sales of alcohol raised issues with respect to public nuisance, including noise from outside drinkers, smoking and dispersal upon closure of the Premises. Mr Brown felt that the condition stating that provision of alcohol remaining ancillary to the main use of the Premises as a food retail store was not appropriate in this instance as in effect customers could still consume alcohol without having any food. In addition, there was no condition requiring customers to be seated, which may give rise to vertical drinking. With regard to the external area, Mr Brown contended that although there were four tables and chairs on the plan, this would not necessarily reflect the eventual appearance of this area.

Mr Brown contended that although a licence application required a servicing condition, it was not the case that the Premises could undertake servicing activities at any hour if a Premises licence was not applied for as monitoring and enforcement could be undertaken through other legislation. In addition, non-licensable activities could be conditioned if they impacted upon licensable activities. Mr Brown stated that putting out empty bottles for waste and recycling would inevitably cause noise and other Premises in the area were also a source of noise through this activity. He acknowledged that the application was within core hours, however in his view because of the Premises location near a number of residential properties in the immediate area, he felt that the conditions proposed did not mitigate concerns about on sales of alcohol and so this aspect of the application should be refused. The Sub-Committee was advised that Residents were already experiencing noise and disturbance from customers drinking outside at two other licensed premises further down the street and this application would exacerbate this. Mr Brown referred to a Japanese statue in the area whose concept was to imbue quietness and tranquillity and he suggested that the application would impact upon this. He added that Dr Ahmed Tahoun had not been invited to the residents meeting organised by the Applicant even though Dr Tahoun lived close to the Premises. Mr Brown questioned whether the application complied with policies PB1 (public houses and bars outside a cumulative impact area) and PN1 (prevention of public nuisance) in the City Council's Statement of Licensing Policy. He stated that consideration of the application should take into account the licensing objectives and the overall interests of the community.

Dr Ahmed Tahoun (local resident and also representing Tetiana Torbina, Jacqueline Hurst, Bernard Looney, Ahmed Nassar and Mountcurzon) then addressed the Sub-Committee. Dr Tahoun began by identifying his property in relation to the application and stated that he had a view of Mount Street Mews from his rear window where he had concerns that customers from the Premises may cause noise and nuisance whilst drinking and smoking outside. Mount Street already suffered from noise caused by intoxicated customers from other licensed premises along the street. With regard to the Applicant Company's premises, Dr Tahoun asked how customers smoking outside would be regulated and he added that this would exacerbate the noise caused by customers from the other licenced Premises smoking in the Mews. Whilst he welcomed the

Premises selling freshly baked products and other fresh produce and the butchers, there were already plenty of other Premises in the area selling alcohol and residents did not wish to see another Premises also offering this product. Dr Tahoun stated that he had contacted the Applicant's head office in New York requesting who he should approach in relation to this application, however he had not received a response from them. He had only heard about the residents meeting at very late notice and a number of other residents had also not been invited. The Committee was advised that he had attended the meeting with Councillor Glenys Roberts and another resident to raise concerns about sale of alcohol and in particular on sales of alcohol, however these concerns still remained. Dr Tahoun was also concerned about the noise that would be generated from waste collection, particularly bottles, early in the morning.

Turning to the Premises' lease, Dr Tahoun stated that its purpose was to encourage community use and so he had concerns about private events, which he felt should cease by 19:00 and that there needed to be further clarity on what constituted a private event in any case. Dr Tahoun concluded by stating that Mount Street was getting noisier and the nature of the street was changing from what had originally been a quiet, residential street and he felt that this application would only increase noise and disturb residents further. In addition, he was concerned that should the Applicant move out of the Premises in future, the proposed conditions on the Premises licence would allow a future owner to operate a drinks-led establishment that would cause greater disturbance to residents.

Councillor Glenys Roberts (representing local residents as Ward Councillor and also addressing the Sub-Committee as a local resident) began by stating she was also representing the priests who lived above Scott's restaurant in Mount Street. The priests daily schedule involved early morning starts and retiring early to bed and the application could add to the disturbances they already experienced. Councillor Roberts explained that all Premises above the shops and restaurants in that stretch of Mount Street were residential and because the building was Grade I listed, double glazing could not be installed to help mitigate noise. Residents had been told that the Premises would be an amenity store which was welcomed as there was a lack of options in terms of food shopping. Councillor Roberts stated that there had been a proliferation of licensed premises in Mount Street and in the Mayfair area generally and although the Applicant had stated that the products on offer would be high quality, this would not prevent significant consumption of alcohol and as the application stood, it could nonetheless, become a wine bar. There were a number of residents living in Mount Street Mews and the possibility of customers drinking outside the Premises would cause noise and disturbance.

Councillor Roberts expressed concern about community events and she suggested that these should be limited to eight a year by condition. For private events going beyond 21:00 hours, Councillor Roberts suggested that these be limited to a maximum of one per month as noise would easily spread through the buildings. She asked whether the Premises would be soundproofed, which would be particularly important if the ground floor was also to be used for events, otherwise the Premises would not be fit for purpose. Councillor Roberts felt that a door supervisor should be employed each time the Premises hosted an event

and customer numbers should also be limited, whilst no alcohol should be consumed without food. Councillor Roberts informed the Sub-Committee that she had made attempts to help the Applicant by suggesting that they use a Berwick Street market trader for some of the fresh produce. She queried why fresh produce needed to be delivered before 08:00 hours and why waste and recycling had later hours proposed than Scott's restaurant. She also felt that there should be a bottle cruncher in the basement of the Premises. In respect of takeaways, Councillor Roberts suggested that this be undertaken by the Premises' own staff, whilst the number of outside smokers should be limited because of the nuisance caused by noise and the smoke itself. Councillor Roberts also felt that the tables and chairs should be taken inside the Premises after 21:00 hours, as otherwise people may still use them and this may also attract rough sleepers and street drinkers. Councillor Roberts stated that priests may not be happy with Sunday opening. Councillor Roberts concluded by stressing that the Applicant should take note of residents' strength of feeling.

In response to the representations, Ms Eames emphasised that the Premises would operate as a delicatessen and that alcohol consumption would be ancillary to food. On behalf of the Applicant, Ms Eames stated that they would be happy to limit the number of customers in the outside area of the Premises to four people and also to limit the number of smokers. In respect of pre-booked, private events, Ms Eames suggested that this could be limited to around 20 a year. The Applicant would also accept a condition for off sales of alcohol to only be permitted in sealed containers. In respect of alcohol products on the ground floor, Ms Eames stated that this would be limited to up to 15% of total retail space and she reiterated that it was anticipated only 5% of total sales would be for alcohol products, of which only 13% would be on sales of alcohol.

The Sub-Committee remarked that the Dean And DeLuca store in Soho, New York, closed at a much earlier time with both the shop and café closing at 17:00. Clarification was sought with regard to W/C provision and soundproofing.

In reply, Ms Eames confirmed that there was one toilet in the basement and arrangements would be made to ensure all customers had access to it. Mr Watson advised that no W/Cs were required under British Standards 6465 for Premises with a capacity of up to 16 persons, however as the capacity of these Premises exceed that number, W/C provision was required. He advised that Environmental Health had not yet been in discussions with the Applicant in respect of building works, although this could take place in future and he was aware that there were noise sensitive issue. He added that there was also a condition proposed that no noise nor vibration shall emanate from the premises which gives rise to nuisance, and so it was expected that the Applicant make appropriate arrangements to ensure that this condition was adhered to.

Following the Sub-Committee going into closed session to consider the application, the Sub-Committee then re-convened to clarify the Applicant's intentions in respect of takeaway deliveries.

In reply, Ms Eames stated that takeaway deliveries would mainly take place between 11:00 and 15:00 hours each day. Ms Eames and Mr Barton both agreed to the Chairman's suggestion that takeaway deliveries be restricted to

09:00 to 18:00 hours Monday to Sunday.

Following a further closed session, the Sub-Committee indicated that they were all in agreement with the proposed condition in respect of takeaway deliveries.

The Sub-Committee granted the application, subject to the terminal hour for the Premises to be open on Sunday be amended to 22:30 in order to be within core hours. The Sub-Committee amended the proposed private functions and events condition by restricting the number of pre-booked, bona fide private functions and events to 20 per calendar year and a maximum of three functions and events in any given month. The condition was amended in order to address the concerns of local residents about the frequency of alcohol consumption on the Premises later in the evening that may give rise to public nuisance through noise and disturbance and the Sub-Committee also noted that Ms Eames had suggested at the hearing a limit of 20 events a year. To address residents' concerns about alcohol consumption on the ground floor and the potential for the noise and disturbance it may cause, conditions were added limiting the number of persons consuming alcohol to 10 persons, apart from when pre-booked, bona fide events or functions that finish after 21:00 hours were taking place, where the maximum number of persons on the ground floor was limited to 30 persons. The Sub-Committee noted that the Applicant had suggested at the hearing a capacity of 30 persons on the ground floor during events.

The Sub-Committee also amended the condition in respect of the external seated area to limit the maximum number of persons to four and added conditions restricting the number of smokers in the outside area to five persons and that staff monitor the number of outside smokers after 21:00 hours and ensure that the smokers remained outside the front of the Premises. These conditions were amended and added to address residents' concerns about being disturbed by customers drinking or smoking outside and it was noted that Ms Eames had stated at the hearing that a capacity of four persons for the outside area had been agreed with Environmental Health. The condition relating to the outside tables and chairs was also amended so that all tables and chairs be removed from the outside area by 21:00 hours each day in order to address Councillor Roberts' concerns that the outside tables and chairs may still be used after this time and following the Applicant's confirmation at the hearing that they would be able to move the outside tables and chairs inside the premises after this time.

In respect of addressing residents' concerns about noise and disturbance at later hours caused by waste and recycling, conditions were amended and added so that no waste or recyclable materials including bottles be moved, removed or placed in outside areas and no collections of waste or recycling materials, including bottles, take place between 20:00 and 08:00. The Sub-Committee also noted that the City Council's later waste collections for Mount Street were 16:00 to 18:00 each day and so it considered that the Applicant would be able to fulfil this condition. The Sub-Committee amended the condition in respect of deliveries so that fresh produce could be delivered from 07:00 in order to assist the Applicant's need for such products to arrive earlier and noted that Ms Eames had suggested at the hearing that 07:00

would be desirable, whilst the terminal delivery hour was amended to an earlier hour of 21:00 in order to address residents' concerns about being disturbed by noise from deliveries at later hours. The Sub-Committee added a condition that no more than 20% of the whole floor area shall be used for the sale or display of alcohol and noted that the Applicant had indicated at the hearing that this was an acceptable percentage. The model condition in respect of the manager's telephone number being made available to the public was added and this also included the manager's email address, following the Applicant's confirmation at the hearing that they would also be happy to provide an email address. The Sub-Committee also added a condition limiting the hours for delivery of takeaways between 09:00 to 18:00 each day following the Applicant's confirmation at the hearing that these hours were acceptable to them.

The Sub-Committee added an informative that the Applicant shall use best endeavours to use environmentally friendly vehicles such as electrical vehicles, for delivering takeaways, as well as using their own staff to undertake these deliveries, in order to minimise noise caused by deliveries and noted that the Applicant had indicated at the hearing that they would be willing to make such efforts.

It was noted by the Committee that some residents had raised generic concerns focusing on speculative reasons as to what may happen if the application is granted. It was the Sub-Committee's considered view that some of those reasons were vague and did not have a causal link to the application. In addition, the Sub-Committee has to be presented with evidence that is likely to undermine the licensing objectives. The evidence presented was not sufficient enough for the application to take the view that the application should be refused as had been suggested by those objecting. The Sub-Committee carefully considered the evidence presented by all parties on its own merits and concluded that the application should be granted with conditions attached to the licence.

In determining the application, the Sub-Committee acknowledged that the application was within core hours and not within a cumulative impact area, however the Premises was also in close proximity to a number of residents and it was accepted that the Premises was situated in a residential area with special character. The Sub-Committee considered, however, that the conditions as added or amended would help address residents' concerns in respect of public nuisance and assist the Applicant in upholding the promotion of the licensing objectives (prevention of crime and disorder, prevention of public nuisance, public safety, and protection of children from harm). The Sub-Committee considers that these conditions are appropriate and proportionate to promote the licensing objectives.

2. Hours premises are open to the public

Monday to Saturday:	07:00 to 23:30
Sunday:	07:00 to 23:00

	<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>Granted, subject to the opening hours for Sunday being amended to 07:00 to 22:30 and to conditions as set out below (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 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. 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.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the 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.
11. The supply of alcohol for consumption 'On' the premises shall not commence before 10:00 hours Monday to Saturday and 12:00 Sunday.
12. The supply of alcohol for consumption 'On' the premises shall be by waiter or waitress service.
13. 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. After 21.00 hours alcohol shall only be sold for consumption 'On' or 'Off' the premises by persons attending a pre-booked and bona fide private function or event to which members of the public are not admitted. A register of the event, organiser number and names of persons attending

the event shall be kept at the premises and made available for immediate inspection by police or an authorised officer of the Council. The number of such events shall be limited to a maximum of 20 per calendar year and not more than 3 in any one month.

15. Save for persons attending pre-booked, bona fide private events or functions which finish after 21:00, the number of persons consuming alcohol on the ground floor of the premises building shall be limited to a maximum of 10 persons at any one time.
16. At pre-booked, bona fide private events or functions that finish after 21:00, the number of persons permitted on ground floor shall not exceed 30 persons not including staff at any one time.
17. At pre-booked, bona fide private events or functions that finish after 21:00, staff will be located in close proximity to the front entrance of the premises to manage the number of outside smokers after 21:00 and ensure that they remain outside the front of the premises whilst smoking.
18. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following :
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any visit by a relevant authority or emergency service.
19. No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises except for premium beers sold in glass bottles.
20. The number of persons permitted within the basement at any one time (excluding staff) shall not exceed 20 persons.
21. The Licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
22. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and

the Licensing Authority.

23. 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.
24. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
25. 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.
26. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
27. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
28. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
29. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables and limited to 4 persons
30. There shall be no self-service of alcohol on the ground floor of the premises.
31. All tables and chairs shall be removed from the outside area by 21:00 each day.
32. After 21:00, patrons permitted to temporarily leave and then re-enter the premises, e.g to smoke, shall be limited to 5 persons at any one time.
33. 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.
34. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
35. No more than 20% of the whole floor area shall be used at any one time for the sale, exposure for sale, or display of alcohol.

36. 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
37. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
38. A direct telephone number and email address for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and email address is to be made available to residents and businesses in the vicinity.
39. 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.
40. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 20.00 hours and 08.00 hours.
41. No collections of waste or recycling materials (including bottles) from the premises shall take place between 20.00) and 08.00 on the following day.
42. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
43. Save for fresh produce delivered between 07:00 and 08:00 hours, no deliveries to the premises shall take place between 21.00 and 08.00 hours.
44. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
45. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
46. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for

inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premise is open.

47. The premises shall be used primarily as a retail gourmet delicatessen and the provision of alcohol shall remain ancillary to the main use of the premises as a retail gourmet delicatessen.
48. Delivery of takeaways shall only be permitted between 9:00 and 18:00 Monday to Sunday.

2 HILTON LONDON PADDINGTON HOTEL, 146 PRAED STREET, W2

LICENSING SUB-COMMITTEE No. 2

Thursday 20th July 2017

Membership: Councillor Tim Mitchell (Chairman), Councillor Susie Burbidge and Councillor Jan Prendergast

Legal Adviser: Horatio Chance

Policy Adviser: Chris Wroe

Committee Officer: Toby Howes

**Hilton London Paddington Hotel, 146 Praed Street W2
17/05777/LIPV**

Application withdrawn by the Applicant prior to the hearing.

The Meeting ended at 2.30 pm

CHAIRMAN: _____

DATE _____