



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 14th December, 2017**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Angela Harvey (Chairman), Louise Hyams and Karen Scarborough

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

Councillor Louise Hyams declared in respect of PF Changs that 10-11 Great Newport Street is located within the ward she represents, St James's. It was stated that sitting in on the application would not affect her ability to consider the application with an open mind and free from any bias.

3 BASEMENT AND GROUND FLOOR, 88 GREAT PORTLAND STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 14th December 2017

Membership: Councillor Angela Harvey (Chairman), Councillor Louise Hyams and Councillor Karen Scarborough

Legal Adviser: Horatio Chance

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Daisy Gadd

Relevant Representations: Environmental Health, 1 Residents' Association and 10 residents.

Present: Mr Charles Holland (Counsel, representing Applicant), Mr Jonathan Millet (Director, Applicant Company), Mr Maxwell Koduah (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing

Advice Project – on behalf of 5 residents), Mr Daniel Laydon and Ms Agata Duda (local residents).

**Basement and Ground Floor, 88 Great Portland Street, W1
17/11140/LIPN (“The Premises”)**

The application was adjourned by the Licensing Sub-Committee in accordance with Regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005 (“The Regulations”) on the grounds that it was in the public interest to give the parties the opportunity to discuss the application, including proposed conditions. There were matters that had been discussed between the Applicant and Environmental Health, which the Applicant had tabled as an additional document by way of conditions at the hearing, and which had not previously been seen by the Sub-Committee or local residents. It was the considered view of the Licensing Sub-Committee that on balance the parties should be given sufficient time to consider the evidence and raise any issues with the Applicant. This was to ensure that neither party was prejudiced. It was hoped that during this time period any outstanding issues or points of clarification between the parties would be dealt with.

It was agreed that arrangements would proceed for the application to be considered by the Sub-Committee, reflecting the discussions of the parties, at the next meeting scheduled to take place on 21 December 2017.

One matter which was discussed at the meeting prior to the application being adjourned was that the parties to the hearing were content for the revised plans submitted on 12 December by the Applicant to be the ones considered rather than the plans originally submitted by the Applicant. These included the changes to the toilets in the basement area of the Premises.

4 PF CHANGS, 10-11 GREAT NEWPORT STREET, WC2

LICENSING SUB-COMMITTEE No. 5

Thursday 14th December 2017

Membership: Councillor Angela Harvey (Chairman), Councillor Louise Hyams and Councillor Karen Scarborough

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

Relevant Representations: In support – 1 representation from an individual who is employed in the area.

Objecting to the application - Environmental Health, Licensing Authority, 2 local residents.

Present: Mr Jack Spiegler (Solicitor, representing the Applicant), Mr Barry Cook (Applicant Company), Mr Maxwell Koduah (Environmental Health) and Ms Shannon Pring (Licensing Authority).

Declaration: Councillor Louise Hyams declared that 10-11 Great Newport Street is located within the ward she represents, St James's. It was stated that sitting in on the application would not affect her ability to consider the application with an open mind and free from any bias.

PF Changs, 10-11 Great Newport Street, WC2 17/10875/LIPV ("The Premises")	
1.	Sale by retail of alcohol (Off)
	<p>Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 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 Gadd in presenting the item advised that the Applicant and Environmental Health had agreed an amendment to Condition 36 in the report that 'patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, including those seated in an area appropriately authorised for the use of tables and chairs on the highway, shall be limited to 12 persons up to 23:00 and 8 persons thereafter'. She also informed the Sub-Committee that the Police's concerns had been addressed and they had now withdrawn their representation.</p> <p>The Sub-Committee initially asked Mr Spiegler, representing the Applicant, whether he had any objections to Councillor Hyams considering the application. PF Changs is located in the ward she represents, St James's. Mr Spiegler advised the Sub-Committee that he had no objections to Councillor Hyams considering the application.</p> <p>The Sub-Committee heard from Mr Spiegler in respect of the application. He explained that this was an application for a variation of the premises licence to add off sales of alcohol. It was stated that the Applicant had been granted planning permission and a highways licence to place 4 tables and 8 chairs in the external area and sought to sell alcohol to customers there. The Applicant was also requesting to sell alcohol ancillary to a takeaway meal. There were no proposed changes to the operating hours inside the Premises.</p> <p>Mr Spiegler also sought to provide some clarification regarding the conditions. He supported Environmental Health's requested removal of the works condition</p>

on the existing premises licence in the event the Sub-Committee was minded to grant the current application as Environmental Health had inspected the Premises as required in the condition. He confirmed that the Applicant and Environmental Health had agreed the amended Condition 36 read out by the Presenting Officer. Mr Spiegler stated that in keeping with the agreed condition the use of the furniture outside would stop at 23:00. It could not be accessed by smokers after this time. Condition 38 in the report had been proposed by the Applicant and it was sought that Condition 10 on the existing premises licence would therefore be removed. Condition 10 had not permitted off sales. Condition 38 sought off sales either in sealed containers or to customers using the designated external seating areas. Mr Spiegler advised that proposed conditions 39-43 as listed in the report had been agreed.

Mr Spiegler referred to the three written representations received that were not from the Responsible Authorities. He made the point that the first representation listed was from an individual who is employed in the area and he had written in support of the application. The individual had expressed the view that the application might 'help to reduce disorderly behaviour which would benefit local businesses'. Of the two written representations submitted by residents objecting to the application, Mr Spiegler commented that these did involve matters outside the scope of the application including cooking smells and that the tables and chairs would be a major obstacle on the narrow street. The latter was a matter that had been considered when the external tables and chairs permissions had been granted. The Applicant had written to the residents in response to their stated concerns.

Mr Spiegler addressed the Sub-Committee on the Council's policy. He referred to the Licensing Authority's representation focussing on the Premises location in the West End Cumulative Impact Area. Mr Spiegler made the point, in response to the Licensing Authority's concern that the increase in capacity would lead to an increase in the cumulative impact, that the seating was already situated in the external areas and what was being requested was that customers were able to be served alcohol there. He added that in the event alcohol was permitted to be sold to customers in the external areas there would be controls on the activity. He believed that the proposed conditions were in keeping with the Council's policy RNT2 for restaurants in the cumulative impact areas. The hours for off sales were consistent with the Council's Core Hours policy except for Sundays. Mr Spiegler offered a terminal hour for the use of the tables and chairs of 22:30 on Sundays which was in keeping with the proposed terminal hour for off sales and the Council's Core Hours policy.

Mr Spiegler also advised the Sub-Committee that the minimum capacity had recently been 165. A few months ago the Applicant had voluntarily reduced the capacity to 136 in accordance with the amended layout. He said that even taking into account the additional 8 people outside the capacity was significantly less than previously and was overall a reduction in cumulative impact.

Mr Spiegler sought to reassure the Sub-Committee that there was a requirement for the external tables and chairs permissions to be renewed every six months and in the event there were issues, these permissions would potentially not be given going forward.

The Policy Adviser asked Mr Spiegler whether it was in his opinion compatible for proposed Conditions 38 and 43 in the report to have both been agreed between the Applicant and Environmental Health given that Environmental Health's proposed condition (Condition 43) set out that off sales would be restricted to the external seating areas only whereas the Applicant's condition requested off sales to be available ancillary to a takeaway meal in addition to the external seating areas. The Policy Adviser also asked whether Mr Spiegler wished to retain Condition 38. Mr Spiegler replied that the Applicant had a preference for Condition 38 but was happy with the spirit of the additional controls proposed in Condition 43 for the external seating areas. He added that if it assisted, the Applicant was content for only Condition 43 to be attached to the premises licence rather than Condition 38. The primary aspect of the application was to seek the sale of alcohol in the external seating areas.

The Sub-Committee heard from Ms Pring on behalf of the Licensing Authority. She confirmed that the Licensing Authority had maintained their representation as the Premises is located in the West End Cumulative Impact Area. In particular, the representation was due to the 8 additional people being served alcohol in the external seating areas. She said that it was for the Sub-Committee to consider whether granting the application would have a detrimental impact on the Cumulative Impact Area.

The Sub-Committee was also addressed by Mr Koduah on behalf of Environmental Health. He advised that the original correspondence with the Applicant had been on the basis that off sales were only required for the external seating areas and this was why he had proposed Condition 43 as set out in the report. Condition 43 should replace Conditions 38, 39, 41 and 42. He confirmed that there was an amended Condition 36 read out by the Presenting Officer, Ms Gadd.

The Sub-Committee, having carefully considered all the representations, granted the application accordingly. The Sub-Committee, in reaching this decision, took into account that the proposed conditions would promote the licensing objectives (these included the limitations on smokers and the reduction in the proposed hours for the use of the tables and chairs on Sundays) and that the sale of alcohol would be ancillary to a substantial table meal in keeping with the Council's policy RNT2. There was therefore no presumption against the application in respect of the Council's policy. Mr Spiegler had clarified that the Applicant was content for Environmental Health's Condition 43 in the report to be attached to the premises licence and not Condition 38 where the Applicant had also sought alcohol ancillary to a takeaway meal. The removal of this condition meant it was not inconsistent with the Council's model restaurant condition MC66. The Sub-Committee was satisfied that the application based on the written and oral evidence was unlikely to add to cumulative impact. The Sub-Committee noted the recent reduction in capacity from 165 to 136.

In addition to Condition 38 as set out in the report not being attached to the premises licence, the Sub-Committee also removed Conditions 38, 39, 41 and 42 as requested by Environmental Health. Condition 10 as set out in the report was removed as requested by the Applicant as it had prohibited off sales.

	<p>The Sub-Committee considered that the conditions imposed on the Premises Licence are appropriate and proportionate and will promote the licensing objectives.</p>				
<p>2.</p>	<p>Conditions being varied, added or removed</p>				
	<p><u>Condition being varied</u></p> <table border="0"> <tr> <td data-bbox="268 501 347 539"><u>From</u></td> <td data-bbox="842 501 884 539"><u>To</u></td> </tr> <tr> <td data-bbox="268 573 815 831"> <p>Condition 37</p> <p>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.</p> </td> <td data-bbox="842 573 1374 797"> <p>Except for persons using designated external seating areas, 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.</p> </td> </tr> </table> <p><u>Condition being removed</u></p> <p>Condition 10</p> <p>Apart from customers being permitted to take alcohol from the premises in accordance with condition 9 above, there shall be no sales of alcohol for consumption off the premises.</p> <p><u>Conditions being added</u></p> <ul style="list-style-type: none"> (i) Proposed condition 38 - Apart from customers being permitted to take alcohol from the premises in accordance with condition 9, the sale of alcohol for consumption off the premises shall be either in sealed containers only and ancillary to a takeaway meal; or to persons using designated external seating areas. (ii) Proposed condition 39 - Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables. (iii) Proposed condition 40 - All outside tables and chairs shall be rendered unusable by (23:00) each day. 	<u>From</u>	<u>To</u>	<p>Condition 37</p> <p>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.</p>	<p>Except for persons using designated external seating areas, 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.</p>
<u>From</u>	<u>To</u>				
<p>Condition 37</p> <p>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.</p>	<p>Except for persons using designated external seating areas, 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.</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 granted the amendment to Condition 37 in the report and the deletion of Condition 10. The Sub-Committee did not attach Conditions 38</p>				

and 39 to the premises licence. The Sub-Committee, taking Mr Spiegler's amended proposed terminal hour on Sunday into account, amended Condition 40 to 'all outside tables and chairs shall be rendered unusable by 23:00 Monday to Saturday and 22:30 on Sunday'.

See reasons for decision in Section 1.

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 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 above, alcohol may be supplied and consumed by customers prior to their meal in the bar area, in the area hatched red and shown on plan number 010 Rev.B, by up to a maximum at any one time of 15 customers in this area.
11. The premises will be laid out with a minimum of 136 covers at all times.
12. 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 entire 31 day period.
13. 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.

14. 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 premises is open.
15. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all 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, searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
16. 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.
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. 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.
19. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
20. No recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
21. All exit doors to the premises will remain closed after 23:00 hours except for entrance and egress.
22. Excluding staff, the number of persons permitted in the premises at any one time shall not exceed 136 persons, with no more than 30 in the basement at any one time.
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. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or

affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.

25. 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.
26. 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.
27. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
28. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
29. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
30. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
31. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
32. 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.
33. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
34. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, including those seated in an area appropriately authorised for the use of tables and chairs on the highway, shall be limited to 12 persons up to 23:00 and 8 persons thereafter at any one time.
35. Except for persons using designated external seating areas, 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.
36. All outside tables and chairs shall be rendered unusable by 23:00 Monday to Saturday and 22:30 on Sunday.
37. The sale and supply of alcohol for consumption off the premises shall be

restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.

5 CONTINENTAL FOOD & WINE, 24 CRAVEN ROAD, W2

LICENSING SUB-COMMITTEE No. 5

Thursday 14th December 2017

Membership: Councillor Angela Harvey (Chairman), Councillor Louise Hyams and Councillor Karen Scarborough

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

Relevant Representations: Environmental Health, Metropolitan Police, 1 Ward Councillor, freehold owner of property in the area and 1 local amenity society.

Present: Mr Graham Hopkins (Licensing Agent, representing the Applicant), Mr Velalakan Thuraisingam (Applicant and Designated Premises Supervisor), PC Sandy Russell (Metropolitan Police), Mr Maxwell Koduah (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – on behalf of South East Bayswater Residents' Association 'SEBRA') and Mr John Zamit (Chairman, SEBRA)

**Continental Food & Wine, 24 Craven Road, W2
 17/10969/LIPV ("The Premises")**

1. Sale by Retail of Alcohol (Off)

<u>From</u>	<u>To</u>
Monday to Saturday 08:00 to 23:00 Sunday 10:00 to 22:30	Monday to Sunday 08:00 to 01:00

Amendments to application advised at hearing:

Mr Hopkins, representing the Applicant, advised the Sub-Committee that the proposed terminal hour for off sales was being amended to midnight from Sunday to Thursday. The same terminal hour of 01:00 was sought on Fridays and Saturdays as was originally applied for.

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

The Sub-Committee heard from Mr Hopkins, representing the Applicant. He stated that Mr Thuraisingam had owned Continental Food and Wine for ten years and had held a personal licence for five years. Mr Hopkins informed those present that the Applicant lived in the local area of the Premises and he was keen to have a good relationship with his neighbours.

Mr Hopkins advised that there were amendments to the application proposed by the Applicant. The terminal hour for off-sales and the closing time for the Premises sought Sunday to Thursday was now midnight. The same terminal hour of 01:00 was sought on Fridays and Saturdays as was originally applied for.

Mr Hopkins said that the Applicant had offered a number of conditions which were appropriate for the premises, including CCTV (which was installed already) and a Challenge 25 policy. These were part of the original application. The Applicant was also offering three additional conditions which would come into effect after the terminal hour on the existing premises licence. These were that after 23:00 there would no sale of beer, lager or cider above 5.5% ABV (they would be placed in a separate cabinet which would be locked at 23:00), there would no miniatures of less than 20cl sold after 23:00 and there would be no single cans or bottles of beer, lager or cider sold after 23:00.

Mr Hopkins explained that the customers sought by the Premises in respect of the application would be guests staying in the hotels in the area. These customers arrived in Paddington from the West End and other parts of the country and rather than paying at the hotel bar, they visited the local supermarkets to purchase alcohol. The Applicant was seeking to capture that trade, particularly at the weekend. Mr Hopkins added that it was expected that the customers would consume the alcohol in their hotel rooms.

Mr Hopkins made the additional points that the Applicant would not sell alcohol to street drinkers and that he was aware of the problems in the area (he also owned a café/restaurant over the road), there were no issues in terms of the management of the Premises and he had never knowingly sold alcohol to someone who was drunk.

Mr Hopkins expressed the view that as a result of the conditions proposed and the reduced hours Sunday to Thursday, the application would not lead to additional problems regarding street drinkers in the area.

PC Russell, prior to making her representation on behalf of the Police at the hearing, asked the Applicant how he would enforce the conditions offered such as there would be no single cans or bottles of beer, lager or cider sold after 23:00. Would additional staff or a SIA registered security person be employed? Mr Hopkins replied that there would be a minimum of two trained staff on duty in the shop after 23:00 daily. There would be a personal licence holder present. High strength alcohol would be locked in a separate cabinet after 23:00. Mr Hopkins indicated that the Applicant would also potentially consider, in the event that the Sub-Committee deemed it appropriate, to have an additional lobby style door inside the shop in operation after 23:00 which would act similarly to a petrol

station where customers are served through a hatch.

PC Russell, addressing the Sub-Committee, stated that the Police did seek a SIA registered security person at the Premises in the event the Sub-Committee was minded to grant the application. The Police were requesting that the Sub-Committee did not grant the application. She stated that whilst Continental Food & Wine was well run and there were low crime statistics relating to the Premises, the later terminal hours would nevertheless create issues for policing of the area. The availability of alcohol until late into the night would potentially add to anti-social behaviour including drinking in the street in a sensitive area. Whilst Continental Food & Wine was in a controlled drinking zone, it would place an additional strain on Police resources. It was submitted that the Premises had the potential to become a destination venue as word would spread that it would be open until later than other premises in the area. The Police objected to late hours for all off licence premises in the locality.

PC Russell advised that the Police also had concerns that customers and also staff working late into the night could become victims of crime. If the application was granted it could potentially set a precedent for other licensed premises in the area, including supermarkets seeking later hours. She added that Continental Food & Wine is located in a residential area and any noise from patrons could exacerbate anti-social behaviour.

The Sub-Committee heard from Mr Koduah on behalf of Environmental Health. He referred initially to the changes to the conditions the Applicant had applied for. He proposed alternatives to a number of the conditions which the Applicant had applied to delete or add to the premises licence. Most of these alternatives were the Council's Model Conditions. Mr Koduah suggested that separate delivery and waste collection collections were attached to the premises licence, He proposed that no deliveries to the premises or collections place between 23.00 and 08.00 on the following day. He had no objection to deliveries of fish, bread, vegetables and meat taking place earlier as proposed by the Applicant. Mr Koduah was content for the restrictions in the seasonal variations relating to Christmas Day and Good Friday to be removed in line with other licensed premises.

Mr Koduah clarified that Environmental Health was opposed to the aspect of the application for the extension of the terminal hour. He shared the same concerns as the Police. The objections were not specifically due to the management of the Premises. He made the point that the Applicant may have been seeking custom from hotel guests but that most hotels had specific arrangements after 23:00 for their guests, such as The Royal Eagle in Craven Road.

The Sub-Committee was also addressed by Mr Brown, representing SEBRA and Mr Zamit, Chairman of SEBRA. Mr Brown stated that SEBRA agreed with the position of the Police and Environmental Health in terms of the objections to the extension in the terminal hours. SEBRA's specific concerns in their representation related to street drinking and anti-social behaviour. Mr Brown referred to the application being beyond Core Hours. He made the point that the conditions which had been proposed by the Applicant were those that SEBRA would expect to be proposed for an application within Core Hours.

Mr Brown said that he and Mr Zamit were not aware of any off licence premises in the area operating beyond Core Hours. He believed this was significant. Firstly, there was the potential for later terminal hours to act as a precedent and for similar premises to inevitably seek later hours as well. Mr Brown expressed the view that there was no specific merit to the application which meant that it should be granted at this location. There was a concern that Continental Food & Wine would act as a honeypot and draw people to the area, including hotel guests. It was felt that this would be the case as it would be the only off licence premises operating until midnight Sunday to Thursday and 01:00 on Fridays and Saturdays. It would lead to potential noise on the street therefore giving rise to a breach of the public nuisance licensing objective.

Mr Brown commented that SEBRA did not have issues with the management of the Premises. However, it was their strong belief that management could not control what happened in the street away from the Premises. It was the case that SEBRA was asking for the Sub-Committee to refuse the application. It was stated that they had not been able to reach an agreement with the Applicant regarding the application.

Mr Brown did advise the Sub-Committee that SEBRA had no objections to the restrictions in the seasonal variations relating to Christmas Day and Good Friday being removed. Mr Brown did however, request that there were no deliveries or collections between 20:00 and 07:00 rather than 06:30 which had been proposed by the Applicant.

Mr Zamit wished to provide some additional comments as to why the hours proposed were inappropriate at this location. He explained that there were constant issues in Praed Street (which leads on to Craven Street) and other local streets including Queensway with street drinking and rough sleepers. He was not aware of anywhere in the City of Westminster and certainly not in the wider locality where there were later hours permitted for off sales than Core Hours. He believed that if the application was granted it would set a precedent and encourage off licences to apply for later hours.

Mr Zamit did not object to the removal of the seasonal variations relating to Christmas Day and Good Friday if this was consistent with other premises licences. Mr Zamit was content for this to be granted if it meant that the conditions the Applicant had proposed to add to the premises licence were attached, including the conditions the Applicant had offered at the hearing. He did suggest that he would, have sought further conditions to promote the licensing objectives in the event the application was for a new premises licence. He was of the view that there should be a condition attached to the licence that there would be no high strength alcohol sold as it was an issue in the area.

The Applicant was asked by the Sub-Committee how customers would be able to access food at Continental Food & Wine if the store was to be operated similarly to a hatch at a petrol station. Mr Hopkins replied that the Premises would not be as busy later in the evening and staff would have time to obtain the items requested by customers. The Sub-Committee was advised that there would be a minimum of two staff on duty.

The Sub-Committee, having carefully considered the application on its merits and in relation to the promotion of the licensing objectives, refused the aspect of the application to extend the proposed hours until midnight Sunday to Thursday and 01:00 on Friday and Saturday. This was on the basis that the Police, whilst not having concerns about the management of the Premises, had strongly objected to the application, including that the availability of alcohol until late into the night would potentially add to anti-social behaviour, including drinking in the street, at a sensitive location. The Police had expressed concerns that the Premises would become a destination venue leading to a strain on Police resources. It was the Sub-Committee's considered view that this would impact adversely on a residential area based on the evidence from the Responsible Authorities. The Sub-Committee noted that the Police's concerns were very much shared by Environmental Health and SEBRA.

The Sub-Committee was minded to grant the removal of the condition as applied for by the Applicant which restricted the hours of operation during the day on Christmas Day and Good Friday. It was felt that it was appropriate that the Applicant should be able to operate in accordance with the standard hours on these days. The Sub-Committee noted that no parties objected to the removal of this condition. The Sub-Committee asked the Applicant whether as part of this process he was still willing to accept the additional conditions he had suggested being placed on the licence which would have the benefit of updating the licence to reflect the intention of all parties as well as promote the licensing objectives. These included the model CCTV conditions, a Challenge 25 policy being adopted and restrictions on delivery and collection times. Mr Hopkins had advised during the hearing that CCTV had been installed by the Applicant already. The Sub-Committee did not believe it was appropriate to impose these conditions because a significant aspect of the application had been refused.

Mr Hopkins responded on behalf of the Applicant that he was content for proposed conditions (numbered 8 to 23 in the report) to be attached to the licence. He was agreeable to SEBRA's proposed amendment to Condition 21 requested by Mr Brown so that there would be no deliveries received or rubbish removed between 20:00 and 07:00. The Sub-Committee thanked the Applicant for agreeing that these conditions would be imposed on the licence in these circumstances.

2. Hours premises are open to the public

<u>From</u>	<u>To</u>
Monday to Saturday 08:00 to 23:00 Sunday 10:00 to 22:30	Monday to Sunday 08:00 to 01:00

Amendments to application advised at hearing:

Mr Hopkins, representing the Applicant, advised the Sub-Committee that the proposed closing time for the premises was being amended to midnight from Sunday to Thursday. The same closing time of 01:00 was sought on Fridays and Saturdays as was originally applied for.

	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee refused this aspect of the application (see reasons for the decision in Section 1).</p>
3.	Seasonal variations / Non-standard timings:
	<p><u>Removal of Seasonal variations / Non-standard timings:</u></p> <p>Alcohol shall not be sold or supplied except during permitted hours.</p> <p>In this condition, permitted hours means:</p> <p>(a) On weekdays, other than Christmas Day, 08:00 to 23:00 (b) On Sundays, other than Christmas Day, 10:00 to 22:30 (c) On Christmas Day, 12:00 to 15:00 and 19:00 to 22:30 (d) On Good Friday, 08:00 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>The Sub-Committee granted this aspect of the application (see reasons for the decision in Section 1).</p>
4.	Conditions being varied, added or removed
	<p><u>Condition 6</u> To be deleted</p> <p>Alcohol shall not be sold or supplied except during permitted hours.</p> <p>In this condition, permitted hours means: (a) On weekdays, other than Christmas Day, 08.00 to 23.00 (b) On Sundays, other than Christmas Day, 10.00 to 22.30 (c) On Christmas Day, 12.00 to 15.00 and 19.00 to 22.30 (d) On Good Friday, 08.00 to 22.30</p> <p>NOTE - The above restrictions do not prohibit: (a) during the first twenty minutes after the above hours, the</p>

taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel; (b) ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered; (c) sale of alcohol to a trader or club for To be deleted the purposes of the trade or club; (d) 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.

Condition 7

To be deleted

Alcohol shall not be sold in an open container or be consumed in the licensed premises.

Condition 8

To be added

CCTV covering the interior and exterior of the shop will be installed and kept operational at all times the premises are open to the public. It shall be capable of taking a head and shoulders shot of persons entering the premises, shall cover all entry/exits, be capable of storing images for a minimum of 31 days and a member of staff trained and capable of downloading images shall be on duty at all times the premises are open to the public. Images shall be provided to the police or authorised officers on request.

Condition 9

To be added

The premises licence holder/DPS shall check that the CCTV is operational on a daily basis and check on a minimum weekly basis that the system is recording images for the minimum 31 day period, that the date and time are correctly set and that images can be readily

downloaded on a usable format. Full details of all checks shall be recorded in the incident book (CCTV section).

Condition 10

To be added

If at any time the CCTV is not fully operational the licensing authority must be informed and a competent CCTV engineer called as soon as possible. Full details of any faults with the CCTV, inspections and repairs carried out shall be recorded in the incident book (CCTV section).

Condition 11

To be added

All staff will be trained for their role on induction and given refresher training at regular intervals of six months thereafter. Training will include identifying persons under 25, making a challenge, acceptable proof of age and checking it, making and recording refusals, proxy sales, avoiding conflict, responsible alcohol retailing and safeguarding children. Staff will also be trained in the operation of the CCTV system, checking it and download images for police and authorised officers. A written training record will be kept for each member of staff and be made available to police or authorised officers on request.

Condition 12

To be added

A minimum of 2 trained staff shall be on duty in the shop after 23:00 daily.

Condition 13

To be added

A personal licence holder or the DPS shall be on duty after 19:00 Friday, Saturday and Bank Holidays.

Condition 14

To be added

All spirits shall be kept behind the counter and all the other alcohol

displays shall be in line of sight of the counter or covered by CCTV. Any alcohol not on display must be kept in the store room.

Condition 15

To be added

A maximum of 20% of the retail display area shall be used for alcohol display at any time.

Condition 16

To be added

A copy of the invoices for all alcohol or tobacco goods shall be kept on the premises for at least six months from the date of receipt.

Condition 17

To be added

An incident book shall be kept at the premises, and made available to the police or authorised officers, which will record the following:

- a) All crimes report
- b) All refusals of the sale of alcohol
- c) Lost Property
- d) All ejections of customers
- e) Any complaints received
- f) Any incidents of disorder
- g) Any seizures of drugs or offensive weapons
- h) Any faults in the CCTV
- i) Any visit by a relevant authority or emergency service.

Condition 18

To be added

Notices will be prominently displayed by the entry/exit door and point of sale (as appropriate) advising customers that:

- CCTV is in operation
- Challenge 25 is in operation as the proof of age policy.
- Advising customers of the relevant provisions of the Licensing Act including re underage and proxy sales
- No unaccompanied children are

permitted in the premises after 21:00

- The permitted (Licensed) To be added house and opening times of the premises.
- That no alcohol may be opened inside or consumed in the shop
- To respect residents, leave quietly, not to loiter outside and to dispose of litter legally
- Not to drink in the street.

Condition 19

To be added

Management and staff will proactively discourage customers from loitering or drinking outside the premises politely asking people that they leave the shop and area.

Condition 20

To be added

The shop front will be kept tidy at all times and swept at close of business.

Condition 21

To be added

No deliveries will be received or rubbish removed between 20:00 and 06:30.

Condition 22

To be added

The Challenge 25 proof of age policy will be operated and only a photographic driving licence, a valid passport, HM forces ID card or proof of age cards with the bearer's photograph and the pass logo/hologram on it will be accepted as proof of age.

Condition 23

To be added

A written refusals recorded will be kept and made available to police or authorised council officers on request.

Amendments to application advised at hearing:

	None.
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the removal of Condition 6 above and the addition of Conditions 8 to 23 (see reasons for decision in Section 1). Condition 21 was amended to 'No deliveries will be received or rubbish removed between 20:00 and 07:00.</p> <p>Condition 7 remained on the premises licence.</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
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.	<p>(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.</p> <p>(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.</p> <p>(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—</p> <p style="padding-left: 40px;">(a) a holographic mark, or</p> <p style="padding-left: 40px;">(b) an ultraviolet feature.</p>
5(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.

5(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.

5(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.

5(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

6. Alcohol shall not be sold in an open container or be consumed in the licensed premises.
7. CCTV covering the interior and exterior of the shop will be installed and kept operational at all times the premises are open to the public. It shall be capable of taking a head and shoulders shot of persons entering the premises, shall cover all entry/exits, be capable of storing images for a minimum of 31 days and a member of staff trained and capable of downloading images shall be on duty at all times the premises are open to the public. Images shall be provided to the police or authorised officers on request.
8. The premises licence holder/DPS shall check that the CCTV is operational on a daily basis and check on a minimum weekly basis that the system is recording images for the minimum 31 day period, that the date and time are correctly set and that images can be readily downloaded on a usable format. Full details of all checks shall be recorded in the incident book (CCTV section).
9. If at any time the CCTV is not fully operational the licensing authority must be informed and a competent CCTV engineer called as soon as possible. Full details of any faults with the CCTV, inspections and repairs carried out shall be recorded in the incident book (CCTV section).
10. All staff will be trained for their role on induction and given refresher training at regular intervals of six months thereafter. Training will include identifying persons under 25, making a challenge, acceptable proof of age and checking it, making and recording refusals, proxy sales, avoiding conflict, responsible alcohol retailing and safeguarding children. Staff will also be trained in the operation of the CCTV system, checking it and download images for police and authorised officers. A written training record will be kept for each member of staff and be made available to police or authorised officers on request.
11. A minimum of 2 trained staff shall be on duty in the shop after 23:00 daily.
12. A personal licence holder or the DPS shall be on duty after 19:00 Friday, Saturday and Bank Holidays.
13. All spirits shall be kept behind the counter and all the other alcohol displays shall be in line of sight of the counter or covered by CCTV. Any alcohol not on display must be kept in the store room.
14. A maximum of 20% of the retail display area shall be used for alcohol display at any time.
15. A copy of the invoices for all alcohol or tobacco goods shall be kept on the premises for at least six months from the date of receipt.
16. An incident book shall be kept at the premises, and made available to the police or authorised officers, which will record the following:
 - a) All crimes report

- b) All refusals of the sale of alcohol
- c) Lost Property
- d) All ejections of customers
- e) Any complaints received
- f) Any incidents of disorder
- g) Any seizures of drugs or offensive weapons
- h) Any faults in the CCTV
- i) Any visit by a relevant authority or emergency service.

17. Notices will be prominently displayed by the entry/exit door and point of sale (as appropriate) advising customers that:
- CCTV is in operation
 - Challenge 25 is in operation as the proof of age policy.
 - Advising customers of the relevant provisions of the Licensing Act including re underage and proxy sales
 - No unaccompanied children are permitted in the premises after 21:00
 - The permitted (Licensed) house and opening times of the premises.
 - That no alcohol may be opened inside or consumed in the shop
 - To respect residents, leave quietly, not to loiter outside and to dispose of litter legally
 - Not to drink in the street.
18. Management and staff will proactively discourage customers from loitering or drinking outside the premises politely asking people that they leave the shop and area.
19. The shop front will be kept tidy at all times and swept at close of business.
20. No deliveries will be received or rubbish removed between 20:00 and 07:00.
21. The Challenge 25 proof of age policy will be operated and only a photographic driving licence, a valid passport, HM forces ID card or proof of age cards with the bearer's photograph and the pass logo/hologram on it will be accepted as proof of age.
22. A written refusals recorded will be kept and made available to police or authorised council officers on request.

6 MELISSA'S KITCHEN LTD, 27 ELIZABETH STREET, SW1

LICENSING SUB-COMMITTEE No. 5

Thursday 14th December 2017

Membership: Councillor Angela Harvey (Chairman), Councillor Louise Hyams and Councillor Karen Scarborough

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

Presenting Officer: Daisy Gadd

Relevant Representations: Environmental Health and 4 local residents.

Present: Mr Thomas O'Maoileoin (Solicitor, representing the Applicant), Mr Ercan Mutlu (Owner of the business and Designated Premises Supervisor) and Mr Maxwell Koduah (Environmental Health).

Melissa's Kitchen Ltd, 27 Elizabeth Street, SW1 17/10522/LIPN ("The Premises")	
1.	Late Night Refreshment (Indoors)
	Monday to Thursday 23:00 to 23:30 Friday and Saturday 23:00 to 00:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee heard from Mr O'Maoileoin, representing the Applicant. He stated that Melissa's Kitchen had been trading, without the sale of alcohol, for approximately two months. The Premises was permitted A3 use. It had historically been more of a café/restaurant and the original lease had required that no alcohol would be sold there. The Sub-Committee was advised that there had recently been an overhaul of the Premises and a change in the terms of the lease. The landlord, Grosvenor, had now permitted the Premises to sell alcohol whereas previously there was a complete prohibition. Mr O'Maoileoin informed the Sub-Committee that Mr Mutlu, the owner of the business and the Designated Premises Supervisor, was living above the premises with his 8 year old daughter, whom the business was named after. It was therefore in his best interests to make sure that there was no noise emanating from the Premises. Mr O'Maoileoin proposed amendments to the application. The opening hours were being amended so that the proposed terminal hours would be the same as for on sales of alcohol (Monday to Thursday 23:30, Friday and Saturday midnight and Sunday 22:30). Also, the proposed terminal hours for off sales were being amended in line with the Council's Core Hours (23:00 Monday to Saturday and 22:30 on Sundays). Mr O'Maoileoin offered that the Council's Model Condition 56 be attached to the licence that 'there shall be no sales of hot food or hot drink for consumption off the premises after 23.00'. It was confirmed by Mr O'Maoileoin that five conditions suggested by the

Metropolitan Police had been agreed by the Applicant. The Police had subsequently withdrawn their representation. It was Mr O'Maoileoin's understanding that Environmental Health did not have specific concerns about the application but that they had maintained their representation due to the written representations from four local residents. Maintaining the representation would enable the Environmental Health Officer to assist the residents and the Sub-Committee in the event that any of the residents had been in attendance at the hearing.

Mr O'Maoileoin referred to the written representations submitted by the local residents. He made the point that one of the representations had stated that noise was a problem in the area whilst another had described the area as being quieter after 23:00. It was the Applicant's view that the location of the Premises at the end of Elizabeth Street closest to Buckingham Palace Road and in close proximity to the Coach Station was not as quiet as other locations in Belgravia. Mr O'Maoileoin made the case that the conditions offered by the Applicant and the conditions agreed with the Police should be sufficient to address the concerns raised by the residents. It was the Applicant's intention that alcohol would only be sold ancillary to customers having a table meal. Alcohol would be served by waiter or waitress service. Off sales would leave the Premises in a sealed container. Late night refreshment would only be served to customers inside the Premises during licensed hours (after 23:00). The capacity would be 40 including staff.

The Policy Adviser advised that whilst the conditions agreed between the Applicant and the Police ensured that the sale of alcohol would be ancillary to the main use of the Premises as a café, that there would be waiter or waitress service and that customers would be seated at tables, they did not ensure that alcohol would be ancillary to a table meal. The Policy Adviser asked Mr O'Maoileoin whether the Applicant would be amenable to having Model Condition 38 on the premises licence in the event the application was granted by the Sub-Committee. The wording of this condition is that '*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*'. Mr O'Maoileoin replied that the condition was acceptable to the Applicant as it was intended that alcohol would be sold ancillary to a table meal with customers being seated.

Mr Koduah confirmed at the hearing that Environmental Health did not have any concerns about the application.

The Sub-Committee asked whether consideration had been given to limiting the maximum number of smokers outside the premises at any one time given that Melissa's Kitchen is located in a residential area. It was clarified by Mr Koduah that it had not been proposed by Environmental Health as the Premises had been run as a café for a number of years and there had been no recorded complaints about noise from customers smoking. Mr O'Maoileoin stated that the Applicant was content to limit the maximum number of customers who could smoke outside the Premises at any one time. The Applicant did not seek any drinking to be permitted outside. It was suggested by Mr O'Maoileoin and Mr Koduah that an appropriate maximum number of smokers outside at any one time would be 4 (10% of the capacity).

	<p>The Sub-Committee noted the representations of the four residents who had expressed concerns about the application, including a terminal hour after 23:00. However, the Sub-Committee in granting the application took into account that the Applicant had amended the closing time for the Premises so that the closing time and the terminal hours for licensable activities were in keeping with the Council's Core Hours policy. Off sales would cease at 23:00 Monday to Saturday and at 22:30 on Sundays in line with the request of residents and late night refreshment would only be served to customers inside the premises during licensed hours (after 23:00).</p> <p>The Sub-Committee also took into account in granting the application that the conditions proposed by the Applicant and those that the Applicant had agreed with the Police promoted the licensing objectives. Significantly, the Applicant had agreed the condition requested by the Sub-Committee that 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. The Premises would therefore be food led. It would therefore not tempt people leaving a pub or bar to visit Melissa's Kitchen in order to keep drinking which was a concern of residents. Smoking outside had also been a concern set out in one of the residents' written representations and the Applicant had agreed to a maximum of four customers outside smoking at any one time. In keeping with the stated intention of the Applicant, the Sub-Committee attached an additional condition to the premises licence that no drinks would be taken outside.</p>
2.	Sale by retail of alcohol (On and Off)
	<p>Monday to Thursday 10:00 to 23:30 Friday and Saturday 10:00 to 00:00 Sunday 12:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>Mr O'Maoileoin advised the Sub-Committee that the proposed terminal hours for off sales were being amended in line with the Council's Core Hours (23:00 Monday to Saturday and 22:30 on Sundays).</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the proposed hours for on-sales and the amended proposed hours for off-sales which were in keeping with the Council's Core Hours policy.</p>
3.	Hours premises are open to the public
	<p>Monday to Thursday 07:00 to 00:00 Friday to Sunday 07:00 to 00:30</p>

	<p>Amendments to application advised at hearing:</p> <p>Mr O'Maoileoin advised the Sub-Committee that the opening hours were being amended so that the proposed terminal hours would be the same as for on sales of alcohol (Monday to Thursday 23:30, Friday and Saturday midnight and Sunday 22:30).</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the opening hours, including the amended closing times which were in keeping with the Council's Core Hours policy.</p>
4.	Seasonal variations / Non-standard timings:
	<p><u>Late Night Refreshment (Indoors), Sale by retail of alcohol (On and Off) and Hours premises are open to the public</u></p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p><u>Late Night Refreshment (Indoors) and Sale by retail of alcohol (On and Off)</u></p> <p>On Sundays immediately prior to Bank Holidays to 00:00.</p> <p><u>Hours premises are open to the public</u></p> <p>On Sundays immediately prior to Bank Holidays to 00:30.</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>Granted, subject to conditions as set out below.</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 -

$$P = D+(DxV)$$

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. 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.

10. 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 entire 31 day period.

11. 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.
12. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
13. 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.
14. 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.
15. The number of persons permitted in the premises at any one time (including staff) shall not exceed 40 persons.
16. No deliveries to the premises shall take place between 23:00 and 08:00 on the following day.
17. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
18. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 08:00 hours on the following day.
19. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 and 08:00 on the following day.
20. 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

21. 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.
22. The sale of alcohol on the premises shall at all times be ancillary to the main use of the premises as a café.
23. 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.
24. The supply of alcohol shall be by waiter or waitress service only.
25. No draught beer shall be sold or supplied at the premises.
26. There shall be no self-service of alcohol for consumption on the premises.
27. After 23:00 hours 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.
28. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
29. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 4 persons at any one time.
30. Off sales shall cease at 23:00 Monday to Saturday and 22:30 on Sunday.