



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 30th April, 2020**, This will be a virtual hearing.

Members Present: Councillors Heather Acton (Chairman), Jim Glen and Maggie Carman

Apologies for Absence:

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1 UNIT 3 & 4 BISHOP'S QUARTERS BISHOP'S BRIDGE ROAD

Application granted under delegated authority.

2 LONDON FARMERS MARKET ORANGE SQUARE FARMERS MARKET PIMLICO ROAD LONDON SW1W 8NB

LICENSING SUB-COMMITTEE No. 1

Thursday 30th April 2020

Membership: Councillor Heather Acton (Chairman), Councillor Jim Glen and Councillor Maggie Carman

Legal Adviser: Horatio Chance
Policy Adviser: Amit Mistry
Committee Officer: Tristan Fieldsend
Presenting Officer: Kevin Jackaman

Relevant Representations: Environmental Health and 2 local residents (objecting)

Present: Ms Cheryl Cohen (Applicant) and Mr Maxwell Koduah (Environmental Health)

London Farmers Market, Orange Square Farmers Market, Pimlico Road, London, SW1W 8NB ("The Premises") 20/02807/LIPN	
1.	Sale by Retail of Alcohol – On and Off Sales Saturday: 09:00 to 14:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee considered an application by London Farmers Markets Ltd ("The Applicant") for a new premises licence in respect of London Farmers Market, Orange Square Farmers Market, Pimlico Road, London, SW1W 8NB. The Licensing officer introduced the application and confirmed that the Police had withdrawn their representation following the agreement of conditions with the Applicant. Ms Cohen, the Applicant, advised the Sub-Committee that since the Farmers Market had opened in Pimlico in 2002 it had built up an excellent reputation and was supported by the local community. Numerous Temporary Event Notices (TENs) had been granted for the site previously permitting on and off sales of alcohol and these had been operated successfully without any record of any issues arising. The application before the Sub-Committee had been submitted to permit these sales of alcohol on a more regular basis and the granting of a premises licence would allow a greater degree of control to be imposed on site therefore protecting local residents. It was stated that the focus of the market would not be on alcohol with the only alcohol for sale consisting of artisan craft beers and wines. One of the main purposes of the application was to allow customers the opportunity to taste the alcohol for sale before purchasing it. Also, seating would be situated close to the stalls offering alcohol and customers would be encouraged to be seated whilst consuming alcohol. It was hoped to indicate on the plan defined areas or zones where alcohol could be sold. Zoning was already the practice at the other Farmers Market operated by the applicant in Westminster at Marylebone and this had proven successful. It was recognised that the application site was located in a residential area, however no concerns had been raised over the operation of the TENs, a Challenge 21 policy would be put in place and the licensing objectives promoted accordingly. In response to questions from the Sub-Committee Ms Cohen acknowledged that allowing alcohol to be purchased from 09:00 was outside the Council's Core Hours Policy, which stated a 10:00 start. However, the Applicant was seeking some flexibility in light of the limited trading hours being requested. The

Applicant highlighted how alcohol would not form a large part of the market's offer and confirmed that she was content to limit the number of stalls offering alcohol to a maximum of 4 if the Sub-Committee deemed this appropriate.

Mr Koduah, representing Environmental Health, confirmed that following discussions between the Applicant, the Police and Environmental Health (EH) a series of conditions had been agreed upon which addressed any public nuisance and public safety concerns raised. The Applicant had operated a number of TENS on the site previously which provided a similar offer to what was being sought through this application. It was submitted that these TENS had not generated any complaints and it was therefore considered that there was no risk of public nuisance if the licence was properly adhered to. EH had maintained their representation to help the Sub-Committee discuss any concerns raised in the residential objections received but following the agreement of conditions with the Applicant was content with the application.

The Sub-Committee duly considered the two representations received from residents and was interested to learn more about how they would be protected from any potential noise or nuisance originating from the Market. Mr Koduah explained that the Premises was not located within a Cumulative Impact Area (CIA) and that the planning permission granted for the market required a detailed management plan to be in place. A market manager was employed, and it was their responsibility to ensure this management plan was strictly adhered to in order to minimise any impact on residents. Mr Koduah suggested that residents be provided with a direct telephone number for the Manager so that they could raise any issues immediately if they arose. In terms of the hours applied for it was recognised that the start time for the selling of alcohol was one hour earlier than those set out in the Council's Core Hours Policy, however as the Premises was not in a CIA and due to the limited opening hours a degree of flexibility could be implemented. In response to a question regarding the boundary of the Premises Mr Koduah confirmed that the Market was on public highway. However, a condition had been agreed between the Applicant and the Police which prohibited customers from taking open containers of alcohol beyond the designated boundary. Finally, it was requested that if the Sub-Committee did consider it necessary to restrict the sale of alcohol on site this did not take the form of only allowing sales to take place from a designated zone. This had the potential to focus footfall to one particular area of the Market and as such it was suggested limiting the number of stalls selling alcohol was more appropriate in order to spread them out around the Market and help ensure an easy flow of customers and aid dispersal.

Ms Cohen confirmed that there was already a strict noise and nuisance management plan in place at the Market to ensure it operated in a manner which had no detrimental impact on local residents. In terms of a direct phone number to the Market Manager being made available Ms Cohen requested that this proposed condition not be enforced. It was stated that the Market Manager was not the same person each week and these employees had previously experienced harassment issues in the past. The Manager on duty was always highly visible, wore a high-visibility jacket on site and kept a noise log. In any case the details for the Designated Premises Supervisor would have to be on public display.

	<p>The Sub-Committee then held a detailed discussion over the location of the boundary to the Market in order to clarify the licensable area. Ms Cohen confirmed that the plan submitted did not highlight the proposed licensable area but a revised plan could be resubmitted based on the planning location plan which did designate the boundary of the Market. The Sub-Committee considered this acceptable.</p> <p>The Sub-Committee carefully considered the application and noted that the Applicant had agreed a number of conditions with EH and the Police. These included ensuring no noise emanating from the Market gave rise to nuisance, any off sales of alcohol had to be in sealed containers and not consumed on the Premises and that no open containers of alcohol would be permitted to leave beyond the boundary of the Market. These conditions were considered appropriate for the area, addressed concerns raised and would help minimise any potential impact on local residents in terms of nuisance. The Sub-Committee also welcomed the Applicant's agreement to restricting the number of stalls selling alcohol to a maximum of 4 therefore ensuring the supply of alcohol would be limited and it would not become a drink-led destination. The Sub-Committee recognised that the hours applied for were slightly outside of the Council's Core Hours Policy, however due to the restricted supply of alcohol and the limited trading hours requested it was considered that the hours were appropriate and would not undermine the licensing objectives. The Committee noted that the operator was also regarded as being very experienced, had successfully operated TENs from the Market without any issues arising and had a good track record of operating a similar premises within Westminster. It was also recognised however that clear concerns, highlighted in the representations from residents, had emerged with regards to the proposed operation of the Premises. These concerns had been raised and it was expected that the operator would ensure that they did not become an issue. It was the Sub-Committee's considered view that the conditions imposed on the licence would mitigate those concerns by residents.</p> <p>Having taken into account all the evidence (with consideration being given to the representations received from the two local residents), the Sub-Committee was satisfied that the application was suitable for the local area and had addressed the concerns raised. The Applicant had demonstrated that the application was appropriate, with the conditions proposed restrictive enough to ensure the promotion of the licensing objectives. The Sub-Committee therefore granted the application accordingly subject to the submission of a revised Premises plan. The plan would show the licensed market area hatched in red for the purposes of this application and would be the location plan submitted as part of the Planning Permission granted. The Sub-Committee considered that the conditions it had imposed on the licence would have the overall effect of promoting the licensing objectives, in particular the public nuisance licensing objective.</p>
<p>2.</p>	<p>Hours Premises are Open to the Public</p> <p>Saturday: 09:00 to 14:00</p>

	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee granted the application (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.

Conditions imposed after a hearing by the Licensing Authority

9. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
10. No noise generated on the market, 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.
11. All sales of alcohol for consumption off the market shall be in sealed containers only and shall not be consumed on the premises.
12. Outside of the hours authorised for the sale of alcohol and whilst market is open to the public, the licence holder shall ensure that all alcohol within the market is secured so as to prevent access to the alcohol by both customers and staff.
13. No open containers of alcohol shall be permitted to leave the boundary of the market.
14. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or Police. It must be completed within 24 hours of the incident.
15. 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.
16. At all market stalls where alcohol is sold, the name and contact telephone number of the designated premises supervisor shall be displayed in a prominent position on the premises, so that it is clearly visible.
17. Save for off sales drinks shall not be sold or served in glass vessels or glass containers.

18. 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.
19. Clear and conspicuous notices warning of potential criminal activity, such as theft, that may target customers will be displayed.
20. Alcohol sales shall be restricted to a maximum of 4 market stalls at any one time within the licensed market area shown hatched red on the Premises Plan.

The Meeting ended at 2.20 pm

CHAIRMAN: _____

DATE _____