



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 28th May, 2020**, This will be a virtual meeting.

Members Present: Councillors Heather Acton (Chairman), Louise Hyams and Aziz Toki

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1 PRAGNELL, 14 MOUNT STREET, LONDON, W1K 2RF

The application was withdrawn by the applicant.

2 CUMBERLAND FOOD & WINE, 11 GREAT CUMBERLAND PLACE, LONDON, W1H 7LU

WCC LICENSING SUB-COMMITTEE NO. 1

Thursday 28th May 2020

Membership: Councillor Heather Acton (Chairman), Councillor Louise Hyams and Councillor Aziz Toki

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Amit Mistry
Committee Officer: Kisi Smith-Charlemagne
Presenting Officer: Kevin Jackaman

Application for Variation of a Premises Licence [20/03272/LIPV]

Full Decision

Premises

11 Great Cumberland Place
London
W1H 7LU

Applicant

Chelsea Food and Wine Company Limited

Represented by Thomas O'Maoileoin – Thomas & Thomas

Cumulative Impact Area

None

Ward

Bryanston & Dorset Square

Summary of Application

This was an application for a variation of a premises licence under the Licensing Act 2003 ("The Act") to extend the sale of alcohol off the Premises for the Hours and period specified below. The Premises currently operate as a general convenience shop and is not located within an area of Cumulative Impact Area. The premises have had the benefit of a licence, Licence number 19/08177/LIPRW from 2005 which is still currently in place.

The Applicant originally sought to vary the terminal hour for the Sale by Retail of Alcohol for consumption off the premises from 23:00 on Monday to Saturday and 22:30 on Sunday to 02:00 on Monday to Sunday. The Applicant also sought to remove condition 32. The application was amended prior to the hearing and the Applicant reduced the extension of hours sought for the off sale of alcohol from 23:00 to 02:00 hours Monday to Saturday and 22:30 on Sunday to 02:00 on Monday to Sunday to the terminal hour of 00:00 Monday to Saturday. The Applicant also confirmed that the extension of hours shall be time limited for a period of one year starting on 28th May 2020 and ending on 27th May 2021; and confirmed that the proposed deletion to condition 32 of the licence was not now being pursued.

Current and proposed licensable activities and hours

(Ground floor)

[Retail Sale of Alcohol \[Off sales\]](#)

Proposed Variation

Monday to Saturday: 08:00 to 00:00

Sunday: No Change

Compared to existing condition

Monday to Saturday: 08:00 to 23:00

Sunday: 10:00 to 23:00

Representations Received

- Sally Fabbriatore (representing Environmental Health Services)
- PC Bryan Lewis (representing Metropolitan Police)
- Richard Brown (representing Mr Guy Austin from The Marylebone Association)

Brief summary of issues raised by objectors

- The extension of hours may cause an increase in Public Nuisance in the area.
- The removal of condition 32 may cause an increase in Public Nuisance in the area.
- The extension of hours posed a substantial risk and would not promote the licensing objectives, namely the prevention of crime and disorder.
- The lockdown meant that far fewer opportunities for locals to become aware of the application, objections may be an underrepresented.
- The store is situated very close to Marble Arch and it would be inappropriate for alcohol to be available easily outside Core Hours in this location.

Policy Position

There is no policy to refuse this application as the Premises are not situated in an area of Cumulative Impact. The application must, therefore, be determined on merit with a view to promoting the licensing objectives. Licensable activities would now be licensed until core hours.

DECISION

Mr Thomas O'Maoileoin presented the application on behalf of Chelsea Food and Wine Company Limited and explained that the Applicant was seeking to vary the premises licence. He advised that the application sought to extend the terminal hour for off-sales until 02.00 hours from core hours and delete condition 32, requiring tables and chairs to be unusable after core hours. Mr O'Maoileoin advised the Sub-Committee that the Applicant had read and considered very carefully the representations received from the Marylebone Association, including their further submissions; Environmental Health Consultation Team and Metropolitan Police Service. He further advised that in light of these representations the Applicant amended the application to extend the terminal hour for off-sales until 00.00 hours

Monday to Saturday for one year starting on 28th May 2020 and ending on 27th May 2021; and withdrew the reference to the deletion of condition 32.

Mr O'Maoileoin advised that the Premises are and will remain a general/convenience store. He confirmed that the Premises already benefit from a licence that permits Late Night Refreshment until 05.00 hours, in effect 24 hours. Mr O'Maoileoin advised that it should be noted however that the LNR is extremely limited and only consists of reheating pastries in a microwave behind the counter by a member of staff and the use of a hot drinks machine. Mr O'Maoileoin added that whilst the Premises are permitted on-sales this is limited to the private forecourt immediately next to the Premises. He advised that there is a "works condition" relating to on-sales and the works have never been completed. He also stated that there had never been any on-sales at the Premises and the outside area has never been occupied.

The Sub-Committee sought further clarification regarding the reason for the limited one-year licence, how long the Applicant had operated the Premises and whether there were residents living nearby. Mr O'Maoileoin confirmed that the decision for the one-year licence was to "test the waters" and to reassure the authorities and the Marylebone Residence Association. He also confirmed that the Applicant had been operating the Premises for some 10 years and he was not aware that there were any residential properties located close to the premises, but he may be mistaken and apologised if this was the case.

PC Bryan Lewis from the Metropolitan Police addressed the Sub-Committee advising that the Premises Although the reduction in hours sought for the off sale of alcohol from this Premises has now been offered, compared to the original hours applied for, reduces the level of risk, the Metropolitan Police remained firmly opposed to this application. PC Lewis stated that in his view any increase in hours beyond core hours for the off sale of alcohol, as set out in the City Council's Statement of Licensing Policy, will not promote the licensing objectives. PC Lewis added that there was a strong chance that individuals may purchase alcohol on their way home and consume it on their journey, causing problems for the Transport Police. He added that the Applicant had not offered any additional conditions to reduce the impact of the possible risks.

The Sub-Committee queried if the Police had received any complaints or had evidence that the Premises had caused any issues. PC Lewis confirmed that there had been no complaints or any evidence linking the Premises to be a particular problem and that , the main thrust of the objection was based on preventing problems from arising at some stage in the future.

Ms Sally Fabbricatore from the Environmental Health Services addressed the Sub-Committee advising that Environmental Health maintained its representation, she advised that Environmental Health noted the reduction in hours. Ms Fabbricatore sought clarification on the Sunday operating hours and whether the hours were still extended and if the one year-period also applied to Sunday's. She confirmed that Environmental Health had not received any recent complaint. Ms Fabbricatore advised that no further conditions were offered and that the representation was based on the Premises operating beyond core hours and the potential to cause nuisance. Ms Fabbricatore also added that the report states that there are 93 local

resident properties in the vicinity and that Mr Richard Brown, or The Marylebone Association could possibly elaborate further.

Mr Brown addressed the Sub-Committee advising that he was representing the Marylebone Residents Association, who are the Amenity Society for the local area. He advised that the reduction in hours was noted, however the Marylebone Residents Association maintained their representation because the extended hours for off-sales still remained a concern. Mr Brown stated that the proposed one-year licence did not offer any comfort, as it had already been highlighted that issues exist in the area and it would be difficult to gage the impact of one premises impact on the existing problems. Mr Brown also noted the number of recent variations advising the Sub-Committee that this was yet another one and a step too far.

Mr Brown stated that whilst the Premises were not located in any area of Cumulative Impact Area it was nonetheless close and still very much a relevant factor when considering the application on its merits. He advised that a residential block existed with the same address as the Premises and he believed that there was at least one more located in Cumberland Court. Mr Brown was of the view that the nature of the representation is such that the increased hours will have a wider effect on the entire area. He gave the example of the Hyde Park concerts and the Premises potentially being a honey pot for alcohol after 23:00.

Mr Guy Austin from the Marylebone Residents Association addressed the Sub-Committee, advising that the application was unusual as the area was always busy and an extension of hours was incompatible with the terms of the licensing policy. He also informed the Sub-Committee that he felt that the lockdown meant many locals residents were not aware of the application, and the objections may be an underrepresentation. Mr Austin also advised that after closer examination of the application, he noticed a number of creeping incremental changes, and this application felt like an opportunity to make another incremental change. Mr Austin also felt that if granted, this would lead to another variation and incremental change. It was also stated that the entrance to Cumberland Court was next door to the entrance of the Premises and there is residence further along towards Bryanston Square.

The Sub-Committee queried the new residential development advising that there would be a walkway from the Marble Arch corner diagonally across to Bryanston Street. The Sub-Committee noted that there was a residential block above the Premises. The Sub-Committee queried which Culminative Impact Area was closest to the Premises. Mr Brown confirmed that he was referring to the Edgware road Culminative Impact Area. The Legal Advisor to the Sub-Committee sought confirmation from the Metropolitan Police with regard to additional conditions they would propose for the licence. PC Lewis advised that there were no conditions as such, however additional security would be a possibility. He felt that because of the area and known issues, there needed to be something additional to reduce the impact of crime and disorder.

Mr O'Maoileoin advised that Sunday would not be included, and the application would be 00:00 Monday to Saturday. He confirmed that there were no complaints from Environmental Health or the Metropolitan Police, that the Premises operated 24hrs a day and have done so for over 10 years. Mr O'Maoileoin also stated that no

local resident had made an objection to the application, he also advised that he noted the representation made by the Metropolitan Police and was happy to except a condition on the basis of limiting the variation to exclude when concerts were taking place at Hyde Park and New Year's Eve. The Sub-Committee queried whether the Applicant would reduce the number of days for the limited variation. Mr O'Maoileoin advised that if the Sub-Committee were minded to grant the application, then his client would prefer the end of the week, Friday and Saturday to be more specific.

The Sub-Committee used the Street view and maps to confirm the residential premises next door and above the Premises. Mr Brown and the Marylebone Residents Association maintained that they were not content with a reduction to the latter part of the week, namely Friday and Saturday as they were the busier days of the week. The Sub-Committee queried if the Premises currently used the table and chairs outside the Premises. Mr O'Maoileoin advised that the table and chairs was not currently being used and the Premises did benefit from a private forecourt. He advised that if the licence had a works condition and if the Applicant did want to make use of the table and chairs, they would need to complete all the work in the basement in order to utilise the kitchen and toilets. The Sub-Committee queried the offer of late night-refreshment, Mr O'Maoileoin advised the that only reheated microwave pastries are available, and the licence stipulates that these cannot be consumed on the Premises in any event.

The application is granted subject to the following further conditions:

1. To grant permission to extend the hours for the sale of alcohol off the Premises from Monday to Saturday inclusive, from 23:00 until 00:00 hours, for a period of one year starting on 28th May 2020 and ending on 27th May 2021.
2. That the varied licence is subject to any relevant mandatory conditions.
3. That the existing conditions on the licence shall apply except in so far as they are varied by this Decision.
4. That the varied licence is subject to the following additional condition imposed by the Committee which is considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing

5. No sales of alcohol are permitted for consumption off the premises after 23.00 hours on New Year's Eve or on any day when a concert takes place in Hyde Park.

If problems are experienced, then an application for a review of the Premises licence can be made.

The Meeting ended at 3.30 pm

CHAIRMAN: _____

DATE _____