



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Thursday 20th August, 2020**, This is a virtual meeting.

Members Present: Councillors Murad Gassanly (Chairman), Margot Bright 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 TOMATO, 54 FRITH STREET, LONDON, W1

WCC LICENSING SUB-COMMITTEE NO. 5

Thursday 20th August 2020

Membership: Councillor Murad Gassanly (Chairman), Councillor Margot Bright and Councillor Aziz Toki.

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Andrew Palmer
Presenting Officer: Kevin Jackaman

Application for a New Premises Licence [20/05045/LIPN]

Full Decision

Premises

Tomato
54 Frith Street
London
W1D 4SL

Applicant

NW3 Frith Limited

Represented by Alun Thomas of Thomas & Thomas Solicitors
and Daniel Herbert for the Applicant Company

Cumulative Impact Area?

West End

Ward

West End

Summary of Application

The Sub-Committee considered an application for a New Premises Licence from NW3 Frith Limited, for a new restaurant and bar. The previous licence ref:18/03323/LIPDPS had lapsed in March 2020 following the licence holder going into liquidation, and a new licence was being sought to reinstate on the same terms with the difference that the Applicant has removed private entertainment. As the Applicant will not immediately be selling alcohol, there is no Designated Premises Supervisor nominated. The application sought permission for regulated entertainment, late night refreshment (indoors only) and the sale of alcohol on and off the premises. The Sub-Committee noted that the operating hours licensable activities that had been applied for fell outside of Westminster's core hours.

Additional submissions had been submitted by the Applicant and circulated to all parties.

Proposed licensable activities and hours (Ground, first and second floor)

Late Night Refreshment [Indoors only]

Monday to Saturday: 23.00 to 01.30
Sunday : 23.00 to 01.00

The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.

Recorded Music - Unrestricted [Indoors only]

Monday to Sunday : 00.00 to 00.00

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Sale by Retail of Alcohol [On and Off Sales]

Monday to Saturday: 10.00 to 01.00
Sunday : 12.00 to 00.30

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Hours premises are open to the public

Monday to Saturday: 10.00 to 01.30
Sunday : 10.00 to 01.00

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Representations Received

- Environmental Health – represented by Maxwell Koduah
- The Metropolitan Police – represented by PC Bryan Lewis
- The Licensing Authority – represented by Angela Seaward

Summary of issues raised by objectors

- The provision and hours requested for the supply of alcohol, late-night refreshment and playing of recorded music may have the likely effect of causing an increase in public nuisance may affect public safety within the West End Cumulative Impact area and undermine the Licensing Objectives.

- The application may cause further policing problems in a locality where there is traditionally high levels of crime and disorder.

Policy Position

Policies CIP1, HRS1, RNT2 and PB2 apply under the City Councils Statement of Licensing Policy ("SLP") Paragraph 2.1.8 of the SLP states '*In cases where licences have lapsed through insolvency or death, the council will generally grant a new licence on similar terms to the lapsed licence as a replacement. However, the council will take into account the previous history of the premises, the length of time the premises have been closed, and any problems at the premises, and will impose conditions that reflect current good practice for the type of business proposed at the premises.*'

Applications for hours outside the core hours would also be considered on their merits, subject to other relevant policies. The Premises are situated in a Cumulative Impact Area, therefore the Applicant must demonstrate that the granting of the application would not add to cumulative impact.

DECISION

Mr Thomas addressed the Sub-Committee and explained that following the previous tenant going into liquidation, the landlord was applying to reinstate the Premises licence to enable the Premises to be marketed to a new tenant. The application for the new licence was being made on the same terms as the licence which had lapsed in March, with the removal of 24-hour private entertainment which would reduce cumulative impact. The Applicant had also agreed all of the conditions reflecting good practice which had been proposed by Environmental Health. The Sub-Committee noted that since the Premises had been operated as the Barrafinna, there had been two pop-up operators while the landlord was looking for a more permanent tenant. The Applicant was not aware of any issues of crime and disorder and sought to re-let the unit to a food operator while maintaining some flexibility to serve alcohol without food before 23.00 hours similar to the lapsed licence.

Mr Thomas stated that although most of the conditions proposed by the Metropolitan Police had been agreed, the Applicant had been unable to agree to conditions that would not permit any new entry after midnight and would require an SIA doorman. Mr Thomas also submitted that while the local authority had indicated a preference for the licence to be subject to a model restaurant condition, this would only be appropriate if the application was for a new use and not the reinstatement of a recently lapsed licence. No condition for an SIA doorman had been included on the previous licence. The Premises were not large and had a modest capacity, and Mr Thomas suggested that the proposed conditions and cost of maintaining an SIA doorman could prevent the Applicant securing a good tenant, and would lead to the Premises inevitably being let to a pure bar operator.

Mr Thomas referred to the Licensing Policy which stated that the Council would generally regrant licences which had lapsed due to insolvency and impose conditions appropriate to good practice in the area. Mr Thomas suggested that the guidance recognised that different premises had different impacts, and that SIA

conditions were usually only imposed on high-volume venues. The Applicant asked that the Sub-Committee grant the same licence as before, with conditions that reflected good practice and made sure the licensing objectives were promoted.

Mr Koduah addressed the Sub-Committee on behalf of Environmental Health and stated that he had maintained his representation in order to be able to offer any help to the Sub-Committee in discussing the application. Mr Koduah had sought to replicate the conditions of the lapsed licence, and the Sub-Committee noted that all of the conditions proposed by Environmental Health had been agreed.

Ms Seaward addressed the Sub-Committee and confirmed that the Licensing Authority had maintained their representations as the Premises were in a Cumulative Impact Area. The Licensing Authority had been satisfied with the conditions agreed with Environmental Health, and Ms Seaward confirmed that no complaints had been received regarding previous operators.

The Sub-Committee heard from PC Lewis, who confirmed that the Police were maintaining their representation on the grounds that the venue was located in the West End Cumulative Impact Area, which was a locality with traditionally high levels of crime and disorder. The Police had concerns that the application would cause further policing problems in an already demanding area, and if granted would undermine the licensing objectives.

PC Lewis noted the proposal for the sale of alcohol after 23.00 hours to be ancillary to food but was concerned that this would be difficult to enforce as people already in the Premises may not co-operate. He also suggested that people would be attracted to the Premises as it had large pitched windows which looked straight into the bar area. The Sub-Committee noted that although the Premises had previously operated as a bar offering vertical drinking, there was no history of problems.

The Police had requested a condition providing for a last entry time on Thursday, Friday and Saturday nights, to avoid potential nuisance in what was already a very busy area. PC Lewis also suggested that it would be good practice to provide a minimum of 1 SIA door supervisor until 01.00 hours to control who went into the Premises during late hours. PC Lewis acknowledged that although not all premises had door supervision, many had security conditions on their licence in case there was a problem.

Mr Thomas noted that the lapsed premises licence had been granted under delegated powers in 2005 during the Licensing Transition, and that a separate Supper Hours Certificate had been needed to serve drinks after 23.00 hours. Mr Thomas submitted that the Premises had been food led, which the Applicant wished to maintain. The Applicant had also not previously experienced a rush of people after 23.00 hours, and no complaints had been made. Mr Thomas stated that the temporary pop-up short-term tenancies had been in place to cover business rates while looking for a more permanent solution. The Applicant was seeking a food led operator but needed to keep his options open due to the ongoing difficulties caused by the current Covid-19 pandemic.

In conclusion, Mr Thomas submitted that the proposed conditions that had not been agreed by the Applicant were not appropriate for the intended operation of the

Premises. Mr Thomas also suggested that the evidence of how the Premises had been used in the past with no problems, incidents or complaints needed to be taken into account; and that having an SIA doorman might also attract the type of customer that was not wanted. It was noted that the Applicant would be willing to introduce the new tenant to the Police to discuss what security arrangements might be needed.

The Sub-Committee concluded that the Premises would not add to negative cumulative impact with the area. It properly considered whether public nuisance would be caused during the later hours but felt that the conditions it had imposed would mitigate the concerns raised particularly condition 16 which requires the Premises after 23:00 hours Monday to Saturday and 22:30 hours on Sunday, where the supply of alcohol shall only be to a person seated taking a table meal and for consumption by such a person as ancillary to their meal. This condition would mean that the Premises would not turn into a bar operation which was the original fear of the Police into the later hours and the Sub-Committee was persuaded that this would not be the case.

The Sub-Committee was reassured by the undertakings given by the Applicant that he would work in close consultation with the Police as regards further security for the Premises which would promote the crime and disorder licensing objective.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, **the Sub-Committee has decided**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives: -

1. To grant permission for Late Night Refreshment (Indoors only) **Monday to Saturday from 23:00 to 01:30 hours and Sunday from 23:00 to 01:00 hours.**
2. To grant permission for the Sale of Alcohol On and Off the Premises **Monday to Saturday from 10:00 to 01:00 hours and Sunday from 12:00 to 00:30 hours.**
3. To grant permission to **Play Recorded Music (indoors) Monday to Sunday unrestricted (00:00 to 00:00 hours)**
4. To grant permission for the Hours the Premises are Open to the Public **Monday to Saturday 10:00 to 01:30 hours Sunday 10:00 to 01:00 hours.**
5. To grant permission for the Seasonal Variations in accordance with the hours and times specified below in Condition 9.
6. That the Licence is subject to any relevant mandatory conditions.
7. That the Licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing

8. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
9. Alcohol may not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10:00 to 23:00
- (b) On Sundays, other than Christmas Day or New Year's Eve, 12:00 to 22:30
- (c) On Good Friday, 12:00 to 22:30
- (d) On Christmas Day, 12:00 to 15:00 and 19:00 to 22:30
- (e) On New Year's Eve, except on a Sunday, 10:00 to 23:00
- (f) On New Year's Eve on a Sunday, 12:00 to 22:30
- (g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).
- (ii) Alcohol may be sold or supplied for one hour following the hours set out above other than Christmas Day and New Year's Eve and on Christmas Day, between 15:00 and 19:00 to persons taking table meals in the premise in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply.
- (iii) (a) Alcohol may be sold or supplied until 01:00 in the morning following weekdays (other than Good Friday and Christmas Day), 00:30 in the morning following Sundays (other than Christmas Day) and 00:30 the morning following Good Friday to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by that person in that part of the premises as an ancillary to his meal.
- (b) That part of the premises must also be used for the provision of entertainment by persons present and performing to which the sale or supply of alcohol is also ancillary.
- (c) The alcohol must be sold or supplied at a time before (i) the provision of entertainment by persons present and performing or (ii) the provision of substantial refreshment, has ended. For other purposes or in other parts of the premises the hours set out above shall continue to apply.
- (d) This condition does not authorise any sale or supply of alcohol to any person admitted to the premises after midnight (23:00 on Sunday) or less than half an hour before the entertainment is due to end, except in accordance with 5(ii) above.

NOTE - The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;

- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (f) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (g) 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;
- (h) the taking of alcohol from the premises by a person residing there;
- (i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

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

10. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:
 - (a) He is the child of the holder of the premises licence.
 - (b) He resides in the premises, but is not employed there.
 - (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
 - (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.
11. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
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 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.
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: all crimes reported to the venue all ejections of patrons any complaints received concerning crime and disorder any incidents of disorder all seizures of drugs or offensive weapons any faults in the CCTV system, searching equipment or scanning equipment any refusal of the sale of alcohol any visit by a relevant authority or emergency service.
16. After 23:00 hours Monday to Saturday and 22:30 hours on Sunday, 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.
17. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
18. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
19. Save for alcohol consumed at the licenced pavement area, all sales of alcohol for consumption off the premises shall be in sealed containers only.
20. 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.
21. 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.
22. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

23. All tables and chairs shall be removed from the outside area by 23.00 hours each day.
24. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
25. 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.
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. There shall be no drinks taken outside the premises by customers after 23:00 hours.

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

**The Licensing Sub-Committee
20 August 2021**

2 38 GROOM PLACE, LONDON, SW1

WCC LICENSING SUB-COMMITTEE NO. 5

Thursday 20th August 2020

Membership: Councillor Murad Gassanly (Chairman), Councillor Margot Bright and Councillor Aziz Toki.

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Andrew Palmer
Presenting Officer: Kevin Jackaman

Application for Variation of a Premises Licence [20/04793/LIPV]

Full Decision

Premises

38 Groom Place
London
SW1X 7BA

Applicant

T.A. Restaurant Holdings Limited

Represented by Craig Baylis of Bryan Cave Leighton Paisner Solicitors and Kevin Kelly - Operations Manager for the Applicant Company

Cumulative Impact Area?

No

Ward

Knightsbridge & Belgravia

Summary of Application

The application sought a variation of an existing premises licence to extend the terminal hour for the sale of alcohol Monday to Saturday 10.00 to midnight and Sunday 10.00 to 23.00; to extend the Premises opening hours to midnight every day; and to add late night refreshment Monday to Saturday 10:00 to midnight and Sunday 10.00 to 23.00.

The Sub-Committee noted that following consultation, the Applicant had amended the application by reducing the hours applied for the Sale by Retail of Alcohol and Late-Night Refreshment to Core Hours. The provision for Late Night Refreshment on Sundays had also been withdrawn.

The Premises had opened in January 2020 and currently operate as a restaurant which had only traded for a two-month period until March, due to the start of the Covid-19 pandemic which had resulted in its closure.

Proposed and Existing licensable activities and hours (Ground, first and second floor)

[Late Night Refreshment \[Indoors\]](#)

Proposed Variation

Monday to Thursday : 23.00 to 23.30
Friday and Saturday : 23.00 to Midnight
Sunday – Not applicable

From 23:00 on New Year's Eve to 03:30 on New Year's Day.

Compared to existing licence 19/03689/LIPVM

Late Night Refreshment not offered.

[Sale by Retail of Alcohol \[On Sales\]](#)

Proposed Variation

Monday to Thursday : 22.00 to 23.30
Friday and Saturday : 22.00 to Midnight
Sunday : 12.00 to 22.30

From 10:00 New Year's Eve to 03:30 New Year's Day.

Compared to existing licence 19/03689/LIPVM

Monday to Thursday : 22.00 to 23.00
Friday and Saturday : 22.00 to 23.00
Sunday : 10.00 to 22.30

On New Year's Eve from 23:00 (or 22:30 if it falls on a Sunday) to 03:30 on New Year's Day.

[Sale by Retail of Alcohol \[Off Sales\]](#)

Proposed Variation

Monday to Saturday : 22.00 to 23
Sunday : 12.00 to 22.30

From 10:00 New Year's Eve to 03:30 New Year's Day.

Compared to existing licence 19/03689/LIPVM

Monday to Thursday : 22.00 to 23.00
Friday and Saturday : 22.00 to 23.00
Sunday : 10.00 to 22.30

On New Year's Eve from 23:00 (or 22:30 if it falls on a Sunday) to 03:30 on New Year's Day.

[Hours premises are open to the public](#)

Proposed Variation

Monday to Sunday : 10.00 to Midnight

From 10.00 New Year's Eve to 03.30 New Year's Day

Compared to existing licence 19/03689/LIPVM

Monday to Sunday : 10.00 to 23.00

From 10.00 New Year's Eve to 03.30 New Year's Day

Representations Received

- Environmental Health – represented by Maxwell Koduah
- Sir Anthony Cleaver – not in attendance
- RP Corbett – not in attendance
- Julia Hubbard
- Christina Hunt
- David Loyd – not in attendance
- Rupert Loyd
- Mary Regnier-Leigh on behalf of The Belgravia Society – not in attendance
- Angela Sonenscher – not in attendance
- Shirley Ungemuth

Philip Greader had been unable to attend and had submitted a written statement.

Representations made by the Metropolitan Police had been withdrawn following agreement to conditions by the Applicant.

Summary of issues raised by objectors

- The provision of late-night refreshment, the supply of alcohol and the hours requested may have the likely effect of causing an increase in Public Nuisance may affect Public Safety within the residential area.
- An extension to licensing hours will lead to more disturbance beyond midnight from smokers, departing guests and running engines, particularly at the weekends.
- The request for longer hours had been submitted too soon after the initial grant.

Policy Position

There is no policy presumption to refuse this application (as the Premises was not situated in a Cumulative Impact Area). The application must, therefore, be determined on merit. Licensable activities would be licensed until core hours.

Applications for hours within core hours will generally be granted, subject to not being contrary to other policies in the City Councils Statement of Licensing Policy. Applications for hours outside core hours will also be considered on their merits, subject to other relevant policies. (Policies HRS1, RNT1 and PB1 apply.)

DECISION

Mr Baylis addressed the Sub-Committee on behalf of the Applicant, and explained that the variation in hours was being sought to allow customers more time in the restaurant before they had to leave. The Premises had been licensed since 2015 without complaint and had been bought in 2019 by the Applicant who was a celebrity chef. The Applicant had spent £20 million refitting the Premises, which was now a high-class operation with a maximum capacity of 25 people. The Premises had opened for trading on 12 January, and then closed on 13 March due to Covid-19 restrictions. One menu option for guests was a 10-course tasting menu, and the application sought a variation in hours slightly later than the current closing time of 23.00. The Applicant was not seeking an increase in footfall.

Mr Koduah addressed the Sub-Committee on behalf of Environmental Health and confirmed that no complaints had been received in connection with the operation of the Premises since the licence had been originally granted in 2015. The Sub-Committee noted that conditions attached to the licence provided that the Premises could only operate as a restaurant and not be drink led, while other conditions addressed noise and smoking. Although Mr Koduah had no particular concerns about the application, his representations were being maintained as residents had raised legitimate concerns regarding public nuisance.

The Sub-Committee heard from Ms Hunt, Mr Loyd, Ms Hubbard, and Ms Ungemouth, who were local residents objecting to the application for extended licensing hours. The residents stated that Groom Place is a very quiet Mews, and that the noise from cars and taxis waiting in the Mews late at night and from smokers during the time that the restaurant was open had caused disturbance that would only increase if the current hours were to be extended. Problems had also been experienced from the overspill of rubbish from the Premises, and from cigarette ends left by smokers. The current use of the Premises was new to residents, who had not been impacted by the previous operation of the Premises as a delicatessen and Pizzeria.

The residents also expressed concern that the Applicant would have been aware of the existing hours for the Premises at the time of purchase, but now want to extend them. Residents were disappointed that the Applicant had not contacted them to discuss the proposed variation of hours, which they considered to be a disrespectful way of doing business.

The Sub-Committee confirmed that it had read the statement submitted by Mr Greder and this was duly considered in its determination of the matter.

The Sub-Committee sought further clarification of the reason for submitting the application at this time. Mr Baylis confirmed that the application had not sought to increase capacity of profits, but had been made in response to staff finding that after the Premises had been open for two months, the permitted hours were not providing enough time for guests who arrived at 20.00 hours to leave at 23.00 hours.

The Sub-Committee asked what measures had been taken to address the concerns of residents, and Mr Baylis stated that drinks were not taken outside; and that people who wished to smoke were directed away from the Mews. Rubbish was also not left

outside the Premises but taken to the junction with Chapel Street at top of Groom Place for collection. Mr Baylis commented that the Applicant had been surprised to hear of the complaints from residents and would have responded earlier if he had been aware of the issues that had been raised.

The Sub-Committee queried how the Premises would operate under Covid-19 restrictions, and Mr Kelly confirmed that the operator would follow Government guidelines for social distancing and with employees wearing face masks. The maximum capacity of the Premises would also be reduced from 25 to 16 spread out over 2 floors.

The Legal Advisor to the Sub-Committee stated that residents could invoke the review procedure under the 2003 Act if they had real concerns regarding any breach of conditions and the failure by the Applicant to promote the licensing objectives.

Mr Koduah commented that Condition 30 on the existing licence did not envisage waste collection before 08.00 hours and confirmed that collections made any earlier would be a breach of the licence condition. Mr Koduah also stated that Condition 33 set out the obligation of the licensee to collect litter from around the Premises.

Mr Baylis stated that the application for later hours did not mean that the provision would be used every night, as business on some days was quieter than others. He also confirmed that the Applicant would agree to a further condition providing that taxis would collect customers from at the junction with Chapel Street at the top of Groom Place. Mr Baylis commented that the City Council's hours policy provided that applications within core hours would generally be granted, subject to exceptional circumstances. Mr Baylis suggested that given the lack of complaint during the two months that the Premises had operated, permission should be granted unless there were exceptional circumstances not to do so.

The Legal Advisor to the Sub-Committee requested those residents present at the Hearing to confirm whether their concerns would be alleviated by the proposed conditions, particularly regarding public nuisance. In response, the residents agreed and confirmed to the Sub-Committee that the conditions offered did not address their specific concerns.

The Sub-Committee did not doubt that the Applicant was a responsible operator, but considered that the increase in licensable activities and extension of hours would lead to public nuisance, particularly with regard to problems associated with taxis entering the Mews, and to noise when customers were leaving the premises.

The Sub-Committee was disappointed to note that the Applicant did not engage fully with residents regarding the application as this might have alleviated some of the concerns raised regarding nuisance in the many objections.

The Sub-Committee after taking into consideration the evidence provided by all parties, decided that the Applicant had not provided sufficient reasons as to why the granting of the variation would promote the licensing objectives and therefore in all of the circumstances of the case *refused* the application.

The Licensing Sub-Committee

20 August 2020

The Meeting ended at 4.00 pm

CHAIRMAN: _____

DATE _____