



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (2)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday, 21<sup>st</sup> January 2021**, This was an MS Teams virtual meeting.

**Members Present:** Councillors Tim Mitchell (Chairman), Susie Burbridge and Rita Begum

<b>Officer Support:</b>	Legal Adviser:	Vivienne Walker
	Policy Officer:	Aaron Hardy
	Committee Officer:	Cameron MacLean
	Presenting Officer:	Michelle Steward

#### 1. MEMBERSHIP

There were no changes to the Membership of the Sub Committee.

For the purposes of this meeting, the Chairman proposed that Councillor Susie Burbridge be appointed Substitute Chairman. Councillor Burbridge accepted the appointment.

#### 2. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

#### 1. BROWNS, 39 BROOK STREET, MAYFAIR, LONDON W1K 4JE

**Present:** Mr Alun Thomas, Thomas & Thomas Partners LLP (representing the applicant); and Ms Imogen Davies (for the applicant).

**Representations:** Representations had been received from Mr Francesco Girino (local resident), and Mr Ron Whelan (local resident) on behalf of the Mayfair Residents' Group.

**Applicant:** Browns (South Molton St) Ltd  
**Ward:** West End  
**CIA<sup>1</sup>:** Not applicable

#### Summary of Application

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<sup>1</sup> Cumulative Impact Area

The application was for a new premises licence.

## **INTRODUCTION**

The Chairman welcomed everyone to the meeting and introduced the Members of the Sub Committee and the Council Officers who would be supporting the Sub Committee. The chairman then explained the procedure that would be followed at the meeting before inviting the Presenting Officer, Ms Michelle Steward, to present the report.

## **PRESENTATIONS AND SUBMISSIONS**

### **Ms Michelle Steward, Senior Licensing Officer**

Ms Steward summarised the application as set out in the report before the Sub Committee, noting that representations had been received from The Metropolitan Police Service (MPS);<sup>2</sup> the Environmental Health Service; a local resident; and the Chairman of the Mayfair Residents' Group.

### **Mr Alun Thomas, Thomas & Thomas Partners LLP**

Mr Alun Thomas, on behalf of the applicant, presented the application, noting that the applicant was the tenant of the ground floor premises, the entrance to which was on the corner of Brook Street and Avery Road. He stated it was a small restaurant premises which accommodated 28 covers with a garden area which had a capacity for 40 covers.

Mr Thomas noted that the premises had been granted planning permission and that the hours applied for in the present licence application were in line with those granted in the planning application. The premises would be operated by a company called Native which had operated other premises in London and elsewhere. The rear garden was subject to a 10 PM curfew, as per the planning permission, and proposed conditions had been agreed with the Environmental Health Service.

Mr Thomas stated that discussions had taken place with Mr Francesco Girino, the local resident whose representation was before the Sub Committee. He stated he thought agreement had been reached with Mr Girino on the issue set out in his representation and that he had written to the construction company responsible for the development of the site about noise issues on behalf of Mr Girino.

Regarding the request by Mr Girino that the opening hours and times be reduced, Mr Thomas noted that the premises were not within a cumulative impact area and that the applicant had addressed the issue of licensable activities as set out in the policies in the Council's Statement of Licensing Policy, noting that the hours applied for were within the Council's core hours and that the premises met the definition of a restaurant, reflected in the proposed inclusion of Model Condition (MC) 38 and MC41 which incorporated the main elements of MC66.<sup>3</sup>

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<sup>2</sup> Subsequently withdrawn after agreement with the applicant on conditions which it was proposed should be attached to the licence should the application be granted.

<sup>3</sup> The premises shall only operate as a restaurant

(i) in which customers are shown to their table,

Regarding the representation by Mr Whelan that there had been an intensification of the number of late-night licensed establishments in the area, Mr Thomas stated that, as far as he was aware, none of the licensed premises listed in the report as being within 75 metres of the applicant's premises were new premises, only that there had been a variation of a premises licence for one of the premises. As to Mr Whelan's other concern about operating hours, Mr Thomas stated that the application was within the Council's core hours and in accordance with the premises' planning approval.

In response to several questions, Mr Thomas, and Imogen Davies provided the following information.

- (a) Regarding the outside area, although an application had been made to use this area from 8 AM to 10 PM there would be no outside music and, at present, the area was only used for lunch and dinner which was by way of table service. Because the premises were part of a retail store, it was anticipated that there may be several customers dining on their own in between shopping.
- (b) The retail operation comprised Browns, a high-end fashion retailer presently located on South Molton Street which was relocating to Brook Street. By the nature of its business, Browns did not have large numbers of customers visiting its South Molton Street store at any one time, and it was not anticipated that there would be many customers visiting the store on Brook Street.
- (c) The courtyard area was made up of tables for two persons. There were no outdoor heaters and, therefore, when the weather was cold, it was unlikely that customers would choose to sit outdoors. [It was subsequently noted that there were a lot of trees in the courtyard area and that smoking was not permitted in this area].

[At Mr Thomas's behest, Ms Davies, referring to the menus in the papers before the Sub Committee, provided the Members of the Sub Committee with information about Native; when it started, its business model, and its ethos].

- (d) Mr Thomas, referring to the plans in the papers before the Sub Committee, described the layout of the premises, including access and egress to and from the premises and the courtyard area, and the location of Mr Girino's property and its proximity to the courtyard area.
- (e) Referring to MC's 38 & 41, Mr Thomas noted that these included most of the requirements of MC66. The main difference was that there was no requirement that customers be shown to their table by a member of staff. The red line on the plans, which delineated the licensed areas, included back of house areas

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- (ii) where the supply of alcohol is by waiter or waitress service only, 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,
  - (iii) which do not provide any takeaway service of good or drink for immediate consumption,
  - (iv) which do not provide any takeaway service of food or drink after 23:00 hours, and
  - (v) where alcohol shall not be sold or supplied, otherwise than for the consumption by persons who are seated in the premises and bona fides 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.

where alcohol might be stored. The inclusion of these areas within the licensable areas was to ensure compliance with the requirements of the Licensing Act.

- (f) Referring to the Plan on page 14 of the Agenda Pack, Ms Davies confirmed that there was no public access to the kitchen area and that the only downstairs area that customers could access was the customer toilets.
- (g) Regarding private events, Ms Davies stated that it was anticipated that these would be small events, given the limited size of the premises, and that there would probably be only be one such event each month. Mr Thomas added that the applicant would not wish to limit the number of private events that might be held as it was possible that Browns might wish to hold some low-key fashion events in the garden. Ms Davies confirmed that food would be provided all private events.

### **Mr David Nevitt, Environmental Health Service**

Mr Nevitt summarised the application, noting that the key regulatory provisions included MC38, requiring the premises to operate as a sit-down restaurant. He noted that there was no requirement for MC66 as the premises were not within a CIA. The other key regulatory provision was the restriction on the hours of operation. Mr Nevitt noted that the application was in line with the planning approval and that the application included several conditions governing how the premises would operate during those hours. He also noted that the courtyard area including several walls, screens, plants and other structures which limited any impact use of the courtyard area might have on residents.

Mr Nevitt stated that there was a list of conditions that had been agreed between the applicant and the Environmental Health Service including a works condition<sup>4</sup> and that he was satisfied that the proposed conditions, operating hours and physical layout of the courtyard area were sufficient to meet any noise concerns. In conclusion, Mr Nevitt stated that was thought that the residents who had made representations might be in attendance and it was to address their concerns that the Environmental Health Service had maintained its representation.

### **Proposed Conditions**

Referring to the proposed conditions in the papers that were before the Sub Committee, the Chairman asked if both the Environmental Health Service and Mr Thomas, on behalf of the applicant, agreed to the conditions.

Mr Nevitt and Mr Thomas confirmed that the conditions were agreed. In response to a question by the Chairman, Mr Nevitt indicated that the Police had seen the proposed conditions and had no further comment.

### **SUMMING UP**

At this stage of the proceedings, the Chairman invited the various parties who had made representations to sum up their representations, if they so wished.

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<sup>4</sup> Condition 21: No licensable activities shall take place at the premises until the works have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the licence by the Licensing Authority. If there are minor changes during the course of construction new plans shall be submitted to the Licensing Authority.

### **Mr Nevitt, Environmental Health Service**

Mr Nevitt stated that he believed that the concerns of residents had been addressed and that there were enough measures in place to protect the interests of residents and to promote the Licensing Objectives.

### **Mr Thomas, on Behalf of the Applicant**

In response to a request by the Chairman to address several issues in his summing up, Mr Thomas provided the following information by way of summing up.

(a) Condition 12, which stated –

*“Save for private and pre-booked events, alcohol shall only be sold to person seated and by waiter/waitress service.”*

Corresponded with Condition 10, which stated –

*“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.”*

If the Sub Committee so wished, the applicant would have no objection to Condition 12 being amended to include a reference to the sale of alcohol being conditional upon a requirement that food be provided.

(b) MC’s 38 & 41 and the adherence to core hours with an exception for the opening hours, Monday to Thursday, which were 30 minutes outside of core hours, as per the hours approved by the planning permission, and in accordance with the Council’s revised Statement of Licensing Policy with regard to gradual dispersal of customers.

In conclusion, Mr Thomas stated that both he and Ms Davies would endeavour to answer any questions Members may wish to ask.

In response to a request for a possible wording for a revised Condition 12, Mr Thomas proposed the following –

*“Save for private and pre-booked events with food...”*

Alternatively –

*“Save for private and pre-booked events where food is provided...”*

In conclusion, the Chairman confirmed that the Sub Committee would reflect on the suggested wording for a possibly revised Condition 12.

### **ADJOURNMENT**

At this stage in the proceedings, the Chairman adjourned the meeting to allow Members to retire to consider their decision. He stated that the Sub Committee would not announce its decision today but that a summary of the decision would be sent to the various parties within five working days.

The Chairman then closed the live part of the virtual meeting.

### **DECISION**

It was the Sub Committee’s decision to **approve** the application, as set out in the Summary Decision attached to these minutes as an appendix.

## REASONS FOR THE DECISION

Having read the report by the Director of Public Protection and Licensing that was before it; the written submissions of the applicant and residents objecting to the application; and, having heard a presentation on behalf of the applicant and the applicant's responses to several questions, the Sub Committee was satisfied that it was appropriate and proportionate to grant the application.

In reaching its decision, the Sub Committee was of the view that the points made by Mr David Nevitt on behalf of the Environmental Health Service in his presentation to the Sub Committee were cogent and compelling. Specifically, the inclusion of Model Condition 38 requiring the premises, which was not in a cumulative impact area, to operate as a sit-down restaurant; the operating hours being within the Council's Core Hours, as set out in the Council's Statement of Licensing Policy; and the effect of the landscaping in the courtyard in reducing noise.

The Sub Committee was further reassured that it was appropriate to grant the application as approval of the licence was subject to the following conditions –

1. A "Works" condition viz:

*21: No licensable activities shall take place at the premises until the works have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority if there are minor changes during the course of construction new plans shall be submitted to the Licensing Authority.*

2. A condition limiting the capacity/number of covers permitted:

*20. No licensable activities shall take [place] at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.<sup>5</sup>*

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<sup>5</sup> The Environmental Health Service (EHS) subsequently confirmed that Condition 20 could be replaced with the following amended Model Condition 37:

*"The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 70 persons."*

## **58-60 LUPUS STREET, LONDON SW1V 3EE**

**Present:** Mr Manuel Rocha (representing the applicant); Councillor Jacqui Wilkinson (witness for the applicant); Mr Richard Brown, Citizens Advice Westminster (representing residents); and Parthe Ward & Pauline Moran (residents).

**Representations:** Representations had been received from

**Applicant:** Atlantico (UK) Ltd

**Ward:** Warwick

**CIA<sup>6</sup>:** Not applicable

### **Summary of Application**

The application was for a new premises licence.

### **INTRODUCTION**

The Chairman welcomed everyone to the meeting and introduced the Members of the Sub Committee and the Council Officers who would be supporting the Sub Committee. The Chairman then explained the procedure that would be followed at the meeting before inviting the Presenting Officer, Ms Michelle Steward, to present the report.

### **PRESENTATIONS AND SUBMISSIONS**

#### **Ms Michelle Steward, Senior Licensing Officer**

Ms Michelle Steward, Senior Licensing Officer, summarised the application as set out in the report before the Sub Committee. In so doing, Ms Steward noted that the applicant, Mr Antonio Lopez Vieira, would be represented by Mr Manuel Rocha, and that Councillor Jacqui Wilkinson would speak on behalf of Mr Vieira in supporting the application.

Ms Steward stated that, during the consultation period, the applicant had agreed to reduce the terminal hour to 20:00 hours, Monday to Saturday; and 18:00 hours on Sundays. Representations on the application had been received from the Environmental Health Service (EHS) and several residents, represented by Richard Brown of Citizens Advice Westminster. During the consultation period, and after agreement on proposed conditions, the Metropolitan Police Service (MPS) had withdrawn their representation on the application.

#### **Mr Manuel Rocha, On Behalf of the Applicant**

Mr Rocha stated that the application was for a new delicatessen shop which had opened in December. He stated that the applicant had previously owned a shop in Victoria [43a Warwick Way, Lillington and Longmoore Gardens, London SW1V 1QS], but when the lease on the premises was not renewed, it was necessary for the applicant to find alternative premises and had chosen these premises in Pimlico as the business had a lot of customers in the area.

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<sup>6</sup> Cumulative Impact Area

[Mr Rocha, referring to his representation at Appendix 2 of the papers, described the wholesale import business operated by Atlantico (UK) Ltd, noting that the company imported a vast number of products from Brazil and Portugal for distribution to retail shops, hotels and restaurants, including its delicatessen premises, Delicias de Portugal].

Mr Rocha stated that the applicant wished to sell alcohol as a complement to its deli products and that it was not a typical off-licence. Having read the representations from residents, he stated that, to address residents' concerns, the application had been amended to reduce the opening hours, noting that the application was for the Sale by Retail of Alcohol (Off Sales Only) and, therefore, there would be no "On Sales" of alcohol to customers either inside the premises or seated at the tables outside the premises.

[Mr Rocha then described how the premises would operate with regard to deliveries and waste collection; service at the tables and chairs outside the premises; and the conditions that had been agreed with the Police, including the requirement that the premises have suitable CCTV installed; implementation of "Challenge 21" in respect of sales of licensable products; and regular staff training on the sale of alcohol].

Mr Rocha stated that the applicant had agreed to numerous conditions to promote the Licensing Objectives, as set out at Appendix 4 of the report of the Director of Public Protection and Licensing.

In response to questions from Members of the Sub Committee, Mr Rocha provided the following information.

- (a) Only teas, coffees, soft drinks and sandwiches would be served to customers sitting outside. As the applicant was applying for Off Sales only, there would be no sale of alcohol to customers for consumption on the premises or seated outside the premises.

In response to a proposal by the Chairman, Mr Rocha stated that the applicant would be willing to accept a condition on the licence that alcohol would not be served to customers seated outside the premises.

- (b) At 6 PM, the tables and chairs outside the premises would be brought inside and there would be no service to customers outside the premises after 6 PM.
- (c) The applicant would be willing to accept a condition on the licence that the premises would operate primarily as a delicatessen.

### **Mr Ian Watson, Environmental Health Service**

Mr Watson stated that he would divide his presentation into three parts, as follows –

- (1) The application;
- (2) The concerns set out in the representations; and
- (3) The ongoing discussions between the Council and the applicant about the complaints about noise and vibration emanating from the premises.

### **The Application**

The Environmental Health Service (EHS) had no objections to the proposed hours of operation as submitted by the applicant as these were within the Council's core hours and the applicant had agreed to proposed conditions on the licence. The applicant had subsequently applied for a few Temporary Event Notices (TENs) to



allow it to sell alcohol while the premises licence application was awaiting determination.

In response to concerns by residents, the applicant had subsequently amended the application and it was the amended application that was before the Sub Committee.

#### Concerns Raised by Residents

In summary, most of the concerns raised by residents were about the proposed opening hours and the On Sale of alcohol to customers inside the shop and to customers seated outside the premises using the tables and chairs, the applicant having been granted planning permission to place tables and chairs outside premises.

Mr Watson noted that the applicant had amended the hours applied for and that the application was for Off Sales only. Therefore, the obligation on the applicant was to sell alcohol that was in sealed containers and this extended to wine tastings on the premises unless the wine used in tastings was provided free of charge.

Permission had been granted for the use of external tables and chairs until 6 PM. However, in accordance with the Coronavirus Regulations and the current lockdown conditions, the applicant was not permitted to use the tables and chairs outside the premises.

Regarding concerns about the terms and conditions of the Planning approval for the premises, Mr Watson stated that there may have been some misunderstanding on the part of residents as to the relevance of the Planning Permission to the current application. He stated that the planning application was not relevant to this application.

Residents had expressed concerns about street drinking and antisocial behaviour. Mr Watson noted that Westminster City Council had addressed this issue by making the whole of Westminster a Controlled Drinking Zone (CDZ) which allowed the Police<sup>7</sup> to confiscate alcohol, if necessary, from anyone on the street. In addition, the Police<sup>8</sup> could establish a dispersal zone in an area if this was deemed necessary. Therefore, there were powers in place to address these concerns.

Regarding deliveries and collections, following a site visit, it had been confirmed that the applicant could comply with the conditions that had been proposed by the EHS.

Referring to the plans of the premises, Mr Watson noted that the double doors in the basement area were no longer there. Therefore, the premises' plans should be amended with the red line demarcating the proposed licensable area redrawn along the wall where the double doors had been located. This would reduce the area to be licensed as it would exclude the yard area. In addition, the plan should be amended to show the basement toilet lobby area. It was noted that, if the application was approved, it would be necessary to submit up-to-date and accurate plans.

Referring to the Additional Information Pack and the photographs on page 82 of the yard area at the back of the premises, Mr Watson noted that the fridge/freezer cooling units in the rear walls of the premises had now been relocated inside the premises. The fridge/freezer cooling units that remained on the outside walls, and for which there was no planning permission, were now the subject of planning

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<sup>7</sup> Under the Criminal Justice and Police Act 2001

<sup>8</sup> Under the Crime and Policing Act 2014

enforcement action and had been turned off until such time as the planning issues had been resolved.

Referring to the windows shown in the photographs, Mr Watson noted that, at the top of one of the windows, there was an extractor unit which, at the time of his site visit, was switched on. The noise from the unit was a potential source of nuisance and Mr Watson had proposed to the applicant that a limiter could be installed on the unit that would reduce the noise while allowing the unit to operate in an effective manner. In addition, a timer could be installed in the unit to ensure that it was automatically switched off when the premises closed. As yet, he had not had a response from Mr Rocha, and it may be that Mr Rocha could advise the Sub Committee regarding the proposals.

Referring to the fridge freezer units in the premises, Mr Watson noted that these were mounted on anti-vibration units (one of which could be described as a substantial anti-vibration unit). However, further investigation was necessary to determine if the units were free of the fabric of the building thereby preventing any vibration travelling through the structure of the building.

An inspection of the premises had not identified any noise from the fridge/freezer cooling units that had been relocated within the premises. However, noise was audible from the extractor unit discussed and that there was some vibration in the building from the freezer units inside the premises. Consequently, there was ongoing discussion between the City Inspector, Mr Franks, and residents regarding their complaints about noise and vibration.

In response to questions by Members, Mr Watson provided the following information.

- (a) The rear door under the cooling unit identified as No. 9 on page 82 of the Additional Information Pack, when closed, provided very good acoustic control over the noise of the fridge/freezer units inside the premises. As the applicant did not require access to the rear yard for storage, he proposed that this door kept closed except for emergencies.
- (b) The basement area was required to be licensed as this was where the wines were displayed i.e., there was no wine display on the ground floor of the premises.

### **Mr Richard Brown, Citizens Advice Westminster (on behalf of residents)**

Mr Brown referred the Sub Committee to his submission on page 75 of the Additional Information Pack and to the paragraph on page 80 where it was stated:

*“Residents do not object to an Off-License sale of alcohol but simply wish to align the hours with the opening hours of the shop, in accordance with licensing guidelines in order to protect the general public and prevent long hours from becoming a nuisance.”*

Although residents did not object to the Off Sales of alcohol, they strongly disagreed with some of the assertions made in the applicant's submission. He stated that this may be the result of a misunderstanding on the part of the applicant, for example, the application, if granted, would allow customers seated outside the premises to consume alcohol purchased on the premises. Mr Brown acknowledged that the applicant had stated he was willing to accept a condition on the licence that would prohibit customers from consuming alcohol while seated outside the premises, and

suggested that the condition might be extended to include not just the tables and chairs but the immediate vicinity.

Regarding noise nuisance, Mr Brown stated that complaints by residents centred on noise from within the premises which was disturbing residents during the night<sup>9</sup>. He noted that Mr Watson had stated that this was the subject of ongoing investigations and that, to date, it had not possible to assess any noise nuisance from within residents' flats because of the restrictions imposed by the current Coronavirus Regulations.

Regarding the proposed opening hours, Mr Brown stated that residents had no objection to Off Sales of alcohol during the hours of 9 AM to 6 PM, in line with the operation of other licensed premises in the area, and subject to a condition that there would be no consumption of alcohol in the seated area outside the premises. He noted that the tables and chairs licence and the premises planning approval both referred to operating hours of 9 AM to 6 PM. Therefore, it was appropriate to marry up all the hours of operation, including the premises licence. In addition, there was a reference in the Statement of Licensing Policy that operators should not apply for licensable hours that exceeded the proposed hours of operation.

Regarding delivery services such as Deliveroo, Mr Brown referred to Paragraph 4.2.6 of his submission where he noted that a later licence/closing time would mean that noise nuisance from such services would continue to later in the evening.

Mr Brown then noted that the concerns of residents regarding waste and recycling collections, as set out in Paragraph 4.2.7 of his submission, had been addressed by Mr Watson in his presentation.

In conclusion, Mr Brown referred to Council Policy PN1: Prevention of Public Nuisance, of which the relevant parts relating to noise nuisance, including noise, vibration and the proximity of residential accommodation, were set out in his submission at Paragraph 5.

#### Representation by Parthe Ward, Resident

Ms Ward, noting that this part of Lupus Street was largely residential, stated that residents were particularly concerned that the premises operating hours should not extend beyond 6 PM, and should be in line with the operating hours of other commercial premises in the retail parade.

She stated that residents valued the shopping parade and welcomed the opening of the delicatessen. However, residents were concerned about the proposal for outside seating and the possibility that customers could be using this area after 6 PM thereby causing a nuisance to residents, in particular, those residents living directly above the premises. In addition, residents would like a reassurance that alcohol would not be served to customers seated outside the premises.

Regarding the noise and vibration from the cooling units which had been installed at the rear of the premises in November of last year, Ms Ward stated that these had been a source of substantial nuisance to residents (the premises having previously operated as a carpet shop with no need for [industrial] refrigeration). She noted that the block in which the premises was located was a 1950s build with no sound insulation. The noise and vibration, which it was believed was coming from the

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<sup>9</sup> Mr Brown suggested it may be the humming noise from fridge/freezer units within the premises that was the cause of this disturbance.

refrigerator units, travelled through the building from the ground floor to the second floor. Because the units were on all the time, the noise and vibration was disturbing residents' sleep, but it had not been possible to carry out a noise assessment at the present time.

In conclusion, Ms Ward asked that the Sub Committee take the concerns of residents into account when deciding the application.

#### Representation by Ms Pauline Moran, Resident

Ms Moran stated that she was speaking on behalf of several residents who lived opposite the premises and that she concurred with the points made by Ms Ward.

She stated that the residents were not antibusiness and welcomed the delicatessen and wished the applicant every success in his new premises. She stated that this part of Lupus Street was unique in that there were residential properties on both sides of the street. The windows of the ground floor commercial properties at No's. 52 to 80 Lupus Street were opposite ground floor residential accommodation at No's. 53 to 59 Lupus St. Therefore, any nuisance caused by customers, lights or noise from these commercial premises affected the ground floor residents living opposite, particularly those living in Neate House.

In conclusion, Ms Moran stated that, as the applicant had relocated his premises from a busy commercial area to a street that was largely residential, consideration had to be given to the potential problems that might affect the residents' quality-of-life as a consequence of relocating the business.

At this point in the proceedings, the Chairman asked Mr Rocha if he might respond to the points made in the various presentations

#### Mr Rocha: Response to the Presentations

Mr Rocha provided the following information in response to the various points made in the preceding presentations.

##### (a) The applicant would –

- Instruct his architect to revise and update the Basement Plan, a copy of which would be submitted to the Council.
- Arrange with the manufacturers of the extraction unit for a suitable limiter and timer, or other suitable mechanism, to be fitted to the unit, as suggested by Mr Watson.
- Arrange for the rear door of the premises to be kept closed with appropriate signage to that effect.
- Liaise with the manufacturers of the refrigeration units on the installation of antivibration brackets and/or suitable insulation.

##### (b) The applicant was anxious to work with residents to resolve the issues of noise nuisance and vibration caused by the refrigeration and chiller units and the extractor unit.

##### (c) Regarding the amended operating hours –

Monday to Saturday: 08:00 hours to 20:00 hours

Sale of Alcohol by Retail (Off Sales Only): 10:00 hours to 20:00 hours

Sunday: 09:00 hours to 18:00 hours

*Sale of Alcohol by Retail (Off Sales Only): 10:00 hours to 18:00 hours*

Mr Rocha stated that the applicant was of the view that the amended hours were reasonable when there were other businesses in the area that did not close until 10 PM. Also, a lot of customers arrived late on their way home from work and if the premises closed at 6 PM, the applicant would lose that market.

- (d) The applicant would be willing to accept a condition that there would be no alcohol sold to customers seated outside the premises and that the applicant would use his best endeavours to ensure that no alcohol was consumed by customers within the immediate vicinity of the premises.

In response to a question by the Chairman, Mr Rocha stated that the applicant had no plans to use delivery services such as Deliveroo or Uber as that was not the applicant's type of business. Furthermore, the applicant would not, in any case, offer a delivery service that went beyond the premises' operating hours.

### **Presentation by Councillor Jacqui Wilkinson On Behalf of the Applicant**

Councillor Wilkinson stated that she had been contacted by Mr Vieira to ask if she might support the application. She had also been in contact with the residents about their concerns about the application and had been involved in both the planning and licensing stages of the application. It was her hope that a successful resolution to the various issues might be achieved.

Councillor Wilkinson noted that Mr Vieira's previous operation in Warwick Way had been very successful and the opportunity of having a successful business in Lupus Street would be of benefit to everyone. She went on to say that she had been encouraged by the conversation today and was sure that residents' concerns and the concerns of the business were capable of resolution.

### **ADJOURNMENT**

At this stage of the proceedings, the Chairman stated that the Sub Committee would adjourn for 10 minutes to allow Members of the Sub Committee to consider the various parties presentations and the conditions that had been proposed. The Sub Committee would do this before asking the parties to sum up their presentations.

### **Re-Commencement of Proceedings**

Having adjourned the meeting for 15 minutes, the Sub Committee reconvened. The chairman stated that he had asked for the various conditions that had been proposed by the Environmental Health Service (EHS) and others to be displayed. Ms Vivienne Walker, Legal Officer, then read out the following conditions that had been proposed during the proceedings –

- 10. There shall be no consumption of alcohol by customers at the outside tables and chairs*
- 11. The sale of alcohol authorised by this license and provided at the premises shall be ancillary to the main function of the premises as a delicatessen*
- 12. The tables and chairs shall be removed from outside the premises at 18:00 hours.*

13. *All windows and external doors at the rear of the building shall be kept closed at all times except for immediate access and egress.*<sup>10</sup>
14. *Revised drawings must be submitted to the Licensing Authority; the licence will not take effect until such drawings are provided.*

In addition, proposed Condition 21 in the list of conditions being displayed<sup>11</sup> would be amended to read –

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.”*

In response to a question by the Chairman, Mr Rocha stated that the applicant would be willing to accept the conditions proposed by the EHS and the Police, as amended, and the conditions further five conditions proposed by the subcommittee.

In response, Mr Watson confirmed that that it was the view of EHS that the proposed additional five conditions were appropriate.

Mr Brown, on behalf of residents, stated that proposed additional conditions were appropriate. However, it would be residents’ preference that the following wording be added to Proposed Condition 10 –

*“or the immediate vicinity”.*

The Chairman stated that the Sub Committee had concerns about whether Condition 10, as amended by Mr Brown, would be enforceable i.e., if the prohibition on the consumption of alcohol at the tables and chairs outside the premises was extended to include the immediate vicinity. Accordingly, it may be preferable to include such a provision by way of an Informative, rather than adding it to the condition.

Mr Brown stated that the condition he had proposed was that there should be “No sale of alcohol for consumption at the tables and chairs or immediate vicinity”. He said the intention behind the wording was to provide the applicant with some protection regarding the sale of alcohol. However, it was a matter for the Sub Committee to decide if it wished to deal with this by way of an informative.

## **SUMMING UP**

The Chairman then invited the various parties to sum up their presentations and representations.

### **Mr Watson, Environmental Health Service (EHS)**

Mr Watson stated that the EHS would be willing to work with the City Inspector, Mr Franks, to achieve a satisfactory outcome for the residents regarding nuisance caused by noise and vibration.

Regarding the application, as the proposed hours were in accordance with the Council’s core hours, the EHS was satisfied with the application and the proposed conditions.

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<sup>10</sup> Model Condition 14

<sup>11</sup> Condition 11 in the list of conditions proposed by EHS and set out in their representation on page 30 of the report by the Director of Public Protection and Licensing

Concerning carrying out an assessment of noise levels within residents' flats, he would arrange for remote equipment to be provided which would allow noise levels to be assessed without contravening the current Coronavirus Regulations.

### **Mr Brown, Citizens Advice Westminster (on behalf of residents)**

Mr Brown stated that he had been requested by Ms Moran to emphasise the importance of limiting the premises opening hours because of the effect a later opening time would have on the residents living in ground floor properties opposite the applicant's premises.

### **Mr Rocha On Behalf of the Applicant**

Mr Rocha stated that he wanted to thank all the parties involved for the positive and professional way in which the hearing had been conducted.

He stated that the sale of alcohol was complementary to the main business of the delicatessen and the applicant was of the view that the applied-for opening hours were reasonable and that the proposed conditions, if accepted, would promote the Licensing Objectives. If residents had an issue with the premises, they could always contact Mr Manuel, the Designated Premises Supervisor (DPS).

In conclusion, Mr Rocha stated that there were a lot of potential customers in the building and, hopefully, they would see them [in the shop] in the future.

### **ADJOURNMENT**

At this stage in the proceedings, the Chairman adjourned the meeting to allow Members to retire to consider their decision. He stated that the Sub Committee would not announce its decision today but that a summary of the decision would be sent to the various parties within five working days.

The Chairman then closed the live part of the virtual meeting.

### **DECISION**

It was the Sub Committee's decision to **approve** the application, as set out in the Summary Decision attached to these minutes as an appendix.

### **REASONS FOR THE DECISION**

Having read the report by the Director of Public Protection and Licensing that was before it; and having heard representations by the applicant, Mr Brown of Citizens Advice Westminster, and local residents, the Sub Committee was satisfied that it was appropriate and proportionate to grant the application, for the following reasons.

1. The main concerns of residents in relation to the licensing aspects of the application were the hours of operation and potential nuisance if the consumption of alcohol was permitted at the tables and chairs outside the premises. These concerns have been addressed, as follows: the applicant –
  - (a) In response to resident's concerns, had amended the application to reduce the operating hours during the week by two hours from 10 PM to 8 PM; and
  - (b) Had agreed to the following conditions: That –
    - No alcohol would be served to customers seated at the tables and chairs outside the premises; and

- That the sale of alcohol would be ancillary to the main function of the premises as a delicatessen.
2. Regarding residents' concerns about noise and vibration emanating from the freezer and chiller units both inside and outside the premises, and the extractor unit at the rear of the premises, it was noted by the Sub Committee that these concerns had been addressed, as follows –
- (a) The applicant was liaising with the Council's Planning Enforcement officers in relocating the external units at the rear of the premises, and that several of these units had already been relocated.
- (b) The applicant was liaising with the Council's Environmental Health Services (EHS) team on measures to reduce noise nuisance, including –
- Installing a limiter on the extraction unit to reduce the noise level of the unit when it was in operation, and a timer and to ensure that the unit operated for no longer than was necessary.
  - Keeping the rear door nearest to the chiller and refrigeration units in the premises closed at all times except for emergencies.
  - Liaising with the manufacturers of the refrigeration and chiller units about installing appropriate anti vibration devices and noise insulation.
3. In addition, the Sub Committee was satisfied that incorporating the terms of Model Condition 12:

*"The 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."*

within proposed Condition 21:

*"No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance."*

was a reasonable and proportionate requirement intended to meet residents' concerns about noise and vibration, and to promote the Licensing Objective of the Prevention of Public Nuisance.

The Meeting ended at 3.10 PM.

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_



## APPENDIX 1

### WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 2

(“The Committee”)

Thursday 21 January 2021

**Membership:** Councillor Tim Mitchell (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

**Officer Support:**

Legal Adviser:	Vivienne Walker
Policy Officer:	Aaron Hardy
Committee Officer:	Cameron MacLean
Presenting Officer:	Michelle Steward

**Parties Present:** Mr Alun Thomas, Thomas & Thomas Partners for the Applicant, and Ms Imogen Davies for the Applicant.

**APPLICATION FOR A NEW PREMISES LICENCE – BROWNS, 39 BROOK STREET MAYFAIR LONDON W1K 4JE – 20/09601/LIPN**

#### FULL DECISION

##### **Premises**

Browns  
39 Brook Street  
London  
W1K 4JE

##### **Applicant**

Browns (South Molton Street) Limited

##### **Cumulative Impact Area**

The Premises are not located in the Cumulative Impact Area.

##### **Ward**

West End

##### **Summary of Application**

The Sub-Committee has determined an application for a new Premises Licence under the Licensing Act 2003 (“The Act”). The Premises proposed to operate as a restaurant.

##### **Proposed Licensable Activities and Hours**

###### Late Night Refreshment (Indoors and Outdoors)

Monday to Thursday: 23:00 to 23:30 hours

Friday to Saturday: 23:00 to 00:00 hours

Seasonal Variations: From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.

Sundays before a Bank Holiday until 00:00 hours.

#### Sale by Retail of Alcohol (On and Off Sales)

Monday to Thursday: 10:00 to 23:30 hours

Friday to Saturday: 10:00 to 00:00 hours

Sunday: 12:00 to 22:30 hours.

Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Sundays before a Bank Holiday 10:00 to 00:00 hours.

#### Hours the Premises are open to the Public

Monday to Saturday: 08:00 to 00:00 hours

Sunday: 08:00 to 23:00 hours.

Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Sundays prior to a bank holiday 10:00 to 00:00 hours.

#### **Representations Received**

- Metropolitan Police Service (PC Adam Deweltz) (Withdrawn)
- Environmental Health Service (David Nevitt)
- Mr Fancesco Girino, local resident
- Mr Ron Whelan on behalf of the Mayfair Residents Group

#### **Summary of Issues Raised by Objectors**

- The proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety.
- I believe that the proposed opening hours are too late at night and would create considerable nuisance to the neighbours, who are already deeply and negatively impacted by the Claridge's building construction works. I would ask to reconsider the opening hours, in particular, in relation to the serving of alcohol.
- The Mayfair Residents opposed this application. The immediate area in Brook Street, Avery Row, South Molton Street and Lancashire Court has become increasingly residential in recent years whilst at the same time, the number of late-night licensed establishments have grown.
- Another licensed establishment in this immediate area can only worsen the situation for local people through an increase in late night noise and anti-social behaviour in the streets.

#### **Policy Position**

Policies HRS1 and RNT1 apply under the City Council's Statement of Licensing Policy.

## SUBMISSIONS AND REASONS

The Presenting Officer, Ms. Michelle Steward summarised the application to the Sub-Committee. She confirmed that this was an application for a new Premises Licence made on behalf of the Applicant Browns (South Molton Street) Limited.

It was confirmed that the Metropolitan Police Service after agreeing the proposed conditions as part of the operating schedule with the Applicant, subsequently withdrew their representations.

Mr. Thomas, representing the Applicant stated that the Applicant was the tenant of the ground floor premises. He stated that the premises were a small restaurant which accommodated 28 covers with a garden area which had a capacity of 40 covers.

Mr. Thomas stated that discussions had taken place with the local resident whose representation was before the Sub-Committee. He stated that he thought an agreement had been reached with the resident on the issue set out in his representation. He had written to the construction company responsible for the development of the site about the noise on behalf of the resident.

In response to the residents' request that the opening hours and times be reduced, Mr. Thomas explained that the premises were not within a Cumulative Impact Area and that the Applicant had addressed the issue of licensable activities. He stated that hours applied for were within the Council's Core Hours.

In response to questions raised by the Sub-Committee, Mr. Thomas and Ms. Davies provided the following information: -

1. The outside area, although an application had been made to use this area from 08:00 to 22:00 there would be no outside music, at present the area was only used for lunch and dinner which was by way of table service. As the premises were part of a retail store, it was anticipated that there may be several customers dining on their own in between shopping.
2. The retail operation comprised of Browns, a high-end fashion retailer. Presently located on South Molton Street which was relocating to Brook Street. By the nature of its business, Browns did not have large numbers of customers visiting its South Molton Street store at any one time, and it was not anticipated that there would be many customers visiting the store on Brook street.
3. The courtyard area was made up of tables for two persons. There were no outdoor heaters and, therefore, when the weather was cold, it was unlikely that customers would choose to sit outdoors.
4. Mr. Thomas, referring to the plans in the papers before the Sub-Committee, described the layout of the premises, including access and egress to and from the premises and the courtyard area, and the location of the Objector's property and its proximity to the courtyard area.
5. Mr. Thomas referred to Model conditions 38 and 41 and noted that these included the main elements of Model condition 66. The main difference was that there was no requirement that customers be shown to their table by a member of staff. Mr. Thomas stated that the red line on the plans, which delineated the licensed areas, included back of house areas where alcohol might be stored. The inclusion of these areas within the licensable areas was to ensure compliance with the requirements of the Licensing Act.

6. Regarding private events, Ms. Davies stated that it was anticipated that these would be small events, given the limited size of the premises, and that these would probably be only one such event each month.

Mr. Thomas added that the Applicant would not wish to limit the number of private events that might be held as it was possible that Browns might wish to hold low-key fashion events in the garden. Ms. Davies confirmed that food would be provided at all private events.

Mr. David Nevitt on behalf of the Environmental Health Service (EHS) stated that there was a list of conditions which had been agreed between the Applicant and EHS including a works condition and that he was satisfied that the proposed conditions, operating hours and physical layout of the courtyard area were sufficient to meet any noise concerns.

Having carefully considered all the submissions made by all parties both orally and in writing, the Licensing Sub-Committee decided to **grant** the application subject to the agreed conditions.

The Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives.

In reaching its decision, the Sub-Committee took into consideration all relevant matters which are not limited to the following:

1. Mr. David Nevitt on behalf of the EHS stated that given the list of conditions agreed with the Applicant he was satisfied that with those conditions, the operating hours and the physical layout of the courtyard would mitigate any noise concerns.
2. The Committee was of the view that the points made by Mr. Nevitt, specifically the inclusion of Model Condition 38 requiring the premises, which was not in a Cumulative Impact Area, to operate as a sit-down restaurant, and the operating hours being within the Council's Core Hours were compelling.
3. The Sub-Committee was also reassured that it was appropriate to grant the application as approval of the licence was subject to the following conditions:
  - A "works" condition;
  - A condition limiting the capacity of the premises.

In conclusion, the Sub-Committee was satisfied that, in all the circumstances of the case, it was appropriate and proportionate to grant the licence.

**The application was granted subject to the following conditions in addition to The Mandatory Conditions applicable to this type of application: -**

#### **CONDITIONS IMPOSED BY THE COMMITTEE AFTER A HEARING**

1. 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.
2. 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.

3. Save for private and pre-booked events, alcohol shall only be sold to persons seated and by waiter/waitress service.
4. Condition 11 shall not apply during private and pre-booked events during which substantial food must be available.
5. The garden shall not be used by customers other than between 08:00 and 22:00 hours.
6. 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 are 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.
7. 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 are 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.
8. 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 sale of alcohol
  - h) Any visit by a relevant authority or emergency service.
9. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
10. 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.
11. The sale and supply of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.

12. No licensable activities shall take place at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the Licensing Authority has replaced this condition on the licence with a condition detailing the capacity so determined.
13. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 70 persons.
14. No licensable activities shall take place at the premises until the works have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority. If there are minor changes during the course of construction new plans shall be submitted to the Licensing Authority.
15. The premises shall undertake a risk assessment as to the need for SIA door supervision at private and pre-booked events.
16. A challenge 21 or 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.
17. The Applicant shall provide the Licensing Authority prior to the issuing of the Premises Licence a revised plan showing the exact lay out of the licensable area for the purposes of this application.

**This is the Full Decision reached by the Licensing Sub-Committee. This Decision takes immediate effect.**

## APPENDIX 2

### WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 2 ("The Committee")

Thursday 21 January 2021

**Membership:** Councillor Tim Mitchell (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

**Officer Support:**

Legal Adviser:	Vivienne Walker
Policy Officer:	Aaron Hardy
Committee Officer:	Cameron MacLean
Presenting Officer:	Michelle Steward

**Parties Presenting:** Mr Manuel Rocha, for the Applicant; Cllr. Jacqui Wilkinson, witness for the Applicant (written submission); Ian Watson, Environmental Health Service; Richard Brown, Citizens Advice Westminster for Residents; Parthe Ward, local resident; Pauline Moran, local resident

**APPLICATION FOR A NEW PREMISES LICENCE: 58-60 LUPUS STREET  
LONDON SW1V 3EE (20/08598/LIPN)**

### FULL DECISION

#### Premises

58-60 Lupus Street  
London  
SW1V 3EE

#### Applicant

Altantico (UK) Limited

#### Cumulative Impact Area

The premises are not located within the Cumulative Impact Area

#### Ward

Warwick

#### Summary of Application

The Sub-Committee has determined an application for a new Premises Licence under the Licensing Act 2003 ("the Act"). The Premises propose to operate as a Delicatessen.

#### Proposed Licensable Activities and Hours

##### Sale by Retail of Alcohol (Off Sales)

- Monday to Saturday: 10:00 to 20:00 hours

- Sunday: 10:00 to 18:00 hours

#### Hours Premises are open to the Public

- Monday to Saturday 08:00 to 20:00 hours; and
- Sunday 10:00 to 18:00 hours

#### **Representations Received**

- Metropolitan Police Service (PC Adam Deweltz) (Withdrawn)
- Environmental Health Service (Ian Watson)
- Twelve Local Residents

#### **Summary of issues raised by Objectors**

- The supply of alcohol and the hours requested for the supply of alcohol will have the likely effect of causing an increase in Public Nuisance within the area and impact on Public Safety.
- The parade of shops has been very quiet in the evening when other premises close at 6.00 p.m. and if this application is allowed residents will be disturbed by noise, lights and people entering and leaving the premises late at night. The sale of alcohol until 10.00 p.m. may encourage street drinking which is a danger to public safety.
- Clients purchasing alcohol for consumption on the premises and take away will encourage young persons to purchase drinks and drink on street level.
- There are also schools within 100 metres.
- There is no objection to the retail sale of alcohol during the permitted trading hours of 9.00 a.m. to 6.00 p.m. and a specialist delicatessen is welcomed in this location, but there is a strong objection to the potential problems accompanying the extended hours applied for.

#### **Policy Position**

Policies HRS1 and OS1 apply under the City Council's Statement of Licensing Policy.

### **SUBMISSIONS AND REASONS**

The Presenting Officer, Ms Michelle Steward, summarised the application to the Sub-Committee. She confirmed that this was an application for a new Premises Licence made on behalf of the Applicant, Mr Antonio Lopez Vieira.

Ms Steward confirmed that during the consultation period, the Applicant had agreed to reduce the terminal hour to 20:00 hours, Monday to Saturday, and 18:00 hours on Sundays.

It was confirmed that the Licensing Authority had received representations from Environmental Health Service and several residents, represented by Richard Brown of Citizens Advice Westminster.

The Metropolitan Police Service had also made representations, but after agreeing the proposed conditions as part of the operating schedule with the Applicant, subsequently withdrew their representations.



Mr Manuel Rocha, on behalf of the Applicant stated that the Applicant had previously owned a shop in Victoria and when the lease on that premises was not renewed, it was necessary for the Applicant to find alternative premises and had chosen these premises as the business had a lot of customers in the area.

Mr Rocha stated that the Applicant wished to sell alcohol as a compliment to its deli products and that it was not a typical off licence. He stated that to address residents' concerns the Application had been amended to reduce the opening hours, noting that the application was for the Sale by Retail of Alcohol (Off Sales only) and, therefore, there would be no "On Sales" of alcohol to customers either inside the premises or seated at the tables outside the premises.

Mr Rocha described how the premises would operate with regard to deliveries and waste collection, service at the tables and chairs outside the premises, and the conditions that had been agreed with the Police.

It was noted that the Applicant had agreed to numerous conditions to promote the licensing objectives. In response to questions raised by Members, Mr Rocha stated:

1. Only teas, coffees, soft drinks and sandwiches would be served to customers sitting outside. As the Applicant was applying for off sales only, there would be no sale of alcohol to customers for consumption on the premises or to customers seated outside the premises. He stated that the Applicant would be willing to accept a condition on the Licence that alcohol would not be served to customers seated outside the premises;
2. At 18:00 hours, the tables and chairs outside the premises would be brought inside and there would be no service to customers outside the premises after 18:00 hours;
3. The Applicant would be willing to accept a condition on the Licence that the premises would operate primarily as a delicatessen.

Mr Ian Watson on behalf of Environmental Health Service (EHS) addressed the Sub-Committee who stated that there were no objections to the proposed hours of operation as submitted by the Applicant as there were within the Council's Core Hours and the Applicant had agreed to proposed conditions on the Licence.

Mr Watson stated that majority of the concerns raised by residents were about the proposed opening hours and the On Sale of alcohol to customers seated outside the premises. He noted that the Applicant had amended the hours applied for and that the application was for Off Sales only. He stated that the obligation on the Applicant was to sell alcohol that was in sealed containers and this extended to wine tastings on the premises, unless the wine used in tastings was provided free of charge.

Mr Watson stated that following a site visit the Applicant was capable of complying with the conditions proposed by the EHS in respect of deliveries and collections.

It was noted that the double doors in the basement area were no longer there, and Mr Watson stated that the premises plan should be amended. If the application was approved, it would be necessary to submit up to date and accurate plans.

Mr Watson has confirmed that inspection of the premises had not identified any noise from the fridge/freezer cooling units that had been relocated within the premises. He stated noise was audible from the extractor unit.

It was noted that the Applicant had agreed to contact the manufacturers of the Extractor Fan with a view to upgrade the fan in order to minimise the noise and vibration which gave rise to a nuisance and to liaise with the residents.

Mr Richard Brown on behalf of residents stated that residents do not object to an off-licence sale of alcohol but simply wish to align the hours with the opening hours of the shop, in accordance with licensing guidelines in order to protect the general public and prevent long hours from becoming a nuisance.

Mr Brown acknowledged that the Applicant had stated her was willing to accept a condition on the Licence that would prohibit customers from consuming alcohol while seated outside the premises.

One local resident stated that residents were concerned that the premises operating hours should not extend beyond 6.00 p.m. and should be in line with the operating hours of other commercial premises in the retail parade. She stated that residents valued the shopping parade and welcomed the opening of the delicatessen.

Having carefully considered all the submissions made by all parties both orally and in writing, the Licensing Sub-committee decided to **grant** the application subject to the following conditions.

The Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives.

In reaching its decision, the Sub-Committee took into consideration all relevant matters which are not limited to the following:

1. In response to residents' concerns, the Applicant amended the application to reduce the operating hours during the week by two hours from 10.00 p.m. to 8.00 p.m.;
2. The Applicant agreed that:
  - No alcohol would be served to customers seated at the tables and chairs outside the premises; and
  - The sale of alcohol would be ancillary to the main function of the premises as a delicatessen.
3. In response to residents' concerns about noise and vibration emanating from the freezer, the chiller units and the extractor unit at the rear of the premises, the Sub-Committee noted that these had been addressed as follows:
  - (a) The Applicant will liaise with the Council's Planning Enforcement Officers in relocating the external units at the rear of the premises;
  - (b) The Applicant will liaise with the Council's Environmental Health Service Team on measures to reduce noise nuisance.
4. The Sub-Committee was satisfied that incorporating the terms of Model Condition 12 –

*"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";*

the Licence was a reasonable and proportionate requirement intended to meet residents' concerns.

**The application was granted subject to the following conditions in addition to the Mandatory Conditions applicable to this type of application**

**CONDITIONS IMPOSED BY THE COMMITTEE AFTER A HEARING**

1. The sale of alcohol authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a delicatessen.
2. There shall be no consumption of alcohol by customers at the tables and chairs outside the premises.
3. All sales of alcohol for consumption 'Off' the premises shall be in sealed containers only and shall not be consumed on the premises.
4. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
5. 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.
6. No super strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
7. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale or display of alcohol.
8. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
9. No single cans or bottles of beer or cider or spirit mixtures shall be sold at the Premises.
10. No miniature bottles of spirits of 20 cl or below shall be sold from the premises.
11. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
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 are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.
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 licensable activities are provided. 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. 14. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police, which will record the following:
- (i) all crimes reported to the venue
  - (ii) all ejections of patrons
  - (iii) any complaints received concerning crime and disorder
  - (iv) any incidents of disorder
  - (v) all seizures of drugs or offensive weapons
  - (vi) any faults in the CCTV system
  - (vii) any refusal of the sale of alcohol
  - (viii) any visit by a relevant authority or emergency service.
15. 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.
16. The doors at the rear of the premises shall be kept closed at all times, except for the immediate access and egress of persons.
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. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
19. 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.
20. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
21. No collections of waste or recycling materials (including bottles) from the premises shall take place between 22:00 hours and 08:00 hours on the following day.
22. No deliveries to the premises shall take place between 22:00 hours and 08:00 hours on the following day.
23. The tables and chairs shall be removed from outside the premises at 18:00 hours.

**INFORMATIVE:**

The Applicant has agreed to contact the manufacturers of the extractor fan situated at the rear of the premises with a view to upgrading the said fan in order to minimise the noise and vibration which gives rise to a nuisance and to liaise with local residents and the

Council's Planning Department in respect of any outstanding planning issues that are to be resolved.

**This is the Full Decision reached by the Licensing Sub-Committee. This Decision takes immediate effect.**

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