

## 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- Metropolitan Police Service (PC Adam Deweltz) (Withdrawn)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.**