

Licensing Sub-Committee Report

Item No:	
Date:	6 April 2017
Licensing Ref No:	17/00690/LIPN - New Premises Licence
Title of Report:	Hearst Magazines Sixth Floor 33 Broadwick Street London
Report of:	Director of Public Protection and Licensing
Wards involved:	West End
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Miss Yolanda Wade Senior Licensing Officer
Contact details	Telephone: 020 7641 1872 Email: ywade@westminster.gov.uk

End:	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Seasonal variations/ Non-standard timings:	None						
Adult Entertainment:	None						

2. Representations

2-A Responsible Authorities	
Responsible Authority:	The Licensing Authority
Representative:	Mr Steve Rowe
Received:	7 th February 2017
<p>As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011 the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the Licensing Objectives:</p> <ul style="list-style-type: none"> • Public Nuisance • Prevention of Crime & Disorder • Public Safety • Protection of Children from Harm <p>As it stands the application does contravene Westminster's Statement of Licensing Policies CIP1, HRS1 and PB2.</p> <p>The application seeks to permit the sale by retail of alcohol from 10:00 to 23:30 on each of the days Monday to Thursday, from 10:00 to 00:00 on each of the days Friday to Saturday and from 12:00 to 22:30 on Sundays. Also to permit Late Night Refreshment until 23:30 Monday to Thursday and 00:00 Friday to Saturday.</p> <p>The applicants have advised that the premises are located on the 6th floor of a corporate event space for in-house hospitality within a single-tenanted office building.</p> <p>The premises is located inside the Cumulative Impact Area.</p> <p>Policy CIP1 states (i) It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast food premises, and premises offering facilities for music and dancing; other than applications to vary hours within the Core Hours under Policy HRS1. However part (ii) states: Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies, and must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.</p> <p>Policy HRS1 states at paragraph 2.3.2: "It is the intention to generally grant licences... where the hours when customers are permitted to be on the premises are within the 'core hours' as set out in Policy HRS1. This is not a policy to refuse applications for longer hours than the core hours and consideration will in all cases be given to the individual merits of an application. Where a proposal is made to operate outside these core hours each application will be</p>	

considered on its merits against the criteria as set out in paragraph (ii) (of Policy HRS1)".

Policy PB2 which relates to pubs and bars states 'It is the Licensing Authority's policy to refuse applications in the CIA other than applications to vary the hours within the core hours under policy HRS1'.

The applicants have proposed conditions as part of their submissions which, in part restrict the sale of alcohol to:

- Persons attending by prior invitation to a private or prebooked event or demonstration at the premises a list of whom is to be kept at reception and made available for inspection by the relevant authorities immediately upon request.

Paragraphs 2.4.10 – 2.4.12 of the Policy deal with premises that operate as proprietary clubs and premises which promote private functions and are pertinent in the decision making process as to whether this type of premises is an exception to the policy.

Responsible Authority:	The Metropolitan Police
Representative:	PC Bryan Lewis
Received:	13 th February 2017

With reference to the above application, I am writing to inform you that the Metropolitan Police, as a Responsible Authority, will be objecting to this application as it is our belief that if granted the application would undermine the Licensing Objectives.

The venue is situated in the West End Cumulative Impact Area, a locality where there is traditionally high levels of crime and disorder. We have concerns that this application will cause further policing problems in an already demanding area.

2-B Other Persons	
Name:	Soho Society
Address and/or Residents Association:	St Anne's Tower 55 Dean Street London W1D 6AF
Received:	15 th February 2017

I write to make a relevant representation to the above application on behalf of The Soho Society.

The Soho Society objects to this application as it is currently presented, on the grounds of prevention of public nuisance, prevention of crime and disorder, and cumulative impact in the West End Cumulative Impact Area.

About The Soho Society

The Soho Society is a charitable company limited by guarantee established in 1972. The society is a recognised amenity group and was formed to make Soho a better place to live, work or visit by preserving and enhancing the area's existing diversity of character and uses, and by improving its facilities, amenities and environment. In particular, the society supports the Westminster City Council's policies, including the cumulative impact policy, as set out in the Statement of Licensing Policy 2016.

Application Summary:

Activity	Indoors/Outdoors	Alcohol Consumed	Time Period	From	To
Late Night Refreshment	Indoors		Monday to Thursday	11:00 PM	11:30 PM
Late Night Refreshment	Indoors		Friday to Saturday	11:00 PM	12:00 AM
Sale by Retail of Alcohol		On Premises	Monday to Thursday	10:00 AM	11:30 PM
Sale by Retail of Alcohol		On Premises	Friday to Saturday	10:00 AM	12:00 AM
Sale by Retail of Alcohol		On Premises	Sunday	12:00 PM	10:30 PM

New license in cumulative impact area

The proposal is for a new licensed premises in the West End Cumulative Impact Area. The new Sale by Retail of Alcohol licensable activity is of particular concern, with reference to Westminster City Council stress area and cumulative impact policy. "There are private homes close by on Broadwick and Marshall Streets, and many more nearby in the surrounding streets. Residents in the immediate area are subject to noise and general nuisance every night of the week. Such new licenses should be prohibited. This application fails to promote the licensing objectives of prevention of crime and disorder, and public nuisance. Recent Metropolitan Police crime statistics show high levels of theft, theft from person, anti-social behaviour, drugs and sexual offenses in the area.

Licensing policy and cumulative impact

The Licensing Authority recognises in its Statement of Licensing Policy 2016 that Westminster has a substantial residential population and that the Council has a duty to protect it from nuisance (Policy 2.2.10).

This area has been identified by the City Council (Policy 2.4.1)) as a cumulative impact area because the cumulative effect of the concentration of late night and drink led premises and/or night cafes has led to serious problems of disorder and/or public

nuisance affecting residents, visitors and other businesses. The Policy states that the extent of crime and disorder and public nuisance...arises from the number of people there late at night; a particular number of them being intoxicated, especially in the West End Cumulative Impact Area (Policy 2.4.1).

The policies in relation to the stress areas are directed at the global and cumulative effects of licences on the area as a whole (Policy 2.4.5). The policies are intended to be strict and will only be overridden in 'genuinely exceptional circumstances' (Policy 2.4.2).

The growth in the entertainment industry in Soho has led to a marked deterioration in the quality of life and well-being of local residents and it has jeopardised the sustainability of the community. Soho has a substantial residential community and many of these residents suffer from the problems identified in the 'Characteristics of Cumulative Impact Areas' (Policy Appendix 14). These include, but are not limited to, high levels of noise nuisance, problems with waste, urinating and defecating in the streets, threats to public safety, anti-social behaviour, crime and disorder and the change in character of historic areas.

Conclusion

Para 9.37 of the s182 Guidance requires the licensing authority to determine the application with a view to promoting the licensing objectives in the overall interests of the local community.

For the reasons I have set out, we believe that the application, if granted in its present form, would fail to promote the licensing objectives of prevention of public nuisance and prevention of crime and disorder. I respectfully urge the Licensing Sub-Committee to reject this application.

Please let me know if any proposals are made to amend the application; particularly in respect of the hours sought or any further conditions proposed.

Name:	Mr Simon Osborne-Smith
Address and/or Residents Association:	Flat 50, Ingestre Court Ingestre Place London W1F 0JL
Received:	2 nd February 2017

10:17 PM on 02 Feb 2017 The proposed late hours for the sale of alcohol would have an impact on local residents in the stress area due to potential noise from clients vacation the premise and potential asb therefore it is requested the business hours be reduced. In addition the sale of alcohol would add to noise from bottle disposal and collection. If bottled drinks are permitted to be sold it is requested a condition that an internal bottle crusher is used to reduce noise from collections and as per other local licence restrictions a condition added to prevent bottles being put out for collection between the hours of 10pm and 8am.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy CIA1 applies:	<p>(i) It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast food premises, and premises offering facilities for music and dancing; other than applications to vary hours within the Core Hours under Policy HRS1.</p> <p>(ii) Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies, and must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.</p>
Policy HRS1 applies:	<p>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.</p>
Policy PB2 applies:	It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within the Core Hours under Policy HRS1.

4. Appendices

Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

Report author:	Miss Yolanda Wade Senior Licensing Officer
Contact:	Telephone: 020 7641 1872

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If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

Background Documents – Local Government (Access to Information) Act 1972

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015
4	Application Form	20 th January 2017
5	Representation- The Licensing Authority	7 th February 2017
6	Representation- Mr Simon Osborne- Smith	2 nd February 2017
6	Representation- The Metropolitan Police	13 th February 2017
7	Representation- The Soho Society	15 th February 2017

Applicant Supporting Documents

None Submitted.

There is no licence or appeal history for the premises.

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor.

For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D+(D \times V)$$

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Proposed conditions by Applicant consistent with the operating schedule

9. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the building as offices.
10. Alcohol shall not be sold or supplied otherwise than to:
 - a) Directors, partners, agents, officers and employees of the Licensee (and subsidiaries and affiliated companies thereof) and their bona fide guests;
 - b) Persons attending by prior invitation to a private or prebooked event or demonstration at the premises a list of whom is to be kept at reception and made available for inspection by the relevant authorities immediately upon request.
11. No advertising of the licensed facilities outside of the premises.
12. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
13. When the premises licence is in use, notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
14. In respect of bottles and waste arising from the use of the premises under this licence, no waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (08.00) hours on the following day.

**Premises within 75 metres of: Hearst Magazines, Sixth Floor 33
Broadwick Street**

p / n	Name of Premises	Premises Address	Licensed Hours
2286	Star & Garter	62 Poland Street London W1F 7NX	Friday to Saturday 10:00 - 00:00 Monday to Thursday 10:00 - 23:30 Sundays before Bank Holidays 12:00 - 00:00 Sunday 12:00 - 22:50
31607	Aurora Restaurant	Basement And Ground Floor 49 Lexington Street London W1F 9AP	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-29089	Not Recorded	Trenchard House 19 - 25 Broadwick Street London W1F 0DF	Friday to Saturday 08:00 - 00:00 Monday to Thursday 08:00 - 23:30 Sunday 10:00 - 22:30
-2894	Andrew Edmunds	Basement And Ground Floor 46 Lexington Street London W1F 0LP	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
11592	Central Convenience Store	43 Broadwick Street London W1F 9QN	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30
16859	Bao	53 Lexington Street London W1F 9AS	Friday to Saturday 10:00 - 00:00 Monday to Thursday 10:00 - 23:30 Sunday 12:00 - 22:30
23801	Said London	41 Broadwick Street London W1F 9QL	Sunday 08:00 - 22:30 Monday to Saturday 08:00 - 23:00
30252	The Book Shop	12 Ingestre Place London W1F 0JF	Monday to Sunday 12:00 - 23:00
-19355	Mildred's Restaurant	45 Lexington Street London W1F 9AN	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
-3792	Ma Plucker	Basement And Ground Floor 75 Beak Street London W1F 9SS	Monday to Saturday 10:00 - 00:30 Sunday 12:00 - 00:00
-423	Tapas Brindisa Soho	46 Broadwick Street London W1F 7AF	Monday to Sunday 10:00 - 00:30
2348	Tapas Brindisa Soho	46 Broadwick Street London W1F 7AF	Monday to Sunday 10:00 - 00:30
3283	Milk And Honey	61 Poland Street London W1F 7NU	Sunday 09:00 - 02:00 Monday to Saturday 09:00 - 03:30 Sundays before Bank Holidays 09:00 - 03:30
4249	Social Eating House	Ground Floor 58-59 Poland Street London W1F 7NR	Friday to Saturday 09:00 - 00:00 Sundays before Bank Holidays 09:00 - 00:00 Sunday 09:00 - 23:00 Monday to Thursday 09:00 - 23:30
18901	John Snow	39 Broadwick Street London W1F 9QJ	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
27310	Fernandez And Wells	Basement And Ground Floor 43 Lexington Street London W1F 9AL	Sunday 08:00 - 22:00 Monday to Saturday 08:00 - 23:30
27501	Itsu	31 Broadwick Street London W1F 0DG	Monday to Sunday 09:00 - 21:30
27806	Yauatcha	Basement 15 - 17 Broadwick Street London W1F 0DE	Monday to Saturday 08:00 - 01:00 Sunday 10:00 - 00:00 Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00

29432	Academy Club	First Floor Front 46 Lexington Street London W1F 0LP	Monday to Saturday 10:00 - 23:30 Sunday 12:00 - 23:00
-31636	Yauatcha	Basement And Ground Floor 15 - 17 Broadwick Street London W1F 0DE	Monday to Sunday 08:00 - 01:00