

Licensing Sub-Committee Report

Item No:	
Date:	17 May 2018
Licensing Ref No:	18/02988/LIPN - New Premises Licence
Title of Report:	Marks & Spencer Waterside House 35 North Wharf Road London W2 1NW
Report of:	Director of Public Protection and Licensing
Wards involved:	Hyde Park
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Miss Heidi Lawrance Senior Licensing Officer
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1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	19 March 2018		
Applicant:	Marks & Spencer Simply Foods Ltd		
Premises:	Marks & Spencer		
Premises address:	Waterside House 35 North Wharf Road London W2 1NW	Ward:	Hyde Park
		Cumulative Impact Area:	None
Premises description:	According to the application the premises will operate as a food hall with café.		
Premises licence history:	This premises does already have the benefit of a premises licence (13/02774/LIPDPS) a full history can be found at Appendix 3.		
Applicant submissions:	None submitted		
Plan:	Plans are available to view upon request to the Licensing Authority and they will be made available at Licensing Committee.		

1-B Proposed licensable activities and hours							
Sale by retail of alcohol				On or off sales or both:			Off sale
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	08:00	08:00	08:00	08:00	08:00	08:00	10:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	22:30
Seasonal variations/ Non-standard timings:		None applied for.					

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	07:00	07:00	07:00	07:00	07:00	07:00	07:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	23:00
Seasonal variations/ Non-standard timings:		None applied for.					
Adult Entertainment:		Not applicable.					

2. Representations

2-B Other Persons	
Received:	13 th April 2018
<p>We object to above application as insufficient safeguards for residents etc in area (especially nearby in Praed Street where we have a 'street drinking & homeless issues)for issue of 'off licence'</p> <p>We cannot see plans on register to fully understand application and request that they be sent to us by applicant</p> <p>We require conditions such as CCTV, no beer or alcohol over 5.5%, lockable cabinets for alcohol. spirits to be sold behind counter, no miniatures of alcohol etc.</p> <p>We suggest conditions attached to recent grant of Premise licence for 'off sales' to Co-Operative shop (just opened) a short distance away in same complex of Merchant Square be same for this application.</p> <p>As always we are happy to meet up with applicant or their solicitor/agent to resolve matter without need for a licensing hearing at WCC.</p>	
Received:	13 th April 2018
<p>As a recognised amenity society by Westminster City Council, we are officially charged with working towards the preservation and enhancement of the architectural and environmental quality of Little Venice, Maida Vale and the Paddington Waterway area (including planning and licensing issues). We are concerned with the well-being and sense of community of its residents, including those who live in the vicinity of this part of Merchant Square, which has a large proportion of residential accommodation.</p> <p>A branch of Co-op recently opened nearby, having obtained a licence of off sales but with restrictions to promote the licensing objectives of prevention of public nuisance and prevention of crime and disorder. It is these licensing objectives with which we are concerned here.</p> <p>We are not clear what the purpose of the application is. The application is described as 'Licensed Food Hall with adjoining customer café sitting on the lower ground floor of the Marks & Spencer head office. Café and food hall for use by members of the public. Note that external seating (east side of plan) is for use by staff and bona fide guests only.'</p> <p>However, as far as we are aware, the premises currently comprises a small café with a larger seating area. Where is the food hall? Where is the licensed area? Are the off sales to be general off sales or off sales to the tables and chairs as part of the café? How does the application and licence, if granted, relate to the existing premises licence for Waterside House? Has the applicant considered the potential for nuisance from people buying alcohol to drink in Merchant Square, particularly on sunny days and</p>	

evenings? We should be glad of confirmation about the above from the applicant.

We note that although some conditions are proposed – e.g. CCTV; Challenge 25; No super-strength beer, lagers or ciders above 5.5% ABV (alcohol by volume) shall be sold at the premises save for premium beer or ciders in glass bottles – the applicant considers that ‘No additional steps required to promote the licensing objectives identified beyond existing statutory duties’ for public nuisance.

Given the nature of the Merchant Square development, we anticipate some problems with off sales unless further conditions are imposed. These could include:

- During the hours that the premises is open but not authorised to sell alcohol, all alcohol within the trading area shall be secured behind locked screens that customers do not have access to it.
- No more than 15% of the trading area shall at any one time be given over to the display of alcohol.
- There shall be no self-service of spirits, save for mixed spirits with an ABV of 5.5% or less.
- No spirit measures of less than 20cl shall be sold at the premises save that this prohibition shall not apply to mixed spirits, being spirits mixed with a non-alcoholic beverage.
- Notices shall be displayed at the exit to the premises requesting that customers should leave quietly.

We recognise that this proposal is designed to provide services for locals as well as people who are not residents in this area. However, it is vital that the interests of residents in Merchant Square are protected.

Should there be a hearing, I hope to attend but if unable, will ask Richard Brown to represent us.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:

Policy HRS1 applies:	(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. (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.
Policy OS1 applies:	Applications will generally be granted and reviews determined subject to the relevant criteria in Policies CD1, PS1, PN1 CH1 and HRS1 and other policies in this Statement.

4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5. Appendices

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

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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	April 2018
4	Representation	13 th April 2018
5	Representation	13 th April 2018

Applicant Supporting Documents

None Submitted.

Premises History – 13/02774/LIPDPS

Application	Details of Application	Decision	Date Determined
05/04850/LIPC	Conversion Application	Granted Under Delegated Authority	05.07.2005
06/11210/WCCMAP	New Premises Application	Granted Under Delegated Authority	05.07.2005
12/00233/LIPDPS	Application to Vary the Designated Premises Supervisor	Granted Under Delegated Authority	14.02.2012
13/02774/LIPDPS	Application to Vary the Designated Premises Supervisor	Granted Under Delegated Authority	08.05.2013

Application	Details of Application	Decision	Date Determined
10/00059/LITENP	Temporary Event Notice	Notice Granted	06.01.2010
10/04979/LITENP	Temporary Event Notice	Notice Granted	06.07.2010
10/06909/LITENP	Temporary Event Notice	Notice Granted	10.09.2010
10/09155/LITENP	Temporary Event Notice	Notice Granted	12.11.2010
11/00905/LITENP	Temporary Event Notice	Notice Granted	01.02.2011
12/00490/LITENP	Temporary Event Notice	Notice Granted	24.01.2012

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

- . 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 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.
- 5(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.
- 5(ii) For the purposes of the condition set out in paragraph 5(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.
- 5(iii). Where the permitted price given by Paragraph 5(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.
- 5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(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.

Conditions consistent with the operating schedule

6. The premises shall install and maintain a comprehensive CCTV system to at least the minimum requirements agreed with a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 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 is open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
8. No super-strength beer, lagers or ciders above 5.5% ABV (alcohol by volume) shall be sold at the premises save for premium beer or ciders in glass bottles.
9. Staff training will be given to ensure that in the case of any doubt whether a purchase is over the age of 18 to refuse the sale of alcohol unless valid ID is produced.

Residential Map and List of Premises in the Vicinity

