



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (6)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** Committee held on **Thursday 12th April, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Louise Hyams (Chairman), Susie Burbridge and Aziz Toki.

1 MEMBERSHIP

1.1 An apology for absence was received from Councillor Tim Mitchell.

2 DECLARATIONS OF INTEREST

2.1 Councillor Louise Hyams declared that in respect of application 2, 26 Circus Road, NW8, that she had visited the premises previously, however she did not consider this a prejudicial interest and remained present to consider this application.

2.2 Councillor Susie Burbridge also declared that in respect of application 2, 26 Circus Road, NW8, that she had visited the premises previously, however she did not consider this a prejudicial interest and remained present to consider this application.

1 SIMPLY PLEASURE.COM, 31 BREWER STREET, W1

LICENSING SUB-COMMITTEE No. 6

Thursday 12th April 2018

Membership: Councillor Louise Hyams (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki.

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Toby Howes

Presenting Officer: Shannon Pring

Relevant Representations: 1 local resident.

Present: Mr Timothy Martin Hemming (Applicant Company).

Prior to any applications being considered, Councillor Louise Hyams was elected Chairman after being nominated by Councillor Aziz Toki and seconded by Councillor Susie Burbridge.

**Simply Pleasure.Com, 31 Brewer Street, W1
18/00005/LISEXR**

An application to renew the sex establishment licence to operate as a sex shop.

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

Mr Timothy Martin Hemming (Applicant Company) began by stating that he had operated sex establishment premises since 1995. As well as these premises, he also operated two other sex establishment premises in Westminster, Prowler Soho in Brewer Street and Fifty & Dean in Old Compton Street. Mr Hemming stated that Simply Pleasure.Com was regularly visited by Council officers who would inspect the store in detail and had expressed no concerns. There had also been no objections from Ward Councillors. Mr Hemming referred to the objector who had raised concerns about the premises being in close proximity to a local nursery and a primary school and the impact this may have on children. Mr Hemming stated that he was a parent of four children and took the issue of protecting children from harmful images very seriously. He also strongly supported the Digital Economy Act 2017 which sought to restrict access to online pornography. Mr Hemming stated that the nearby primary school, whose playground faced the rear entrance of the premises, had neither objected to the application nor made any complaints.

Mr Hemming stated that he took policy seriously, the premise was well-run and staff ensured that no underage people entered the premises. He added that the concerns raised by the objector were more relevant in respect of unlicensed sex establishment premises in the area.

The Sub-Committee asked if any conditions on the licence had ever been breached and clarification was sought in respect of opening hours on Sundays. Members also asked if Mr Hemming had been able to speak to the objector about the concerns they had raised.

In reply, Mr Hemming confirmed that there had been no breach of conditions at the premises and that it opened on Sundays from 11:00 to 22:00. He had not been able to speak to the objector but acknowledged the objector's opinions.

Barry Panto (Legal Adviser) sought confirmation that there had been no complaints about the premises from the Soho Family Centre Nursery and the Soho Parish

Church of England Primary School. Mr Hemming confirmed that there had been no complaints from either of these establishments.

The Sub-Committee granted the renewal of the sex establishment licence with the existing conditions on the licence. In determining the application, the Sub-Committee took into account the representation from the local resident about concerns the impact the premises may have on children, but did not consider that this provided any grounds to refuse the application. In addition, the Sub-Committee noted that neither Soho Family Centre Nursey, nor Soho Parish Church of England Primary Soho, had made representations or made any complaints. The Sub-Committee also noted that neither the Police nor Environmental Health had made representations and there had been no reported breaches of conditions. The Sub-Committee therefore considered that renewing the licence with the existing conditions was appropriate in all circumstances of the case.

2 26 CIRCUS ROAD, NW8

LICENSING SUB-COMMITTEE No. 6

Thursday 12th April 2018

Membership: Councillor Louise Hyams (Chairman), Councillor Susie Burbridge and Councillor Aziz Toki.

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Toby Howes

Presenting Officer: Shannon Pring. Yolanda Wade also in attendance.

Relevant Representations: Environmental Health and 1 local resident.

Present: Robert Jordan (Applicant's Representative), Ashish Patel (Applicant's Designated Premises Supervisor) and David Nevitt (Environmental Health).

Prior to any applications being considered, Councillor Louise Hyams was elected Chairman after being nominated by Councillor Aziz Toki and seconded by Councillor Susie Burbridge.

Declarations of Interest: Councillor Louise Hyams declared that she had visited the premises previously, however she did not consider this a prejudicial interest and remained present to consider this application.

Councillor Susie Burbridge also declared that she had visited the premises previously, however she did not consider this a prejudicial interest and remained present to consider this application.

**26 Circus Road, NW8
18/01634/LIPN**

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| 1. | Sale by retail of alcohol: Off sales |
| | Monday to Sunday: 07:00 to 20:30 |
| | <p>Amendments to application advised at hearing:</p> <p>During the course of the hearing, the Applicant Company's Representative advised of the following amendments</p> <p>Monday to Sunday: 08:00 to 20:30</p> |
| | <p>Decision (including reasons if different from those set out in report):</p> <p>Shannon Pring (Presenting Officer) confirmed that the Police had withdrawn their representation following agreement of conditions with the Applicant.</p> <p>Mr Robert Jordan (Applicant's Representative) began by confirming agreement of conditions with the Police who had subsequently withdrawn their representation. He stated that there were some conditions proposed by Environmental Health that the Applicant was not in agreement with, however he was not sure that the conditions showing as agreed in the report matched those with the email he had received from the Police.</p> <p>At this point, to provide clarity, the Sub-Committee invited Mr Jordan to go through the conditions in the report requested by Environmental Health and the Police and confirm on behalf of the Applicant whether they were in agreement with them or not. Mr Jordan then confirmed on behalf of the Applicant agreement with conditions 10, 11, 13, 15, 16, 17, 18 and 20 and 21 in the report. In respect of condition 10, he suggested that "in line with data protection law" be added at the end of this condition, as agreed with the Police. Mr Jordan advised that conditions 12, 14, 19 and 22 in the report were not agreed by the Applicant.</p> <p>The Chairman then invited Mr Jordan to explain why the Applicant did not agree to some of the conditions requested by Environmental Health in the report. Mr Jordan asserted that in respect of condition 12, which proposed that alcohol be secured in a locked store room or behind locked grilles, screens or cabinet doors outside the permitted hours for the sale of alcohol, the Police had withdrawn their request for this condition on agreement that the Applicant agree to condition 17, as requested by Environmental Health, that there be prominent signage displaying the permitted hours of the sale of alcohol at the entrance of the premises, where alcohol was on public display, and at the point of sale. In respect of condition 14, requesting that no single cans or bottles of beer, cider or spirit mixtures shall be sold, Mr Jordan commented that the Police had not asked for this condition to be included on the licence. He added that some items would cost £2.80 per bottle and this would be expensive if the customer was required to purchase a 4 pack and the Applicant had already agreed to there being no beers, lagers, ciders or spirits above 5.5% ABV being sold at the</p> |

premises.

In respect of condition 19 stating that there shall be no deliveries to the premises between 23:00 and 08:00, Mr Jordan stated that some products, such as newspapers, were delivered earlier than 08:00 and he requested that this condition only be applicable to alcohol. Turning to condition 22 requesting that a personal licence holder shall be on the premises at all times when alcohol was permitted to be sold, Mr Jordan asserted that the Police had not requested this and that they were content with an alternative condition requesting that staff receive regular training in respect of selling alcohol. At this point, Yolanda Wade (Licensing Service) advised that the Licensing Service had not received details of any condition being agreed between the Applicant and the Police in respect of a training condition.

Ashish Patel (Applicant's Designated Premises Supervisor) stated that in respect of proposed condition 12, alcohol would be sold to the right side of the entrance and a curtain would be drawn across this area outside the permitted hours so these products could not be seen and he therefore felt that grilles, screens or cabinets were not necessary.

Mr Jordan, on behalf of the Applicant, confirmed that he was satisfied with Environmental Health's amendment to the Applicant's proposed condition 6 in relation to recording refused sales of alcohol.

David Nevitt (Environmental Health) then addressed the Sub-Committee and advised that proposed condition 12 was a model condition and this would be consistent with other off licences where this condition was also applied. In addition, the condition also helped ensure staff's safety as customers could become aggressive and demand to be sold alcohol if they were able to pick up these products. In respect of condition 14, Mr Nevitt stated that if customers could buy single cans or bottles of alcohol, this purchasing habit was often associated with street drinkers which could give rise to public nuisance. Mr Nevitt advised that he agreed with the re-wording of condition 19 that no deliveries shall take place between 23:00 and 08:00 only apply to alcohol and that he had also suggested this to the Applicant. He confirmed that he had not requested condition 22.

Mr Nevitt confirmed that model conditions 1, 17, 28, 29, 31, 32, 33 and 48 that he had requested in his written representation had been agreed with the Applicant as confirmed at this hearing. In respect of model condition 47 concerning proof of age scheme, he indicated that he would be content with the Sub-Committee's discretion on whether they agreed to a Challenge 21 or Challenge 25 scheme.

Mr Nevitt maintained his objection to the proposed hours for sale of alcohol and requested that these be within core hours, with a commencement hour of 08:00 Mondays to Saturday and 10:00 on Sunday. He noted that the resident had also maintained their objection to the application.

At this point, Mr Jordan stated that the Applicant had agreed the hours for sale of alcohol from 08:00 to 20:30 Monday to Sunday with the Police. He indicated

on behalf of the Applicant that he would be happy to amend the application accordingly to these hours. Barry Panto (Legal Adviser) then asked if the Applicant wished to formally amend the application for the hours for sale of alcohol to be 08:00 to 20:30 Monday to Sunday and this was confirmed by Mr Jordan on behalf of the Applicant. Mr Jordan felt that a commencement hour of 08:00 for the sale of alcohol on Sundays would not be an issue and staff would be fully trained and there would normally be three staff on the premises.

Mr Nevitt reiterated that a commencement hour of 08:00 for the sale of alcohol on Sundays was outside core hours and it was a common request from residents that the commencement hour be within core hours on Sundays as they were particularly concerned about public nuisance on this day. He added that the nearby Tesco, whose hours for sale of alcohol were within core hours on Sundays, may be tempted to apply for a variation for an earlier commencement hour if this application was granted for the hours applied for and this could lead to a greater impact on residents.

The Chairman asked Mr Nevitt's view on permitting the Applicant to sell alcohol at an earlier hour on Sundays when cricket matches were taking place at Lord's. Mr Panto asked if the area was specifically known for public nuisance caused by street drinking and would this be an issue on cricket match days too.

In reply, Mr Nevitt stated that permitting an earlier hour for sale of alcohol on Sundays when there were cricket matches at Lord's was an option that could be explored, however this could result in a number of Sundays where the Applicant could sell alcohol at an earlier hour as cricket matches at Lord's were frequent during the cricket season. He suggested that the Applicant could apply for temporary event notices for big matches at Lord's. Mr Nevitt added that an ongoing permission to sell alcohol from hours earlier than core hours on Sundays may give rise to public nuisance. He advised that he was not aware that street drinking was a particular problem in the area, although there was a small risk that the Applicant could add to street drinking.

Mr Jordan and Mr Patel were invited to comment on Mr Nevitt's response. Mr Jordan acknowledged that the views of local residents was important, however he stated that the address given for the resident who had submitted a representation was also the same as that of Panzer Delicatessen, which was also licensed to sell alcohol and so he queried the motive of this representation. On behalf of the Applicant, Mr Jordan indicated that he would be satisfied if the Applicant was permitted to sell alcohol earlier than core hours on Sundays only when there were cricket matches taking place at Lord's. Mr Patel added that Lord's had a policy of only accepting two cans or bottles of beer into the ground. He also commented that one day international cricket matches started at 10:00 and test matches at 11:00 at Lord's. Mr Patel confirmed that he would also be content with alcohol being permitted to be sold earlier than core hours on Sundays only when there were cricket matches at Lord's.

The Sub-Committee invited Mr Jordan to further clarify on behalf of the Applicant about the conditions requested by Environmental Health in their written representation. Mr Jordan confirmed agreement of model conditions 1, 17, 29, 31, 32, 33, 47 and 48. He also agreed to model condition 65, providing that it

Decision (including reasons if different from those set out in report):

Granted, subject to conditions as set out below (see reasons for decision in Section 1).

Conditions attached to the Licence

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 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.

Additional Conditions

6. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

7. There shall be a documented reporting structure back to the Designated Premises Supervisor (DPS) and premises licence holder which shall include telephone contact numbers. This reporting document shall be immediately available upon request by a police officer or an authorised officer of the City

Council.

8. Signage shall be displayed in a prominent position on the premises requesting that customers leave quietly.
9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period, subject to data protection legislation.
10. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
11. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
12. 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.
13. 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.
14. There shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
15. 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.
16. 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.
17. No deliveries of alcohol to the premises shall take place between 23.00 and 08.00 on the following day.
18. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide the Police or an authorised council officer copies of recent CCTV images or data with the absolute minimum of

delay when requested.

19. 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) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service.

The Meeting ended at 12.12 pm

CHAIRMAN: _____

DATE _____