



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Thursday 15th November, 2018**, Room 3.6 and 3.7, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Murad Gassanly (Chairman), Jacqui Wilkinson and Aicha Less.

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1 ODEON CINEMA, 24-27 LEICESTER SQUARE, LONDON, WC2H 7LE

LICENSING SUB-COMMITTEE No. 5

Thursday 15th November 2018

Membership: Councillor Murad Gassanly (Chairman), Councillor Jacqui Wilkinson and Councillor Aicha Less.

Legal Adviser: Horatio Chance
Committee Officer: Toby Howes
Presenting Officer: Michelle Steward

Relevant Representations: Environmental Health, Metropolitan Police and the Licensing Authority.

Present: Suzanne Davies (Licensing Consultant, representing the Applicant), Tessa Street (General Manager, Applicant), Peter Ford (Risk Management Director, Applicant), Roxsana Haq (Licensing Authority), PC Bryan Lewis (Metropolitan Police) and Dave Nevitt (Environmental Health).

**Odeon Cinema, 24-27 Leicester Square, London, WC2H 7LE
18/11604/LIPN ("The Premises")**

1. Sale by Retail of Alcohol: On Sales

Monday to Sunday: 09:00 to 01:00

Amendments to application advised at hearing:

None.

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

Suzanne Davies (Licensing Consultant, representing the Applicant) began by stating that the Premises already had an existing premises licence. The Premises was currently closed and undergoing an extensive refurbishment involving significant investment to provide an enhanced cinema experience for customers. Ms Davies stated that the rationale for submitting the application for a new premises licence was so that irrelevant conditions would be removed, add additional ones and update existing conditions to more accurately reflect how the Premises would operate when it re-opened, whilst also retaining many existing conditions to replicate the existing licence where appropriate. One of the main proposals was to extend the terminal hour for the sale of alcohol by one hour each day in order to extend the customer offer and also so that customers had the opportunity to purchase alcohol when they were going to late viewings where films commenced after midnight. Ms Davies advised that the Applicant had agreed a condition proposed by the Police stating that only persons with tickets for a performance could be sold alcohol after 22:00hrs. The Applicant also intended to hold afternoon tea events with champagne available in the future for customers.

Ms Davies stated that the Applicant's plans for the cinema were very ambitious and the intention was to make it one of the World's finest cinemas. The refurbishment represented the restoration of a heritage facility, whilst there would also be state of the art facilities, including Dolby technology, and the seats would be larger with recliners, which would sufficiently reduce capacity. Ms Davies advised that the Applicant had held a pre-application meeting with Environmental Health and had taken on board their advice. The Sub-Committee heard that no increases in bar facilities were proposed. However, the capacity would be reduced from 1,922 persons to 1,413 persons, and a further reduction to 953 persons during the terminal hour. This represented reductions of over 26% and over 50% respectively. Ms Davies referred to the plans and explained that customers would be greeted by staff on entering the Premises in order to provide an enhanced customer experience. CCTV would be monitoring the Premises throughout and all staff would be radio linked. W/C provision would also be enhanced. Ms Davies advised that the Premises already had a tables and chairs licence, however the external area would close at 22:00hrs and all furniture would be taken away each night. No off sales of alcohol would be

permitted in either the external area or the Premises as a whole. The external terrace on the first floor would now be brought under the Premises with premier seating, thus preventing vertical drinking. Guests would also be encouraged to hire this area and champagne would be served in glasses, however the Applicant had agreed a condition with the Police restricting use of glass drinking vessels, along with a number of other conditions.

Ms Davies advised that the Applicant did not agree to the Police's request that proposed conditions 34 and 35 in the report be deleted relating to the number of occasions films and late night refreshments could be provided between 03:00hrs and 09:00hrs and the Police's suggestion that the Applicant could submit temporary event notices (TENs) for such occasions instead. Ms Davies stated that this was due to the fact that TENs would limit capacity to 500 persons, whilst these conditions were also on the existing licence and had been used without any issues. Ms Davies asserted that the Police's request for Security Industry Approved (SIA) door supervisors after 20:00 Thursday to Saturday was not appropriate as the Premises operated as a cinema and represented low risk and there had been no reported problems experienced during the late shows. However, Ms Davies stated that the Applicant was happy to undertake risk assessments for certain events or occasions to determine whether SIA door supervisors should be brought in. Ms Davies stated that all licensable activities would continue to be ancillary to the Premises' use as a cinema and it was essential to protect the Applicant's reputation as a family brand. It was stated that the Premises operated very differently to a public house or nightclub and the proposals included a modest additional terminal hour for alcohol to be sold and customers would leave the Premises some two hours after their last alcohol purchase. Ms Davies concluded her initial submission by stating that the Police held a view that reducing capacity was a proven method in helping to reduce crime and the City Council's Statement of Licensing Policy ("SLP") had acknowledged that cinemas presented less risk to the licensing objectives than most other types of licensed premises.

Roxanna Huq (Licensing Authority) then addressed the Sub-Committee and acknowledged that there had been helpful discussions with the Applicant and she noted the proposals to reduce capacity and add a number of model conditions. However, Ms Huq maintained her representation on policy grounds, stating that the Applicant would need to demonstrate that their proposals to seek an additional hour for the sale of alcohol was justified and would not add to cumulative impact in a Premises located in a cumulative impact area (CIA), as set out in Policy CIP1.

Dave Nevitt (Environmental Health) advised the Sub-Committee that the Premises had been built in the 1930s and the refurbishments underway would modernise the building and significantly improve public safety. He welcomed the reduction in capacity and he had no concerns about how the Premises operated prior to its closure for refurbishment, and nor had the later shows been the source of any trouble. Mr Nevitt stated that the application represented a relaxation of an existing condition in that it now requested that customers only be required to show a cinema ticket to purchase alcohol after 22:00hrs, whereas the current licence required that cinema tickets be shown to purchase alcohol at all times. Mr Nevitt queried whether this relaxation of the condition would change

the nature and style of the Premises. As the application included proposals for a one hour increase in terminal hour for the sale of alcohol, the Applicant would need to demonstrate that this would not add to cumulative impact. Mr Nevitt had also requested that the Applicant consider the following:

- Marking up floor plans to show the proposed designated bar use areas
- The location of the bar use areas to be designed so that the bars were not directly visible from the outside
- Conditions to limit the number of people consuming alcohol and to prevent vertical drinking
- Provision of waiter/waitress service and substantial food at all times.

PC Bryan Lewis (Metropolitan Police) then addressed the Sub-Committee and stated that he was maintaining his representation on policy grounds as the Premises was located within a CIA. PC Lewis stated that although he did not object to late shows, he was concerned about the additional terminal hour for the sale of alcohol. Leicester Square was a high risk area in terms of crime and disorder which would have the effect of undermining all four licensing objectives. It was stated that the area experienced high levels of young people consuming alcohol and there was also seating in the Square which encouraged people to congregate. PC Lewis advised that SIA door supervisors working at the casinos in the area were essential to prevent intoxicated persons from entering their premises. He expressed concern about the Applicant's ability to control members of the public after 22:00hrs, especially if they were to be told that they could not purchase alcohol after this time without a cinema ticket and therefore PC Lewis maintained that it was essential that the Premises used SIA door supervisors after 22:00hrs on Thursdays, Fridays and Saturdays in order to deal with any potential trouble given the nature of the area from a policing perspective and the issues the Police face on a daily basis when tackling crime and disorder in the Leicester Square area. In addition, Leicester Square was an iconic area where the threat of terrorism was very high and remained so. This important and relevant factor for the Sub-Committee not only strengthened the need for SIA door supervisors but also of the need to conduct bag searches, another condition that the Police had requested but that the Applicant was reluctant to agree. PC Lewis added that bag searches were an effective way in disrupting and dissuading potential terrorist and other criminal activities and the Sub-Committee heard that a number of premises in the area, including the National Gallery, were already conducting bag searches and the public would now expect this as a normal procedure in certain parts of London as part of everyday life to ensure public safety is not compromised. PC Lewis stated that Leicester Square was a confined area and disorder attracted people to get involved and each premises should provide its own security. PC Lewis also stated that a member of his policing staff was stabbed a few months ago in the area and that public safety must be considered a high priority on the security agenda and that having the proper safety measures in place was imperative in this regard. The Sub-Committee noted the concerns of the Police and took the view that it's role was to safeguard the promotion of the licensing objectives where appropriate but first and foremost on the grant of such an application the Sub-Committee must determine whether an action or particular step would be suitable to achieve that end. Accordingly, in this regard the Sub-Committee

considered the Police evidence to be a crucial factor in its overall assessment of the matter when considering crime and disorder and what suitable conditions could be imposed on the licence to achieve that aim.

Referring to the Applicant's suggestion that they undertake their own risk assessments on particular occasions to identify whether SIA door supervisors should be employed, PC Lewis stated that risk assessments did not put actions in place and it was difficult to predict what would happen. In respect of the Applicant's proposed conditions 34 and 35 relating to the number of occasions films and late night refreshments could be provided between 03:00hrs and 09:00hrs, PC Lewis indicated that he would be happy for these conditions to be retained, rather than requiring the Applicant to submit TENs for such occasions.

During discussions, the Sub-Committee sought clarification as to the reason why the Applicant wished to amend the condition in relation to when customers would be required to show cinema tickets in order to purchase alcohol. The Chairman commented that as the application stood, customers could buy alcoholic drinks from the time the Premises opened until 22:00 and he asked why the Applicant did not wish for the condition to require a cinema ticket in order to purchase alcohol apply for all hours during which the Premises was open. Furthermore, the Chairman commented that if customers still wanted to purchase alcohol after this time and they did not have a cinema ticket, they may be very insistent in wanting to buy drinks and could cause a disturbance. The Police were of the view that if an incident were to happen inside the Premises which required immediate action, which in turn could be exacerbated by the lack of SIA door supervisors to handle the situation. The Chairman asked the reasons why the Applicant had not agreed to the Police's request for a condition to be added requiring bag searches from 22:00hrs to 02:00hrs on Thursdays, Fridays and Saturdays. The Chairman also asked the Applicant how they would demonstrate that alcohol consumption would be ancillary to the use of the Premises as a cinema at all times and that the application was an exception to policy considering that the Premises was located within a CIA. Confirmation was sought whether the Applicant would surrender their current premises licence if the Sub-Committee were minded to grant the application.

In respect of the terrace on the first floor, the Sub-Committee sought clarification that a table service would operate at all times it was open and would the staff who were meeting and greeting customers receive appropriate training.

In reply to issues raised by the Sub-Committee, Ms Davies stated that although the intention was to replicate the current premises licence as far as possible, the Applicant had a brand image to protect and steps would be taken to ensure that those customers drinking alcohol up until 22:00hrs without a cinema ticket would not undermine the licensing objectives. It was stated that the Premises would continue to operate principally as a cinema and the bar would not be visible from the outside. In addition, no extension of the bar was proposed and the Premises would not be alcohol led. Ms Davies asserted that the relaxation of the cinema ticket condition would not alter the character of the Premises and there would also be a significant reduction in capacity. The large majority of customers visiting the Premises would still be going to see shows. Substantial food and a waiter/waitress service would also be available for customers in the Premises

after 22:00hrs. In reference to the problems that casinos were experiencing in the area, Ms Davies contended that this was due to casinos removing the requirement for membership in order to enter their premises. Ms Davies stated that it was important for the Applicant to assess when it would require SIA door supervisors and this would be done through risk assessments, rather than having a condition requiring them at specific times. Ms Davies reiterated that policy identified cinemas as low risk in terms of undermining the licensing objectives.

Peter Ford (Risk Management Director, Applicant) stated that the Applicant would make every effort to ensure there were no problems experienced on the Premises and staff would meet and greet customers on entry and interact with them to ensure they were not intoxicated and to look out for any other undesirable behaviour. Mr Ford stated that SIA door supervisors would be employed where a risk assessment had identified the need, which could be at any time of the day, not necessarily only after 22:00hrs. Random bag searches would also be undertaken when SIA door supervisors were present and this would act as a deterrent for anyone thinking of committing an offence. Mr Ford acknowledged the Premises high profile location and stated that for this reason the Applicant had worked closely with the Counter Terrorism Unit in the last 5 years to identify risks and the Applicant was due to meet the Unit again next month. Mr Ford stated that there was also a dynamic lockdown procedure installed inside the Premises that would have the capability to deal with any terrorist or such other serious incidents. There were also 115 cameras in place throughout the Premises, including on the roof, and a Control Room was also being set up. Mr Ford felt that the Applicant's expertise in undertaking risk assessments meant that employing permanent SIA door supervisors was in his view disproportionate.

In respect of alcohol sales after 22:00hrs, Mr Ford emphasised that customers would not be sold it if they did not have a cinema ticket and staff would undertake the appropriate conflict resolution training to ensure this did not lead to problems. If such customers persisted in demanding to be sold alcohol, then a manager would be contacted to address the situation. Mr Ford added that staff were used to refusing alcohol sales, including when customers were asking for alcohol after the current permitted time of 00:00hrs and where customers were underage. The Sub-Committee heard that the alcohol products on offer would not be cheap and would be premium priced. Mr Ford stated that the reason for wanting to be able to sell alcohol to customers up to 22:00hrs without the requirement for a cinema ticket was so that customers could take a tour of the Premises as a historical heritage site and buy alcohol during the experience without needing to purchase a ticket for a show, and some customers would visit the Premises generally as a tourist attraction.

In respect of staff at the front entrance of the Premises, Mr Ford explained that they would be well dressed and attired with a bowler hat to make them clearly identifiable to the customer and their job title would be 'Experience Director'. They would identify the reasons why the customer is visiting the Premises and would be well versed in conflict management and would carry out specific security procedures, including the ability to lock down the Premises during emergencies. Mr Ford confirmed that the current premises licence would be

surrendered if the Sub-Committee were minded to grant the application.

Tessa Street (General Manager, Applicant) confirmed that a waiter/waitress service will be in operation on the first floor terrace at all times that licensable activities are taking place.

PC Lewis reiterated that Leicester Square was a very high risk area both in terms of the potential for the licensing objectives to be undermined and for terrorism. Without SIA trained door supervisors, he felt that members of the public could push past staff at the Premises' entrance meaning customers inside the Premises are at risk. The condition he was requesting in respect of SIA door supervisors and the times they would be expected to operate was the minimum requirement he would expect of premises in this area and so he did not think his request was excessive, in fact it was appropriate and proportionate. He added that even just one person could cause a lot of trouble and disruption if they were not properly controlled and managed in a way that would put the safety of other customers at risk. PC Lewis felt that a random bag search was not sufficiently effective as there was still a high probability of something like a weapon or other undesirable object being smuggled into the Premises undetected and for this reason he requested that a condition be added to state that all bags must be searched from 02:00hrs on Thursday, Friday and Saturday. The Sub-Committee noted that these days tended to be the busier periods of operation for the Premises which meant that the constant flow of customers entering the Premises would require the Applicant to be vigilant at all times if bag searches were to only be undertaken on a selective basis. In the Sub-Committee's considered opinion it felt that the degree of risk to customers visiting the Premises on the grounds of public safety and crime and disorder for the permitted licensable activities should be treated as high risk and therefore the proposed conditions relating to bag searches and employment of SIA door staff was justified in the circumstances

The Legal Adviser to the Sub-Committee reminded the Sub-Committee of its role when considering the merits of the application, namely that it was to safeguard the promotion of the licensing objectives and in view of this, the Legal Adviser asked if the Applicant would be prepared to reconsider the requests for proposed conditions in respect of SIA door supervisors and bag searches.

In reply, Ms Davies stated that it was not the intention of the Applicant to avoid using SIA door supervisors and she felt that it was more appropriate to carry out risk assessments to identify when it was appropriate to use them. In addition, the Premises was a cinema which policy recognised was a low risk use.

Conclusion

The Sub-Committee was of the opinion that the Applicant had not clearly thought out the public safety aspects of the application in relation to the security arrangements for the Premises vis-a-vie bag searches and the employing of SIA Door Supervisors. The Sub-Committee noted that the Applicant was prepared to carry out risk assessments where it was relevant to do so but this did not go far enough to allay the fears of the Police. The Sub-Committee was of the view that the Applicant could have worked more closely with the Police in this respect

rather than maintain the policy view because the Premises in policy term is considered low risk, which did not automatically follow that the policy should apply in all respects. The Sub-Committee has to consider whether the licensing objectives are likely to be undermine, and as a result the Sub-Committee can chose to depart from the terms of the policy when there are justified reasons for doing so. On this occasion based on the evidence before the Sub-Committee, in particular the evidence supported by the Police it chose to depart from the terms of paragraph 2.5.36 of the SLP. The Sub-Committee felt that the Applicant properly understood the security arrangements needed for the Premises and this meant that bag searches and the employment of SIA Door Supervisors were vital to the successful running of the Premises when addressing the issue of public safety and crime and disorder. The Sub-Committee considers its role seriously as decision maker when looking at the merits of the application. It could not ignore the fact that the threat of terrorism in the centre of London was high due to the London attacks that have taken place, particularly those that have occurred recently within the City of Westminster and therefore felt that it had an obligation to ensure that as a responsible Sub-Committee that those customers attending the Premises were safe and properly protected. These preventive measures if implemented on the ground by the Applicant would minimise the threat of crime and disorder taking place on the Premises. That being the case, the Sub-Committee felt that stringent safeguards should be put in place by the Applicant that would prevent a breach of the public safety licensing objective in addition to meeting the concerns of the Police which were all too apparent in their representations. The Sub-Committee felt that it could not ignore these immediate concerns. Whilst the Applicant had offered assurances on the basis that they would risk assess each, and every likely incident the Sub-Committee considered that this did not go far enough to address the real security issues the Premises could potentially be faced with if an incident were to take place at the Premises, notwithstanding the comments previously made by the Police. The Sub-Committee felt that the concerns raised by the Police were genuine and justified and were not to be played down in anyway. The Sub-Committee were pleased that the Applicant took the issue of security seriously but without those extra safeguards in place if felt that those customers attending the Premises would be put at grave risk in the event of a serious incident occurring. The Committee took the view that if the Applicant considered its Premises as a Cinema to be a “world class venue” then it should have the right security arrangements in place to match this vision and that meant acceptance of the above two proposed conditions.

In its determination of the matter, the Committee considered the Home Office Guidance particularly with regard to paragraphs 2.7 and 8.41-8.42. Paragraph 8.41 states:

“In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing Authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can

	<p>readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application”.</p> <p>Paragraph 8.42 states:</p> <p>“Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand</p> <ul style="list-style-type: none"> • the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate; • any risk posed to the local area by the applicants’ proposed licensable activities • any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risk. <p>Paragraph 8.43 states:</p> <p>Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to policy.</p> <p>After careful consideration, the Sub-Committee refused the application. Upon considering the application, the Sub-Committee noted and accepted the Police’s serious concerns about the risk of both the licensing objectives (prevention of crime and disorder, prevention of public nuisance, public safety, and protection of children from harm) being undermined and the risk of terrorism because of the Premises’ high profile location in a high risk area and noted that the Applicant had refused to agree to the Police’s requested conditions to address these concerns in respect of SIA door supervisors and bag searches. The Sub-Committee noted that the application would provide for licensable activities to be undertaken beyond core hours and considered that the Applicant had not sufficiently demonstrated that the proposals would not add to cumulative impact in a cumulative impact area, despite the drop in capacity numbers highlighted above, however, this was not the only test and the deciding factor that the Sub-Committee should have regard to when considering exceptional reasons under the terms of the City Council’s SLP in relation to the CIA (paragraphs 2.4.3 – 2.4.6 refers). In addition, the Sub-Committee considered that although the Applicant had proposed additional conditions, on balance these did not sufficiently meet the promotion of the licensing objectives and accordingly the application was refused.</p>
2.	Late Night Refreshment
	Monday to Sunday: 23:00 to 03:00

	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Refused (see reasons for decision in Section 1).
3.	Provision of Plays
	Monday to Sunday: 00:00 to 23:59
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Refused (see reasons for decision in Section 1).
4.	Provision of Films, Live Music, Recorded Music, Performance of Dance, and anything of a similar description to that falling within boxes e, f or g of the application form
	Monday to Sunday: 09:00 to 03:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Refused (see reasons for decision in Section 1).
5.	Hours Premises are Open to the Public
	Monday to Sunday: 00:00 to 00:00
	Amendments to application advised at hearing:

	None.
	Decision (including reasons if different from those set out in report): Refused (see reasons for decision in Section 1).
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Refused (see reasons for decision in Section 1).

The Meeting ended at 1.10 pm.

CHAIRMAN: _____ **DATE** _____