



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 4th April, 2019**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Karen Scarborough, Peter Freeman and Aziz Toki

1 MEMBERSHIP

2 DECLARATIONS OF INTEREST

1 42 NORTH AUDLEY STREET, LONDON, W1K 6WG

LICENSING SUB-COMMITTEE No. 4

Thursday 4th April 2019

Membership: Councillor Karen Scarborough (Chairman) and Peter Freeman
Councillor

Legal Adviser: Horatio Chance
Committee Officer: Kisi Smith-Charlemagne
Presenting Officer: Kevin Jackman

Relevant Representations: One Local Resident.

Present: Mr Alun Thomas (Applicant's Representative)

Basement and Ground Floor, 42 North Audley Street, London, W1K 6WG ("The Premises") 19/01613/LIPN

1. Sale by retail of Alcohol: Both On sales and Off sales

Monday to Thursday: 10:00 to 23:30
Friday to Saturday: 10:00 to 00:00
Sunday: 12:00 to 22:30

Seasonal Variations/Non-standard timings: From the end of permitted hours on

	<p>New Years' Eve to the start of permitted hours on New Years' Day. Until midnight Sundays before bank holiday Mondays.</p>
	<p>Amendments to application advised at hearing: None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Mr Kevin Jackaman (Presenting Officer) confirmed the application, advising the Sub-Committee that this was a new premises licence application submitted by Grosvenor West End Properties (Applicant Company). He advised that the Environmental Health (EH) Services made a representation, however after agreeing conditions with the Applicant, EH had since withdrawn their representation. One local resident representation had also been received, however the resident was unable to attend today's hearing. Mr Jackaman advised the Sub-Committee that the Premises were within West End Ward and not located in the Cumulative Impact Area (CIA).</p> <p>Mr Alun Thomas (The Applicants representative) informed the Sub-Committee that this was an application for a new premises licence for a premise intending to operate as a restaurant. Mr Thomas advised that the Premises intended to operate under restaurant Model Condition 66 and trade on the ground and lower ground floors with the bar located on the ground floor. Mr Thomas informed the Sub-Committee that that his client was also seeking to provide late night refreshment and the supply of alcohol across both floors of the Premises.</p> <p>Mr Thomas stated that the Premises were previously licenced, however the licence lapsed in 2017, with still some existing use. It was submitted that the site is now A3 use and went through the planning process earlier this year. Mr Thomas confirmed that the application was within core hours and was in line with the planning permission granted and that the capacity figure for the Premises was 110 people as agreed with Environmental Health. Mr Thomas informed the Sub-Committee that the Planning committee did not impose any condition in regards to the collection of refuse. He advised that this seemed to be the issue with the objection received, in particular the collection of refuse between 22:00 hours and 23:00 hours in non WCC collection vehicles.</p> <p>Mr Thomas advised the Sub-Committee that he had spoken with the objector at some length on the telephone, and exchanged e-mail, where an example of a similar A3 premises was used, this premises was also granted planning permission without a refuse condition. Mr Thomas felt that this was because there were standard WCC collection times and for this location it was in the morning between 07:00 hours and 23:00 hours. It was noted that the Objector stated that they were happy with 07:00 hours to 22:00 hours for non WCC vehicles and 07:00 hours to 23:00 hours for WCC vehicles.</p> <p>Mr Thomas advised the Sub-Committee that because the Applicant does not yet have a tenant for the Premises, the Applicant would like to keep that decision open for the tenant to make that decision assuming the Sub-Committee was minded to grant the application. He explained that some tenants like to use</p>

	<p>WCC refuse collection, where some licence holders might like to appoint a private contractor, he felt that the Applicant wanted to give that choice to its tenants. Mr Thomas advised that in any event the refuse would be collected between the hours of 07:00 and 23:00 as that is the set hours for collection.</p> <p>Mr Thomas took the Sub-Committee through a street map, highlighting where the Premises was located, he also showed the Sub-Committee a copy of the premises plan, highlighting the entrance on North Audley Street and the bar area on the ground floor. The Legal Advisor to the Sub-Committee confirmed the addition of model condition 24, which was agreed by the Applicant and EH reworded condition 27, which the Applicant also agreed.</p> <p>The Sub-Committee had regard to the local resident representation and after carefully considering all the evidence it decided to grant the application with conditions that were proportionate, balanced and supported the promotion of the licensing objectives.</p>
2.	Late Night Refreshment: Indoors
	<p>Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00 Sunday: N/A</p> <p>Seasonal Variations/Non-standard timings: From the end of permitted hours on New Years' Eve to the start of permitted hours on New Years' Day. Until midnight Sundays before bank holiday Mondays.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
3.	Hours Premises Open to the Public
	<p>Monday to Saturday: 07:30 to 00:00 Sunday: 07:30 to 22:30</p> <p>Seasonal Variations/Non-standard timings: From the end of permitted hours on New Years' Eve to the start of permitted hours on New Years' Day. Until midnight Sundays before bank holiday Mondays.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>

<p>Mandatory Conditions</p> <ol style="list-style-type: none"> 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
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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.

Conditions attached after a hearing by the Licensing Authority

9. The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.

10. In the designated bar area, hatched black on the licence plans, alcohol can only be served to persons before, during or after a substantial table meal consumed at the premises.
11. The supply of alcohol on the premises shall be by waiter or waitress service only.
12. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
13. Substantial food and non-intoxicating beverages, including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
14. 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.
15. 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 a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
16. Challenge 21, a 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 or passport.
17. 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) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service
18. 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.
19. Notices shall be prominently displayed at all exits requesting patrons to

respect the needs of local residents and businesses and leave the area quietly.

20. 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 sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.
21. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
22. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
23. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 on the following day.
24. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
25. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a sexual entertainment Venue Licence.
26. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
27. The number of persons accommodated at the premises (excluding staff) shall not exceed 110. That accommodation, as a minimum should provide:
5 Unisex WC's; or
1 Urinal plus 1 WC for males and 3 WC's for females
The actual capacity will only be confirmed when an appropriate condition to that effect has replaced this condition on the licence.
28. The Licence will have no effect until the works shown on the plans appended to the application have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
29. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction, new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
30. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be

made available to residents and businesses in the vicinity.

The Meeting ended at 10.30 am

CHAIRMAN: _____

DATE _____