



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (4)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 15th April, 2021**, This will be a virtual meeting.

**Members Present:** Councillors Karen Scarborough (Chairman), Barbara Arzymanow and Aicha Less

**Officer Support:** Legal Officer: Horatio Chance  
Policy Officer: Kerry Simpkin  
Committee Officer: Cameron MacLean  
Presenting Officer: Jessica Donovan

#### 1. MEMBERSHIP

There were no changes to the Membership of the Sub Committee.

For the purposes of this meeting, the Chairman proposed that Councillor Barbara Arzymanow be appointed Substitute Chairman. Councillor Less seconded the nomination and Councillor Arzymanow was duly elected Substitute Chairman.

#### 2. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

#### 1. 10.00 AM: THE COW: 89 WESTBOURNE PARK ROAD, LONDON W2 5QH (BAYSWATER WARD) - REVIEW HEARING

### WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.4 ("The Committee")

Thursday 15 April 2021

Membership: Councillor Karen Scarborough (Chairman) Councillor Barbara Arzymanow and Councillor Aicha Less

Officer Support: Legal Advisor: Horatio Chance  
Policy Officer: Aaron Handy  
Committee Officer: Cameron Maclean

Presenting Officer: Jessica Donovan

**Application for a Review of Premise Licence – The Cow Public House 89 Westbourne Park Road London W2 5Q 21/00981/LIREVP**

**FULL DECISION**

**Premises**

The Cow Public House, 89 Westbourne Park Road, London W2 5Q

**Applicant**

The Licensing Authority – Glyn Franks, Senior City Inspector

**Cumulative Impact Area?**

N/A

**Ward**

Bayswater

**The Activities and Hours on the Premises Licence are as follows:**

**Playing of Recorded Music**

Unrestricted

**Late Night Refreshment**

Monday to Saturday: 23:00 to 00:30

Sunday: 23:00 to 00:00

Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit Unrestricted

**Sale by Retail of Alcohol (On and Off Sales)**

Monday to Saturday: 10:00 to 00:00

Sunday: 12:00 to 23:30

**Opening Hours**

Monday to Saturday: 10:00 to 00:30

Sunday: 12:00 to 00:00

**Representations Received**

- A representation in support of the review was received from the Environmental Health Service (EHS) on 24 February 2021

- A representation in support of the review was received from the Metropolitan Police Service (MPS) on 24 February 2021
- The Licensing Service have received over 1300 representations from interested parties, both in support and opposing the review

### **Summary of Objections**

- EHS provided suggested additional conditions to be imposed on the licence in order to promote the licensing objectives.
- MPS supported the review because the Premises has failed to promote the licensing objectives and breached Coronavirus regulations.

### **Summary of Application**

This is an application for a Review of a Premise Licence known as The Cow Public House 89 Westbourne Park Road London W2 5QH (“The Premises”) under the Licensing Act 2003 (“The Act”). The Premises operate as a Pub and are within the Bayswater Ward but not located in the *West End Cumulative Impact Zone*. There is a resident count of 63 within the vicinity. The Premises has had the benefit of a Premise Licence since 2005 and updated in 2016 (16/06783/LIPDPS). The Designated Premises Supervisor (“DPS”) is Mr Hajrullah Gashi.

The Review application, made on behalf of the Licensing Authority, follow allegations, primarily, that during the current Covid-19 pandemic the licence holder did not take sufficient steps to minimise people congregating outside, or sufficiently enforce social distancing guidance, breached conditions on the licences (including Covid-19 related regulations applicable to licensed premises resulting in the Licence Holder being served with a Fixed Penalty Notice. This was later appealed but the original decision was upheld and the Applicant received a fine of £1,000.

The Premises has a history of noise complaints mainly relating to the playing of loud music and noisy patrons using the front forecourt area of the Premises, but the core of the more serious issues that led to the review application being instigated arose during the Covid-19 pandemic. The Applicant has agreed a number of proposed conditions with the respective parties in order to mitigate the concerns raised and these are specified below. The Responsible Authorities were not seeking to invite the Sub-Committee to suspend or revoke the Premises Licence and this was duly noted by the Sub-Committee.

The Sub-Committee in its determination of the matter considered the Agenda Pack and the Additional Information pack which contained a written submission Mr Gary Grant, Counsel for the Applicant, a witness statement from the Licence Holder together with a list of agreed conditions with the Responsible Authorities.

## **SUBMISSIONS AND REASONS**

Ms Karyn Abbott, Senior Licensing Officer, presented the report that was before the Sub-Committee and outlined the main purpose of the Review.

Mr Glyn Franks, appearing on behalf of the Licensing Authority, presented the application seeking a Review of the Premises Licence. He stated that the grounds

for seeking the Review relied on several incidents that had taken place since 4 July 2020 and which were set out in the application. He stated that it was the responsibility of the Licensing Authority to ensure that Licensed Premises operated in accordance with the provisions of the Licensing Act 2003, as well as ensuring that hospitality venues were taking all necessary measures to prevent the spread of coronavirus.

The application for a Review of the Premises Licence had been submitted in response to noise complaints by local residents, and because of perceived ongoing failures by the Premises' Management Team to promote the Licensing Objectives; properly manage the outside area; and comply with the relevant Coronavirus Regulations.

Mr Franks stated that the Licensing Authority had offered to support the Management Team at the Premises to assist them in promoting the Licensing Objectives, and to comply with the Coronavirus Regulations. However, the Licensing Authority subsequently lost confidence in the Premises' Management Team resulting in an application by the Licensing Authority for a Review of the Premises Licence. It was only after the Review application had been submitted, that a constructive dialogue between the Responsible Authorities and the Respondent took place, concluding with several proposed conditions being agreed between the parties, as set out in the report before the Sub-Committee.

Mr Franks detailed the incidents complained about by Residents and the evidence of the Responsible Authorities and the Metropolitan Police Service (MPS) supporting these and other complaints. He also described the discussions that had taken place between the Licensing Authority and the Premises' Management Team, and measures proposed by the Licensing Authority to address the various concerns.

It was the Premises' Management Team's failure to respond to these proposals in a constructive manner, and its subsequent failure to provide a copy of the Premises Licence [a requirement of the Licensing Act 2003] that compelled the Licensing Authority to seek a Review of the Premises Licence.

In response to a question by the Chairman, Mr Franks described the layout of the Premises and how the Operating Hours as set out in the Premises Licence, applied to the different parts of the Premises, noting that the Premises catered to different clientele at different times and in different parts of the Premises, including the restaurant, bar area, and outside terrace (forecourt).

In response to a question by a Member of the Sub-Committee, Mr Franks stated that there had been a number of meetings between City Inspectors, Council Officers, and the Management Team at the Premises. It was a breach of the Coronavirus Regulations that had resulted in the Premises being issued with a £1000 Fixed Penalty Notice.

PC Morgan stated that the MPS had maintained its representations in support of the Review proceedings on the grounds of the Prevention of Crime and Disorder, Public Safety, and Prevention of Public Nuisance.

Referring to the Coronavirus Regulations (“the Regulations”), the MPS expected all Licensed Premises to comply with the Regulations as a matter of public safety, and it was the failure to comply with the Regulations that was in part responsible for today’s proceedings.

PC Morgan referred to his Witness Statement at Annex B.2 of the papers before the Sub-Committee, and the list of 15 telephone complaints made to the Police about breaches of the Coronavirus Regulations by the Premises. He stated that the calls related to seven separate incidents involving breach of the Coronavirus Regulations by the Premises noting that, in the previous five years, there had been very few calls to the Police regarding the Premises.

PC Morgan, referring to photographs on pages 82 & 83 of the Agenda Pack, detailed one incident that took place on 4 July 2020 when there were very large numbers of customers outside the Premises and where there had been no attempt by the Premises Management to maintain social distancing and/or comply with the Coronavirus Regulations or the Premises Licence conditions. He noted that the violent assault involving customers that took place later that day might have been avoided if the Regulations and the Premises Licence Conditions 12 and 13 had been enforced.

PC Morgan then referred to the incident that took place on 19 November 2020 which resulted in the Premises being issued with the £1000 fine for breaching the Coronavirus Regulations.

PC Morgan stated that these incidents were indicative of a consistent failure by the Management of the Premises. He said it was necessary that the Police had confidence in the Management of the Premises and that the Management of the Premises would comply with the Regulations, the Conditions on the Premises Licence, and would promote the Licensing Objectives. He stated that the Police Licensing Unit did not have the necessary confidence in the Premises’ Management.

In conclusion, PC Morgan stated he had recently visited the Premises and noted that the Premises’ Management had recently upgraded the CCTV which would be of assistance to the Police and the Licensing Authority. In addition, he stated that the Respondent had agreed to the proposed conditions set out in the papers before the Sub-Committee.

Mr Koduah appearing on behalf of EHS in response to an earlier request by the Chairman, clarified the Terms and Conditions of the Premises Licence.

He stated that EHS had maintained its representation in support of the Review for the reasons set out on Page 7 of the report of the Director of Public Protection & Licensing i.e., the Prevention of Public Nuisance, Public Safety, and the Prevention of Crime and Disorder; and for the reasons set out in the representation by the EHS at Annex B.1 of the report: primarily, complaints about noise by customers using the forecourt.

Mr Koduah stated that the Coronavirus Regulations were transitory and, therefore, he had proposed a number of conditions that it would be appropriate to add to the Premises’ Licence which would extend beyond the period of the current Coronavirus

pandemic. Mr Koduah then detailed the proposed conditions as set out on Pages 39 to 43 in the Additional Information Pack. He stated that compliance with the proposed conditions, which were, in his opinion, reasonable and proportionate, would promote the Licensing Objective of the Prevention of Public Nuisance, notably, sound escaping from the Premises, and noise caused by customers using the forecourt.

In response to a number of questions, Mr Koduah and Mr Grant provided the following information.

- (a) Regarding the inclusion of Model Condition (MC) 03, Mr Koduah stated that the intention was to ensure that there was always be a Member of Staff on duty who held a Personal Licence and who had, as such, been suitably trained.
- (b) That it was not the intention to replace the current Designated Premises Supervisor (DPS).
- (c) Regarding MC 05, Mr Koduah proposed that the wording could be amended to include the phrase “on any other day, as appropriate,” to ensure that SIA Door Supervisors were provided on Sundays and on Bank Holidays, subject to a Risk Assessment having been carried out.
- (d) Regarding MC 15, it was noted that this would apply to customers dining in the restaurant, which was open later than the bar, and that the wording could be amended to read 22:30 hours to cover operating hours on Sundays.
- (e) Regarding MC 71, it was stated that it was possible to restrict the number of persons using the forecourt at any one time. As it was the use of the forecourt in the evenings and at night that had given rise to noise complaints, MC 71 was intended to prevent use of the forecourt being a source of noise nuisance.
- (f) Regarding MC 22, it was noted that this was applicable to all customers, and not just customers using the restaurant.
- (g) Regarding Condition 16, it was noted that this was a compromise that had been agreed with the Respondent.
- (h) Condition 17, restricted customers to using the forecourt only, thereby preventing them from spilling out onto the pavement area.
- (i) Regarding the side door to the Premises, it was noted that all conditions applied to all entrances to the premises.

Councillor Payne stated that the Premises was a popular, colourful local institution which had existed for over 20 years and one which added something unique to the area. Its popularity was evidenced in the support for the Premises in the current proceedings.

#### Councillor Richard Elcho

Councillor Payne called Councillor Richard Elcho, a local Ward Councillor, as a witness who supported her comments on the unique and popular nature of the Premises.

Councillor Elcho proposed that the Sub-Committee, in supporting the hospitality industry, should intervene as little as possible and approve the proposed conditions agreed by the Responsible Authorities and the Respondent. Councillor Elcho noted

that the Premises was an important part of the community and the present proceedings should act as a final warning to the Premises to address the concerns which were the subject of the Review. He proposed that to revoke or suspend the Premises licence, or impose gratuitous conditions would be inappropriate and disproportionate.

Continuing her presentation, Councillor Payne referred to the purpose of the Coronavirus Regulations, noting that, of all the Licensed Premises within the Bayswater Ward, only this Premises had breached the Regulations and had done so with a reckless disregard for the catastrophic effects of Covid-19. Furthermore, the management of the Premises had shown little remorse for these breaches and had been publicly disingenuous about the reasons for the Review proceedings.

Given the repeated breaches of the Regulations, and the lack of remorse shown by the Premises' Management, Councillor Payne requested that the Sub-Committee suspend the Premises Licence until 8 June 2021 and, thereafter, the Premises be granted a one-year temporary licence subject to Review when the licence expired.

In conclusion, Councillor Payne stated that she supported proposals to strengthen some of the conditions which had been considered by the Sub-Committee.

Councillor Carman stated that, until the Coronavirus pandemic, she had not been aware of any complaints in relation to the Premises, which she had always regarded as being well-managed. However, the current pandemic had contributed to the breakdown in behaviour in what was normally a well-ordered establishment.

Councillor Carman stated that she had spoken to the Licensee, Mr Tom Conran, and that he fully understood the seriousness of the breaches and had stated that he was willing to work with the Council's Licensing Team to ensure the safe running of his pub. Councillor Carman noted that a raft of conditions had been agreed between the various parties and that the Sub-Committee might wish to consider tightening some of these conditions.

In conclusion, Councillor Carman proposed that the Premises be allowed to reopen and for the Premises' Management to be given the opportunity to "up-its-game" in managing the Premises in a safe manner and proving, once again, that it is Bayswater's favourite pub.

Mr Langston stated that TL Security Services Ltd had taken over the security contract for the Premises and that he was looking forward to working with the Premises on improving its policies and procedures in relation to Coronavirus Regulations.

He stated that the Company was also looking forward to working with the Licensing Authority and that he had made a number of written submissions which were before the Sub-Committee.

The Sub-Committee then heard representations from the following interested parties.

In Support of the Premises (i) Mr David Hickok (ii) Ms Tanya Sarne (iii) Mr Bill Eagles

Mr David Hickok noted his flat was directly next door to the Premises and shared a patio with their storage area. He had lived there for 15 years and stated that during that time he had never had a reason to complain aside from rare loud music which was turned down on request. In his view, last summer was exceptional and the incident on 4 July 2020 was the worst it has ever been – however the photo in front of the Sub-Committee included customers from another public house, who he believed were involved in the assault that day. He stated living next to the Premises has been a pleasure. He invited the Sub-Committee to support the Cow in reopening and conducting itself as it had for the last 15 years.

Ms Tanya Sarne reiterated what Mr David Hickok stated – she said that all the noise she has heard over the years has come from another nearby pub which has a very large forecourt. She said she had been going to the Premises since it opened, has had multiple events there, has taken her young grandchildren there – none of which she would have done if she thought there was a problem there. She also stated that, in her view, most regular customers would have not been at the Premises on 4 July 2020. She concluded by stating the Premises had the most delicious food in the area. She also wanted to make the point that she had never heard any noise coming from the Premises.

Mr Bill Eagles stated that he had lived in the area since 1995 and the Premises had been his local since then. He stated it is a unique establishment with excellent food and beer. He emphasised the context of what happened on 4 July 2020, which was an extraordinary moment in the country. He submitted the outpouring of that exuberance was only controllable to a limited degree by the Premises, although noted there was speculation here given he was not present at that time. He stated it would be a great shame if this one-off moment would undermine the longevity of the Premises.

Mr Gary Grant appearing on behalf of the Premises Licence Holder stated that the PLH's case was set out in two documents in the Additional Information Pack:

- (i) Counsel's Submissions; and
- (ii) (The PLH's Witness Statement.

Mr Grant set out the history of the Premises, noting that the PLH had managed the Premises for the last 26 years and that, until the present proceedings, the Premises had never been the subject of Review proceedings, and the only Noise Abatement Notice to be issued was in 1996.

Mr Grant stated that concerns about the operation of the Premises started on 4 July 2020 when the Pub reopened after a period of lockdown following the Coronavirus pandemic. He stated that the Premises became a "victim of its own success", attracting large crowds of people who were not its usual clientele and which the Premises Management struggled to manage. Mr Grant then described the measures taken by the Premises Management in an effort to control and manage customers on that day, referring Members of the LSC to the email correspondence set out on Page 55 of the report in the Agenda Pack. Mr Grant also referred to mitigating circumstances which caused the PLH, Mr Tom Conran, to be distracted from the operation and management of the Premises during that time.

Regarding proposals to prevent a re-occurrence of the events that took place on in July 2020, Mr Grant proposed that he go through the proposed additional conditions as set out in the papers before the Sub-Committee. However, before doing so, Mr Grant stated that, save for takeaway and delivery food (not alcohol), it was not proposed to sell alcohol until 17 May 2021, when licensed premises, in accordance with government proposals, would be allowed to reopen for indoor hospitality. In addition, the Respondent had employed the services of Mr Thomas Flynn who would oversee the operation of the Premises when it reopened. [Mr Grant then detailed Mr Flynn's significant experience as a Premises Manager and Maître d'hôtel].

It was noted that the PLH had also employed the services of Mr Richard Vivien, an expert in acoustics, who would advise on measures to prevent noise breakout, including music, from the Premises.

Regarding the proposed additional conditions, Mr Grant stated that the Council's Expert Advisers, including the Licensing Authority, EHS and the MPS agreed, subject to the views of the Members of the LSC, that the proposed conditions were reasonable, appropriate and proportionate.

Mr Grant then went through the proposed Additional Conditions in detail and how they addressed the various issues that had been raised by Members during the course of the proceedings, as well as describing the operation of the Premises. Mr Grant then addressed the various representations that had been received both in support of the Premises and those in support of the Premises Licence Review; the operation of the Premises during the lockdown period, including for furloughing employees; and the financial investment in the Premises by the Respondent to maintain the Premises during the lockdown period.

Should the Premises be allowed to reopen, Mr Conran had proposed quarterly meetings with residents. In addition, to improve how the Premises Management engaged with the Responsible Authorities, the PLH had employed the services of Mr Geoffrey Cooper, former Licensing Sergeant.

In conclusion, Mr Grant stated that it was apparent from the representations that had been received, that there was a longing in the local community to get back to their favourite pub. And that this was the sort of venue that would help to rebuild the community, post-Covid.

In response to a number of questions, Mr Grant and the PLH Mr Conran, and others, provided the following information.

- (a) Mr Flynn stated that he would be overseeing the reopening of the Premises and that he would be working with Mr Conran for the foreseeable future.
- (b) Mr Cooper stated that he had been working with Mr Flynn and that there would be a programme of training for all Members of Staff, including training for three Members of Staff so that they might become Personal Licence Holders. In addition, there would be training for all Members of Staff on the Premises Licence Conditions, once the conditions were known, as well as any other relevant aspects of the Licensing Act 2003. He advised that this training would take place in the period up until 17 May, when it was proposed that the Premises would reopen.

- (c) Mr Flynn confirmed that it was the intention that the entire Premises Management Team would receive appropriate training on all aspects of the operation of the Premises, including security and other procedures.
- (d) One of the proposed Additional Conditions required that a Personal Licence Holder be on the Premises at all times when alcohol was sold.
- (e) An Operational Management Plan was being prepared in anticipation of reopening on 17 May 2021.

The Legal Adviser to the Sub-Committee, proposed that Model Condition (MC) 38 apply after 23:00 hours.

Regarding training, the Legal Advisor proposed that a suitable form of words for a condition relating to training might be –

“The Licence Holder shall ensure that all Members of Staff shall receive training, including refresher training, in the sale of alcohol to ensure the Promotion of the Licensing Objectives”.

The Legal Advisor also asked that the Designated Premises Supervisor (DPS) inform Members of the Sub-Committee how it was anticipated the Premises would be managed.

Mr Grant confirmed he was happy with the wording of the proposed condition regarding training. Concerning the proposed inclusion of MC38, Mr Grant stated that the PLH was happy to accept this condition after 23:00 hours. However, referring to the “1964” Conditions on the Licence, Mr Grant stated that non-diners were permitted 30 minutes “drinking up” time until 23:30 and that the PLH would not want to lose that entitlement.

Mr Grant stated that the DPS was not in attendance and, therefore, not available to answer the question posed by the Legal Advisor to the Sub-Committee. In his absence, Mr Flynn confirmed that an Operational Management Plan was being prepared and that work was being undertaken with Mr Cooper on various processes and procedures that would be put in place when the Premises reopened, and that there would be staff training on these processes and procedures.

## **Conclusion**

The Sub-Committee welcomed the fact that the Premises would remain closed by the PLH and re-open on the 17 May 2021 in line with Step 3 of the Government’s road map where customers are permitted back inside of licensed premises to eat and drink once again.

However, the Sub-Committee was very disappointed to note that the DPS did not attend the hearing as he is an integral part of the business and on that basis should have been present, to provide evidence and answer questions, especially when it came to the day to day running of the Premises. The Sub-Committee did have the power to remove the DPS under the Act, however, this approach was not considered an appropriate step to take because the licensing authority considered him to be a competent person with a good understanding and knowledge of the licensing regime

but the same could not be said of the members of staff he managed which seemed to be the burning issue here.

The Sub-Committee recognised that going forward staff members would require proper training in the sale of alcohol and the promotion of the licensing objectives. This is to ensure there are no reoccurrence of similar incidents that lead to the review application by the Licensing Authority. The Sub-Committee was also advised that Mr Gashi was a long-standing member of staff who was popular and had a good relationship with patrons, and this was duly noted by the Sub-Committee.

The Sub-Committee in its determination of the matter concluded that the Applicant should receive a warning regarding the breach of the coronavirus regulations and considered that the imposition of conditions on the Premises Licence was the right course of action to take as oppose to any suspension or revocation as that would be disproportionate given the full set of circumstances of the case and what the Home Office Guidance says about best practice at Paragraphs 11.1-11.29 on Pages 89-94 when licensing authorities are dealing with a review of premises.

The Sub-Committee ensured that the Applicant was left in no doubt that the various incidents which took place over time at the Premises are frowned upon and taken very seriously by the Sub-Committee, particularly when a significant risk is posed to public safety and the undermining of both the public safety and public nuisance licensing objectives in terms of proper crowd control and social distancing because this has far wider implications for the community if this is not managed properly. However, in spite of this the Sub-Committee was persuaded and reassured by the various undertakings given during the course of the hearing by the PLH when it came to the proposed improved management practices planned for the Premises in the coming months. The Sub-Committee noted that the Licence Holder is to have as a minimum 3 personal licence holders on the Premises at any one time when alcohol is served.

The Sub-Committee decided that it should impose conditions which would deal with the problems associated with public nuisance at the front forecourt area and training of staff especially as these were issues that went to the heart of the matters complained about. The Sub-Committee did feel that on a positive note this was an opportunity for the licence to be updated with conditions that are considered robust, enforceable and will ultimately have the desired effect of promoting the licensing objectives.

The Sub-Committee decided that the Licensing Authority together with the Applicant had provided valid reasons as to why the proposed measures they both had advanced along with the Police and Environmental Health would promote the licensing objectives. The Committee decided also that Condition 18 would be removed from the licence and replaced with Condition 22 as specified in Condition 22 below. This means that the total number of patrons permitted to using the front forecourt should be limited to 12 persons seated at all times as this will reduce the problems associated with nuisance. Likewise, with Condition 14 on the premises licence relating to SIA staff which is to be replaced by Condition 9 below.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, **the Sub-Committee has decided**, after

taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives: -

1. That the Premises is to be Warned regarding its failure to manage the Premises efficiently and effectively particularly but not exclusively since the Covid-19 pandemic for incidents that have occurred at the Premises for the period July, August, November and December 2020 and non-compliance with conditions and noise complaints that undermined the promotion of the licensing objectives.
2. That the Premises is to remain closed until the 17 May 2021 as confirmed by the Premises Licence Holder .
3. Subject to paragraph 2 above the Applicant is to produce a Management Plan prior to the anticipated re-opening date. A copy of the said Management Plan is to be provided to the Responsible Authorities before the re-opening of the Premises and certainly before any licensable activities can take place.
4. That the Licence is subject to any mandatory conditions.
5. That the Licence is subject to the following additional conditions to include any amendments or replacement to existing conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

#### **Conditions imposed by the Committee after a hearing**

6.
  - (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
  - (b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
  - (c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
  - (d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
  - (e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 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. 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.
8. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
9. On Thursday to Saturday from 18:00 hours until 30 minutes after the premises closes to the public a minimum of 2 SIA licensed door supervisors shall be on

duty at the premises at all times whilst it is open for business. At all other times the number of SIA licensed door supervisors shall be deployed on a risk-assessed basis (with particular regard to ensuring appropriate social distancing during the Covid-19 pandemic).

10. All staff engaged outside the entrance to the premises, shall wear high visibility jackets, vests or armbands.
11. There shall be no admittance or re-admittance to the premises after **(23.00)** except for patrons permitted to temporarily leave the premises to smoke.
12. All outside tables and chairs shall be rendered unusable by **(23.00)** Monday-Saturday and by **(22:30)** on Sunday and Bank Holidays.
13. 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.
14. A Challenge 21 or 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.
15. 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, searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
16. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
17. 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.
18. After 23:00 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 6 persons at any one time.
19. After 23:00 hours, 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.
20. A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria: (a) the limiter must be set at a level determined by and to the satisfaction of an authorised

Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses, (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder, (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team, (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

21. The provision of regulated entertainment by way of recorded music shall end at 23:00hrs.
22. Consumption of alcohol outside the public house shall be restricted to the private forecourt to the front of the premises and limited to 12 people seated at all times.
23. After 23:00 hours on Monday to Saturday and 22:30 hours on Sundays 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.
24. To vary condition 9.1, Annex 1:  
  
Save as indicated below, on Monday-Saturday alcohol may only be sold or supplied between 10:00-23:00 hours and on Sundays until 22:30 hours. Alcohol may be consumed for up to 30 minutes after the terminal hour
25. All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence. Written records of staff training in the Act shall be retained and made available to the Responsible Authorities on demand. Staff shall receive refresher training in the Act of no more than 12 months.
26. The Licence Holder shall facilitate and agree a Management Plan for the premises in close consultation with the Responsible Authorities which shall include as a minimum detail relating to noise inside and outside of the premises, smoking, complaints, crowd management and dispersal of patrons and staff training. A completed copy of the Management Plan shall be provided to the Responsible Authorities and made available at the Premises on demand.

#### **INFORMATIVE:**

27. The licence holder is strongly encouraged to form and promote a live WhatsApp group with residents and businesses in order to facilitate regular bi-monthly meetings to discuss issues directly affecting them regarding the

running and management of the Premises including any issues specifically connected to public nuisance.

28. The licence holder is advised for the need to keep Sundays and Bank holidays under review as the Committee agreed to remove the requirement for SIA on these days except for the Notting Hill Carnival.

If problems are experienced, then an application for a Review of the Premises licence can be made.

**This is the Full Decision reached by the Licensing Sub-Committee.**

**This Decision takes immediate effect.**

**The Licensing Sub-Committee  
15 April 2021**

2. **3.00 PM: RECONVENED MEETING - THE COW: 89 WESTBOURNE PARK ROAD, LONDON W2 5QH (BAYSWATER WARD) - REVIEW HEARING**

There was no requirement for the meeting to reconvene having concluded its business in the morning session.

The Meeting ended at 1.00 pm

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**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 4  
("The Committee")**

**Thursday, 15 April 2021**

**Membership:** Councillor Karen Scarborough (Chairman), Councillor Barbara Arzymanow, and Councillor Aicha Less

**APPLICATION FOR A REVIEW OF PREMISE LICENCE – THE COW PUBLIC HOUSE, 89 WESTBOURNE PARK ROAD, LONDON W2 5Q [21/00981/LIREVP]**

**Applicant**

Tom Conran Restaurants Limited

**Summary of Application**

This is an application for a Review of a Premise Licence known as The Cow Public House 89 Westbourne Park Road London W2 5QH ("The Premises") under the Licensing Act 2003 ("The Act"). The Premises operate as a Pub and are within the Bayswater Ward but not located in the *West End Cumulative Impact Zone*. There is a resident count of 63 within the vicinity. The Premises has had the benefit of a Premise Licence since 2005 and updated in 2016 (16/06783/LIPDPS). The Designated Premises Supervisor ("DPS") is Mr Hajrullah Gashi.

The Review application, made on behalf of the Licensing Authority, follow allegations, primarily, that during the current Covid-19 pandemic the licence holder did not take sufficient steps to minimise people congregating outside, or sufficiently enforce social distancing guidance, breached conditions on the licences (including Covid-19 related regulations applicable to licensed premises resulting in the Licence Holder being served with a Fixed Penalty Notice. This was later appealed but the original decision was upheld and the Applicant received a fine of £1,000.

The Premises has a history of noise complaints mainly relating to the playing of loud music and noisy patrons using the front forecourt area of the Premises, but the core of the more serious issues that led to the review application being instigated arose during the Covid-19 pandemic. The Applicant has agreed a number of proposed conditions with the respective parties in order to mitigate the concerns raised and these are specified below. The Responsible Authorities were not seeking to invite the Committee to suspend or revoke the Premises Licence and this was duly noted by the Committee.

The Committee in its determination of the matter considered the Agenda Pack and the Additional Information pack which contained a written submission Mr Gary Grant, Counsel for the Applicant, a witness statement from the Licence Holder together with a list of agreed conditions with the Responsible Authorities.

**The Activities and Hours on the Premises Licence are as follows: -**

Playing of Recorded Music

Unrestricted

### **Late Night Refreshment**

Monday to Saturday: 23:00 to 00:30  
Sunday: 23:00 to 00:00

### **Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit**

Unrestricted

### **Sale by Retail of Alcohol (On and Off Sales)**

Monday to Saturday: 10:00 to 00:00  
Sunday: 12:00 to 23:30

### **Opening Hours**

Monday to Saturday: 10:00 to 00:30  
Sunday: 12:00 to 00:00

### **Summary Decision**

The Committee welcomed the fact that the Premises would remain closed by the Applicant and re-open on the 17 May 2021 in line with Step 3 of the Government's road map where customers are permitted back inside of licensed premises to eat and drink once again.

The Committee was very disappointed to note that the DPS did not attend the hearing as he is an integral part of the business and on that basis should have been present, to provide evidence and answer questions, especially when it came to the day to day running of the Premises. The Committee did have the power to remove the DPS under the Act, however, this approach was not considered an appropriate step to take because the licensing authority considered him to be a competent person with a good understanding and knowledge of the licensing regime but the same could not be said of the members of staff, he managed which seemed to be the burning issue here.

The Committee recognised that going forward staff members would require proper training in the sale of alcohol and the promotion of the licensing objectives. This is to ensure there are no reoccurrence of similar incidents that lead to the review application by the Licensing Authority. The Committee was also advised that Mr Gashi was a long-standing member of staff who was popular and had a good relationship with patrons, and this was noted by the Committee.

The Committee in its determination of the matter concluded that the Applicant should receive a warning regarding the breach of the coronavirus regulations and considered that the imposition of conditions on the Premises Licence was the right course of action to take as oppose to any suspension or revocation as that would be disproportionate given the full set of circumstances of the case and what the Home Office Guidance says about best practice at Paragraphs 11.1-11.29 on Pages 89-94 when licensing authorities are dealing with a review of premises.

The Committee ensured that the Applicant was left in no doubt that the various incidents which took place over time at the Premises are frowned upon and taken very seriously by the Committee, particularly when a significant risk is posed to public safety and the undermining of both the public safety and public nuisance licensing objectives in terms of proper crowd control and social distancing because this has far wider implications for the community if this is not managed properly. However, in spite of this

the Committee was persuaded and reassured by the various undertakings given during the course of the hearing by the Applicant when it came to the proposed improved management practices planned for the Premises in the coming months. The Committee noted that the Licence Holder is to have as a minimum 3 personal licence holders on the Premises at any one time when alcohol is served.

The Committee decided that it should impose conditions which would deal with the problems associated with public nuisance at the front forecourt area and training of staff especially as these were issues that went to the heart of the matters complained about. The Committee did feel that on a positive note this was an opportunity for the licence to be updated with conditions that are considered robust, enforceable and will ultimately have the desired effect of promoting the licensing objectives.

The Committee decided that the Licensing Authority together with the Applicant had provided valid reasons as to why the proposed measures they both had advanced along with the Police and Environmental Health would promote the licensing objectives. The Committee decided also that Condition 18 would be removed from the licence and replaced with Condition 22 as specified in Condition 22 below. This means that the total number of patrons permitted to using the front forecourt should be limited to 12 persons seated at all times as this will reduce the problems associated with nuisance. Likewise, with Condition 14 on the premises licence relating to SIA staff which is to be replaced by Condition 9 below.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, **the Committee has decided**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives: -

1. That the Premises is to be Warned regarding its failure to manage the Premises efficiently and effectively particularly but not exclusively since the Covid-19 pandemic for incidents that have occurred at the Premises for the period July, August, November and December 2020 and non-compliance with conditions and noise complaints that undermined the promotion of the licensing objectives.
2. That the Premises is to remain closed until the 17 May 2021 as confirmed by the Applicant.
3. Subject to paragraph 2 above the Applicant is to produce a Management Plan prior to the anticipated re-opening date. A copy of the said Management Plan is to be provided to the Responsible Authorities before the re-opening of the Premises and certainly before any licensable activities can take place.
4. That the Licence is subject to any mandatory conditions.
5. That the Licence is subject to the following additional conditions to include any amendments or replacement to existing conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

#### **CONDITIONS IMPOSED BY THE COMMITTEE AFTER A HEARING**

- 6(a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
- (b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.

- (c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
  - (d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
  - (e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
6. 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.
  7. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
  8. On Thursday to Saturday from 18:00 hours until 30 minutes after the premises closes to the public a minimum of 2 SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business. At all other times the number of SIA licensed door supervisors shall be deployed on a risk-assessed basis (with particular regard to ensuring appropriate social distancing during the Covid-19 pandemic).
  9. All staff engaged outside the entrance to the premises, shall wear high visibility jackets, vests or armbands.
  10. There shall be no admittance or re-admittance to the premises after (23.00) except for patrons permitted to temporarily leave the premises to smoke.
  11. All outside tables and chairs shall be rendered unusable by (23.00) Monday-Saturday and by (22:30) on Sunday and Bank Holidays.
  12. 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.
  13. A Challenge 21 or 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.
  14. 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, searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
  15. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

16. 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.
17. After 23:00 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke, shall be limited to 6 persons at any one time.
18. After 23:00 hours, 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.
19. A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria: (a) the limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses, (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder, (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team, (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
20. The provision of regulated entertainment by way of recorded music shall end at 23:00hrs.
21. Consumption of alcohol outside the public house shall be restricted to the private forecourt to the front of the premises and limited to 12 people seated at all times.
22. After 23:00 hours on Monday to Saturday and 22:30 hours on Sundays 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.
23. To vary condition 9.1, Annex 1:
24. Save as indicated below, on Monday-Saturday alcohol may only be sold or supplied between 10:00-23:00 hours and on Sundays until 22:30 hours. Alcohol may be consumed for up to 30 minutes after the terminal hour
25. All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence. Written records of staff training in the Act shall be retained and made available to the Responsible Authorities on demand. Staff shall receive refresher training in the Act of no more than 12 months.
26. The Licence Holder shall facilitate and agree a Management Plan for the premises in close consultation with the Responsible Authorities which shall include as a minimum detail relating to noise inside and outside of the premises, smoking, complaints, crowd management and dispersal of patrons and staff training. A completed copy of the Management Plan shall be provided to the Responsible Authorities and made available at the Premises on demand.

**INFORMATIVE:**

The licence holder is strongly encouraged to form and promote a live WhatsApp group with residents and businesses in order to facilitate regular bi-monthly meetings to discuss issues directly affecting them regarding the running and management of the Premises including any issues specifically connected to public nuisance.

The licence holder is advised for the need to keep Sundays and Bank holidays under review as the Committee agreed to remove the requirement for SIA on these days except for the Notting Hill Carnival.

If problems are experienced, then an application for a Review of the Premises licence can be made.

**This is the Summary Decision reached by the Licensing Sub-Committee. The fully reasoned decision will be sent to all parties as soon as possible. The date for appealing the decision will not start until the full reasoned decision has been sent to the Parties.**

**Licensing Sub-Committee  
15 April 2021**