



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 1st July, 2021**, This will be a virtual meeting.

Members Present: Councillors Tim Mitchell (Chairman), Richard Elcho and Aicha Less

1. MEMBERSHIP

In respect of the item relating to House of Botanicals, Councillor Elcho declared an interest and would not take part in the proceedings or deliberations for this application. It was noted the Sub-Committee was still quorate with a total of two Councillors participating.

For the purposes of the second item relating to Park Grand Paddington Hotel, the Chairman proposed that Councillor Elcho be appointed substitute Chairman. Councillor Less seconded the nomination and Councillor Elcho was duly elected substitute Chairman.

2. DECLARATIONS OF INTEREST

In respect of House of Botanicals, 47- 48 Newman Street London W1T 1QQ – 21/01381/LIPN - Councillor Richard Elcho declared an interest in the matter and did not sit during the hearing or as part its determination of this application only.

3. ORDER OF PROCEEDINGS

1. **10:00 AM: HOUSE OF BOTANICALS, 47-48 NEWMAN STREET, LONDON W1T 1QQ**

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.2 **("The Committee")**

Thursday 1 July 2021

Membership: Councillor Tim Mitchell (Chairman) and Councillor Aicha Less

Declaration of Interest: Councillor Richard Elcho declared an interest in the matter and did not sit during the hearing or of its determination.

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Matt Gaskin
Presenting Officer: Karyn Abbott

Application for a New Premises Licence in respect of House of Botanicals 47-48 Newman Street London W1T 1QQ – 21/01381/LIPN

Full Decision

Premises

House of Botanicals
47- 48 Newman Street
London
W1T 1QQ

Applicant

Newman Street Bar Limited represented by Mr James Rankin.

Cumulative Impact Area

Not applicable.

Special Consideration Zone

West End Buffer

Ward

West End.

Summary of Application

The Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises propose to operate as a bar. The Premises currently have the benefit of two Premise Licences under references 20/08588/LIPDPS and 18/05793/LIPDPS. The Premises are situated in the West End Ward.

The Premises are not located within the West End Cumulative Zone but fall within the West End Buffer Special Consideration Zone. The applicant has provided a resident letter, Dispersal, and smoking policy and these were considered by the Sub-Committee. There is a resident count of 98.

Representations were received from Environmental Health Service (EHS), The Metropolitan Police Service (MPS), The Licensing Authority, Fitzrovia Neighbourhood Association and three Local Residents.

Activities and Hours applied for

Recorded Music – Indoors

Monday to Saturday 10:00 to 01:00 hours and Sunday 12:00 to 23:30 hours

Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Late Night Refreshment – Indoors and Outdoors

Monday to Saturday 23:00 to 01:00 hours and Sunday 23:00 to 23:30 hours.

Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Retail Sale of Alcohol – On and Off Sales

Monday to Saturday 10:00 to 01:00 hours and Sunday 12:00 to 23:30 hours.

Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Hours Premises are open to the Public

Monday to Saturday 09:00 to 01:30 hours and Sunday 11:00 to 00:00 hours.

Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Representations Received

- Environmental Health Service (Maxwell Koduah)
- Metropolitan Police Service (PC Adam Deweltz)
- Licensing Authority (Kevin Jackaman)
- Mr N. Bailey, Flat B, 59 Goodge Street, W1T 1TJ
- Ms A. Goodburn, Flat 1, 45-46 Newman Street, W1T 1QF
- Dr S. Mills, Flat 4, 45 Newman Street, W1T 1QF
- Fitzrovia Neighbourhood Association, 39 Tottenham Street, WAT 4RX

Summary of issues raised by Objectors

- The hours requested to play recorded music may have the likely effect of causing an increase in Public Nuisance within the area.

- The provision of late-night refreshment and the hours requested may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.
- The supply of alcohol and the hours requested to supply alcohol may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.
- MPS objected on the grounds that the application would undermine the Licensing Objectives in relation to The Prevention of Crime and Disorder.
- The Licensing Authority objected on the grounds that it has concerns as to how the premises would promote the four Licensing Objectives.
- The extension of hours was opposed to by some. There are a number of residents in the immediate vicinity in Godge Street and Newman Street who could easily be disturbed by music and customers leaving at these late hours.
- The extended hours would disturb sleep due to the noise of customers on the street, the moving of tables and benches at close down and the air conditioning and other machinery at the rear of the building.
- There are many residents living in the immediate vicinity of the premises. Residents are concerned that the extended hours would result in nuisance caused by noise from the premises, noise from the kitchen, from people leaving the premises, and cars coming, waiting and departing right up to closing time and beyond. They wanted to raise the issues of servicing, delivery and rubbish collection and emphasise the issue of noise from the premises - sound limiters on volume and bass.

Policy Considerations

Policies HRS1, PB1 and SCZ1 apply under the City Councils Statement of Licensing Policy. Applications outside the West End Cumulative Zone will generally be granted subject to the application meeting the requirements of Policies CD1, PS1, PN1 and CH1.

DECISION AND REASONS

Ms Abbott, the presenting officer, summarised the application to the Sub-Committee. This is an application for a New Premises Licence in respect of The House of Botanicals, 47-48 Newman Street, London W1T 1QQ. The application has been made by Newman Street Bar Limited (represented by Mr Rankin). The applicant has applied for regulated entertainment and the retail sale of alcohol. Full details can be found at pages 6 and 7 of the report. Representations have been received from Environmental Health Service (Mr Nevitt) and The Licensing Authority (Mr Jackaman). The Metropolitan Police Service have made a representation however this was withdrawn when conditions were agreed on 10 June 2021. There have been 4 representations received by interested parties, in attendance is Mr Yoram Blumann from the Fitzrovia Neighbourhood Association (Mr Brown of Westminster CAB). The Premises are situated within the West End Ward and do not fall within the cumulative impact zone but are in the West End Buffer Special Consideration Zone.

Mr James Rankin Counsel appearing on behalf of the Applicant addressed the Sub-Committee. Mr Rankin summarised briefly his submission contained at pages 19-22 in the main report. Mr Rankin stated that the Applicant, Charlie Gilkes purchased the

Premises along with his business partner, Mr Stirling and they have created the Phileas J Fogg brand. They have tried to reflect in each of their 5 premises, particular aspects of his travels and what he brought back. They have spent a million pounds and have refurbished the Premises very well. They supplied their expensive food and wine which attracted the right people and they thrived.

Mr Rankin said there were one or two issues, there was an issue with a resident who subsequently moved away about noise transmission through the party wall. However, extensive acoustic works were carried out to remedy the matter. There were concerns about the extractor in the kitchen. The applicant did everything he was supposed to do for the sake of being a good neighbour.

Mr Rankin advised that a series of Temporary Event Notice (TENS) 12 in total which span 20 days had been applied for which allowed the Premises to run to a later terminal hour of 02:30 hours. The initial application applied for a terminal hour of 01:00 for 6 days a week and 23:00 on Sundays with a 30-minute drinking up time. Mr Rankin stated that the Applicant no longer seeks Mondays-Wednesday or Sundays to increase the hours. The only hours sought are now 1 hour on Thursdays-Saturdays with the drinking up time, therefore the application is amended in this respect.

Mr Rankin said that the Premises were doing very well serving afternoon teas to customers and attracted the tourist trade until the Covid-19 pandemic happened. The Premises have been hard hit and have only traded 6 months out of the last 18 months. It has been a real struggle and the Premises currently trades at a substantial loss and if this application was not granted inevitably the future would be very bleak. Mr Rankin contended that if the Premises were able to trade for the one-hour extension Thursday to Saturday, then this would provide a glimmer of hope in terms of any potential recovery.

Mr Rankin said that the Premises are not in the cumulative impact area but appreciated that they do come within the special consideration zone when it came to looking at the various policy considerations. Mr Rankin stated that Richard Brown acknowledges we are a responsible operator. Mr Bailey identifies we are generally a good neighbour also.

Mr Rankin said that in relation to the problem raised with the kitchen extractor this can be solved immediately by switching off the extractor at 23:30 hours. The Applicant had no idea this was a source of concern from the residents. Mr Rankin said that Mr Gilkes did organise a meeting with the residents and letters were sent out on 19 April, but residents did not attend. Mr Rankin pointed out that not one of the representations mentioned any disturbance or unhappiness in the early hours of the morning and requested that the Sub-Committee take this into account when assessing the application.

Mr Rankin advised that the Police conditions are all agreed. He said Ms Abbott has the email of PC Adam Deweltz withdrawing his representation. Effectively condition 49 will be divided in 2 parts as follows:

(A) There shall be a minimum of 1 registered door supervisor after 21:00 and until 30 minutes past close on Thursdays, Fridays and Saturdays. At all other times,

managers at the premises shall risk assess whether the door supervisors are required.

(B) If the premises trades after 23:00 on Mondays- Wednesday, there should be at least 1 registered door supervisor on duty from 21:00 until 30 minutes past close and management at the premises should risk assess whether additional door supervisors are required.

Mr Rankin said that he would like the Sub-Committee to consider the revision of the above condition as well as the last entry condition. In terms of the Environmental Health conditions these are all agreed with Mr Nevitt. Mr Rankin stated that the Premises are small and have a capacity of 130 downstairs and 80 upstairs. Currently the condition is expressed at 210 patrons. He said that Mr Nevitt would like condition 10 reworded slightly so that the capacity will be 130 downstairs and 80 upstairs, and the Applicant has no objection to this. In relation to there being no regulated entertainment after midnight this is agreeable, so only background music is played. Mr Rankin said that in relation to the Smoking area there has been a slight amendment to Condition 49 in that after 23:00 patrons are to smoke in the designated area which can be specified - To the right of the entrance, in full view of the door supervisors.

Mr Rankin also added that after 24:00 dispersal of patrons will only be through the main entrance and not through the side door on Newman Street which is closer to the residents.

Mr Rankin said that the Police are no longer objecting. The Police and EH have not received any complaints about the running of these premises and also with regard to the tables and chairs, there is a requirement that these are disabled after 23:00 so as not to cause a nuisance. The Sub-Committee noted that the applicant is to obtain new outside furniture that are lightweight and foldable which can be placed directly into the basement through a hatch.

Mr Gilkes addressed the Sub-Committee. He said that the last 16 months have been very difficult. After 12 years of hard work from funding 5 premises from scratch, the effects of the pandemic have been devastating and have impacted the business significantly. Mr Gilkes said that the business has operated successfully for the last 3 years without any EHO or Police complaints. The TENS regime has been used until 02:00 without any issues. He said that he has taken the concerns of residents very seriously and has written to them to ask that we met or virtually to address their concerns. Mr Gilkes said that despite his best efforts he did not hear back from the residents. Mr Gilkes said that he has worked with his business partner to address their concerns, so they are able to enjoy their private life.

The Sub-Committee queried the Applicant's proposals regarding the two current licences. Mr Rankin confirmed that these would be surrendered upon grant of this application should it be granted.

Mr Nevitt addressed the Sub-Committee on behalf of Environmental Health. Mr Nevitt said that EH maintained its representation because the application seeks hours beyond the core hours set out in the policy and for that reason it is important it is considered by the Sub-Committee. Also, there are representations from residents,

and we want to make sure their concerns are properly addressed. We would also like to ensure the Sub-Committee considers all relevant conditions.

Mr Nevitt said that the Applicant was a good operator who actively engaged with residents. He said they do not give us a cause for concern, and they do always listen to what we ask and recommend. We are happy there is a reduction to Thursday-Saturday and will end regulated entertainment at midnight. We are happy with the amendments that have been read out by Mr Rankin, we think 23:00 is a good starting point for the conditions to take effect. We are happy with the outside furniture being changed as well as that should minimise public nuisance.

Mr Nevitt said that the fact that TEN's have been used until 02:00 is a significant factor as it shows the Premises can operate without adverse impact. In respect of the noise from the extract, it would be good if this could be switched off at the proposed hour stated. EH are happy with the smoking area proposed and the dispersal policy which seems to be robust.

Mr Nevitt said that in respect of the limiter – we are more than happy for a site meeting with the operators to discharge that condition and may need the assistance of residents. In terms of the capacity when we assess this, we will look at the public safety considerations and how best this could be done. The overall capacity is 210 and the maximum capacity for the first floor shall be 80.

Mr Jackaman appearing on behalf of the Licensing authority addressed the Sub-Committee. Mr Jackaman stated that the reason why the Licensing Authority had maintained its representation is because the Premises falls within the West End buffer special consideration zone therefore policy SCZ1 needs to be considered. Mr Jackaman advised that Para D43 on Page 54 of the SLP states:

“applications for premises of licences within the special consideration zone will not be subject to the presumption of refusal, the applicant should consider the 2020 cumulative impact assessment findings for these areas when drawing up their operating schedules”.

He then went onto say that Applicants may need to consider additional measures to ensure their operation will not negatively contribute to the local issues. The relevant local issues are set out at Paragraph D48 on page 55 of the policy – robberies, theft, anti-social behaviour on and around public transport, incidents relating to ambulance call outs. It is noted that the conditions proposed are the same as those on the existing licence and there has not been any submissions by the applicant to address the specific issues set out in D48. Mr Jackaman advised that it was for the applicant to address these issues in their operating schedule or through further submissions. On that basis the Sub-Committee is to determine whether the measures proposed are sufficient in addressing the key local issues.

Mr Richard Brown appearing on behalf of the Fitzrovia Neighbourhood Association and Mr Blumann addressed the Sub-Committee. Mr Brown said that he had seen the amended conditions. He referred to his written submission which starts on page 15 of the additional papers. Mr Brown advised that the Association was approached by some of the residents with their concerns about the extensions proposed. He said there are several licenced premises in the area and the residents put up with their

current hours which are more or less core hours. Mr Brown said he is not able to comment why the residents did not respond to Mr Gilke's letter requesting a meeting. There is an email from a resident who used to live adjacent to the Premises and that resident sets out the issues that the objection is not a criticism of the operation, but the issues remain to a lesser extent. Although there are no main complaints to Environmental Health, I think it is true to say that residents have sought to address their issues with the licence holder directly.

Mr Brown said that he welcomes the changes to the application and notes from email correspondence that the Premises are quieter at the beginning of the week. He maintained that it is still an 01:00 alcohol licence and at 01:30 patrons are leaving. Mr Brown said that the potential capacity of 210 is in his view still high for these hours, although the proposed conditions would mitigate some of the issues.

Mr Brown said that dispersal of patrons is key here and would request that the Sub-Committee consider this specific issue when arriving at its decision. If a nearby bar has a licence until midnight and this bar is granted until 01:00 then that bar will apply by a later licence, this has to be a factor in the Sub-Committees thinking.

Mr Brown raised Policy PB1 policy under the SLP. He said that if you grant outside core hours, then you look at the merits of the application and that includes the fact that the Premises is in the new special consideration zone falling under the new policy position. Mr Brown said that emphasis should be placed regarding residential on proximity. Mr Brown stated that Mr Blumann walked around the Premises and there are various residents around the Premises. The position is that the applicant is a responsible operator. We do have reservations that an 01:30 licence is later than other premises in the area.

Mr Blumann stated that the Association knows the area very well. He said that he had listened very carefully to Mr Rankin submission but felt that the way he presented the area was a little bit too negative. Mr Blumann said that we all love and care for the area and during my walk the previous day I noted there are 88 premises part of which only about 15/16 were closed and two of them there are new premises applications. It is not as pessimistic as it looks. Mr Blumann said that when the application was received, he spoke to some of the residents and the applicant, but agreement could not be reached. It has been said that residents did not complain, if you look at the anonymous statement from a witness, you will see the policy has been to deal with the Premises directly. This was the best policy for the residents to get a reply. Unfortunately, this means there is no record of complaints, we are now advising residents to go to the Council. Mr Blumann said the nature of the application has a Covid bias. He said we support the alfresco dining, and we really hope to do our best in supporting. However, Covid will go eventually but this extension is forever as long as the Premises survives. It prevents a good night's sleep for the neighbours. If you disperse from the area, you will need transport and patrons will be waiting for cars and taxis causing a nuisance where there hasn't been one before.

At this point the Legal Advisor to the Sub-Committee went through the amended conditions with the Applicant and the rest of the parties. This included the revised Police conditions agreed with the applicant, surrender of the two existing premises licence, smoking, dispersal after Midnight, no regulated entertainment after Midnight and the capacity numbers for the Premises.

The Sub-Committee noted that the Premises are suffering due to the Covid-19 pandemic, however, this is not a reason alone for granting the application. The Sub-Committee has great sympathy with all those premises in Westminster that are in the same position. Ultimately the Sub-Committee must consider whether granting the application will affect the Special Consideration Zone as regards local issues and the promotion of the licensing objectives.

The Sub-Committee realises that each application must be considered on its individual merits. There is no presumption for refusal of an application that is within the Special Consideration Zone. The Sub-Committee was satisfied that the measures the Applicant was to put in place in terms of managing the Premises, dispersal arrangements under the dispersal policy and an ongoing commitment to work with residents and the Fitzrovia Neighbourhood Association would mitigate the concerns raised by those who had objected.

The Sub-Committee considered the local issues it should have regard to when looking at the Special Consideration Zone under paragraph D48 of the policy namely; Robberies, Theft, and anti-social behaviour. The Sub-Committee was satisfied that the applicant had addressed such matters in the submissions and proposed conditions.

The Sub-Committee took comfort from the fact that the Police had withdrawn their objection. This demonstrated to the Sub-Committee that the Police were satisfied with the application when it came to crime and disorder and that the conditions they sought in relation to a last entry time and SIA Door Supervisor Staff were to be imposed on the Premises Licence having the desired effect of upholding the crime and disorder licensing objective.

The Sub-Committee considered the evidence from residents and the Fitzrovia Neighbourhood Association when looking at the merits of the application and the specific wording of paragraph D43 of the Policy when reaching its decision. It decided to take a balanced approach when interpreting the policy and how that would translate on a practical level when looking at the impact of the West End Buffer Cumulative Impact Zone because there was no evidence to suggest that granting the terminal hour of 01:00 would harm the licensing objectives. To reinforce this view the Sub-Committee noted that the number of TENS that had been operated until 02:00 hours did not identify any issues of complaint and this stance was supported by Environment Health who deemed this to be materially significant when considering the request for a later hour.

The Sub-Committee appreciated that the applicant was a good operator who had actively engaged with residents throughout the consultation process. The Sub-Committee considered it appropriate that an Informative be added to the Licence so that a live WhatsApp Group is formed to encourage dialogue between the applicant and residents. This should hopefully identify any key issues with the Premises which can be acted early on by the applicant giving comfort to residents.

The Sub-Committee noted the comments of Environmental Health during the hearing when it was stated that the Council's records are checked for complaints which may not always be verified. The Sub-Committee would therefore encourage residents and

neighbourhood associations to contact the Council so that a complaint is properly lodged against a licensed premise in addition to voicing concerns to the premises licence holder. The former approach will ensure that information is properly recorded which can be used in evidence.

The Sub-Committee also wished to state that where neighbourhood associations have monthly meetings with residents the Minutes are recorded and kept in order that they can be deduced as evidence before the Sub-Committee.

The Sub-Committee was satisfied that the application was suitable for the local area and had addressed the concerns raised given the applicants amendments to the application which was welcomed as well as the various undertakings and guarantees to ensure that the Premises when selling alcohol for the additional hour Thursday to Saturday (to include 30 minutes drinking up time) would be managed well and promote the licensing objectives.

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. **To grant permission for Recorded Music – Indoors** Monday to Wednesday 10:00 to 23:30 hours Thursday to Saturday 10:00 to 01:00 hours and Sunday 12:00 to 22:30 hours.

Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

2. **To grant permission for Late Night Refreshment – Indoors and Outdoors** Monday to Wednesday 23:00 to 23:30 hours Thursday to Saturday 23:00 to 01:00 hours and Sunday 23:00 to 23:30 hours.

Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

3. **To grant permission for the Sale by Retail of Alcohol (On and Off) the Premises** Monday to Wednesday 10:00 to 23:30 hours Thursday to Saturday 10:00 to 01:00 hours and Sunday 12:00 to 22:30 hours.

Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

4. **To grant permission for the Hours the Premises are Open to the Public** Monday to Wednesday 10:00 to 00:00 hours Thursday to Saturday 09:00 to 01:30 hours and Sunday 12:00 to 23:00 hours.

Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

5. That the Licence is subject to any relevant mandatory conditions.

6. That the Licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions consistent with the operating schedule

7. The overall capacity of the premises (excluding staff) shall not exceed 210 and the maximum capacity on the first floor is 80.
8. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
9. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
10. No waste or recyclable materials, including bottles shall be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours.
11. No deliveries to the premises shall be arranged between 23:00 and 08:00 hours.
12. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
13. All windows and external doors shall be kept closed after 23:00 hours, except for the immediate access and egress of persons.
14. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given: -
 - a. dry ice and cryogenic fog (except for food presentations)
 - b. smoke machines and fog generators
 - c. pyrotechnics including fire works
 - d. firearms
 - e. lasers
 - f. explosives and highly flammable substances
 - g. real flame (except for candles)
 - h. strobe lighting.
15. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased. NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
16. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

17. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
18. All exit doors on designated escape routes shall be available at all material times without the use of a key, code, card or similar means.
19. All self-closing doors shall be effectively maintained and not held open other than by an approved device.
20. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
21. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
22. The certificates listed below shall be submitted to the Licensing Authority upon written request:
 - a. Any emergency lighting battery or system.
 - b. Any electrical installation.
 - c. Any emergency warning system.
23. The air conditioning units operating within the premises must be switched off when licensable activities have ceased for the day.
24. 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 are 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.
25. 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 are 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.
26. Substantial food and non-intoxicating beverages shall be available throughout the permitted hours in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
27. There shall be no takeaway of hot food or hot drink from the premises after 23:00 hours.

28. Notices shall be prominently displayed at exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
29. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
30. After 23:00 hours patrons temporarily leaving the premises shall not be permitted to take drinks or glass containers outside with them.
31. No entertainment, performance, service, or exhibition involving nudity or sexual entertainment shall be provided except under the authority of a Sexual Entertainment Venue licence pursuant to the Local Government Miscellaneous Provisions Act 1982 as amended.
32. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
33. All door staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility yellow jackets or vests or distinctive uniform that is easily identifiable or as agreed with the Police (e.g., butlers' uniform/top hat/tails).
34. During busy times door staff shall ensure that the footway outside is not obstructed by the venue's customers.
35. All outside tables and chairs shall be rendered unusable by 23.00 hours each day.
36. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.
37. 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.
38. 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.

39. All door staff employed at the venue shall be accredited to the Security Industry Authority.
40. At all times the premises licence holder shall comply with the following: -
 - (a) There shall be a minimum of 1 registered door supervisor after 21:00 and until 30 minutes past close on Thursdays, Fridays and Saturdays. At all other times, managers at the premises shall risk assess whether the door supervisors are required.
 - (b) If the premises trades after 23:00 on Mondays- Wednesday including Sunday, there should be at least 1 registered door supervisor on duty from 21:00 until 30 minutes past close and management at the premises should risk assess whether additional door supervisors are required.
41. There shall be no regulated entertainment on the first floor.
42. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
43. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
44. The premises licence holder shall ensure that the premises operates in accordance with an Outdoor Management/Smokers and Dispersal Policy.
45. No licensable activities shall take place at the premises until premises licence numbers 18/05793/LIPDPS and 20/08588/LIPDPS (or such other numbers subsequently issued for the premises has been surrendered).
46. After 23:00 hours, patrons permitted to temporarily leave and then re-enter the premises e.g., to smoke in the designated smoking area, shall be limited to 10 persons at any one time.
47. Notices shall be prominently displayed at the designated smoking area requesting patrons to respect the needs of local residents and use the area quietly.
48. The premises shall operate a last entry time of Midnight.

49. There shall be no regulated entertainment after Midnight.
50. After 24:00 dispersal of patrons will only be permitted through the main entrance and not through the side door on Newman Street.

Informative

51. **The Premises Licence Holder is strongly encouraged to form and promote a live WhatsApp group or alternative communication system agreed with residents and businesses in order to facilitate regular meetings to discuss issues directly affecting them regarding the running and management of the Premises including any issues specifically connected to public nuisance**

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

This is the Full Decision of the Licensing Sub-Committee which takes effect forthwith.

The Licensing Sub-Committee 1 July 2021

2. 1.30 PM: PARK GRAND PADDINGTON HOTEL

WCC LICENSING SUB-COMMITTEE NO. 2 – Thursday 1 July 2021

Membership: Councillor Tim Mitchell (Chair), Councillor Richard Elcho and Councillor Aicha Less

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Matt Gaskin
Presenting Officer: Jessica Donovan

Application for a New Premises Licence 21/01023/LIPN

Full Decision

Premises

Park Grand Paddington Hotel
Refurbishment Site at 22 Devonshire Terrace, 1-2
Queens Garden and
57-62 Cleveland Square,
London,
W2 6DH

Applicant

Park Grand Paddington Hotel, represented by Mr Stephen Thomas.

Cumulative Impact Area

This Premises is not in a Cumulative Impact Area.

Ward

Lancaster Gate.

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises currently operates as a hotel. The Premises have had the benefit of two premise licences, Licence number 08/07241/LIPDPS which was suspended on 17 February 2009 and Licence number 21/04917/LIPCH granted in 2009 and is still currently in place. The Premises are within the Lancaster Gate Ward but are not located in any area of Cumulative Impact. There is a resident count of 512. During the consultation period the applicant changed their company name from Park Grand Paddington Hotel Limited to Inhabit Hotel Queens Gardens Limited.

Activities and Hours applied for

Films – Hotel Residents and Guests - Indoors

Monday to Sunday 00:00 – 00:00

Seasonal Variations: None.

Sale by retail of alcohol – On premises sales

10:00 – 23:00 Monday to Saturday and 12:00 - 22:30 Sunday.

Seasonal Variations: For residents and guests the times are 00:00 – 00:00.

Hours premises are open to the public

Monday to Sunday 00:00 to 00:00.

Seasonal Variations: None.

Representations received

- Metropolitan Police (PC Bryan Lewis) – Withdrawn 23 March 2021 following agreement of conditions with the applicant.
- Environmental Health ("EH") (Mr Ian Watson).
- 13 local residents.
- The South East Bayswater Residents' Association (SEBRA).

Summary of issues raised by objectors

- The application as presented would have the likely effect of undermining the licensing objectives, specifically in relation to public nuisance and public safety.
- The application as presented would lead to noise, rubbish and nuisance in the immediate residential neighbourhood caused by guests and residents of the hotel. There were concerns related to people smoking outside the premises and an increase in vehicle traffic and disturbance.

Policy Position

Policies HRS1 and HOT1 (B) apply under the City Council's Statement of Licensing Policy. There is no policy presumption to refuse this application subject to the requirements of policies CD1, PS1, PN1 and CH1 being met.

DECISION AND REASONS

Ms Jessica Donovan summarised the application and advised that additional submissions had been received, from the applicant and Mr Richard Brown from Citizens Advice Westminster (who was representing the local residents' association and others who had objected to the application), and these had been circulated previously to the Sub-Committee.

Mr Stephen Thomas Solicitor, addressed the Sub-Committee on behalf of the applicant, outlined the history of the Premises and stated that it had been a well-run hotel catering for guest arrivals on a 24-hour basis. Mr Thomas highlighted that "wellness" was at the heart of the brand of Inhabit Hotels and that the proposal was to develop a modern and tranquil hotel that meets the needs of climate change with the provision of an array of wellness activities, providing a soothing atmosphere for visitors. The physical changes to the basement as part of the application were described, including the installation of a gym and treatment rooms, and an outline of the Premises was summarised as presented in the report.

Mr Thomas stated that part of the reason for the application was to open the hotel up to members of the public, including local residents, following local demand for the wellness activities offered which, under the terms of the current Premises Licence, prevented non-hotel guests from partaking in such activities. Anecdotally, support was there for the hotel's plans, but these had not necessarily led to formal representations as part of the report.

Mr Thomas stated that the Inhabit Hotel on Southwick Street, one of the other hotels as part of this group, offered facilities to members of the public and that no problems had been caused by this. The Sub-Committee noted that the Premises was keen to work with residents and local resident associations, including SEBRA, to ensure a good working relationship and that mediation was offered when objections raised, leading to better conditions, such as in relation to ensuring no external advertisement of bar facilities/licensable activities. Suggestions from the Police and Environmental Health were also taken on board. Mr Thomas highlighted that no rooms were set

aside for smoking to tie in with the healthy lifestyle commitment of the Premises. Mr Thomas confirmed that all conditions as set out in the report were agreed by the applicant.

Mr Nitish Bhatt, of Inhabit Hotels, confirmed that he was happy to work closely with the neighbours of the Premises.

In responses to questions from the Sub-Committee, Mr Thomas confirmed that there had been no complaints in relation to either this hotel since 2009 when the licence was granted or the other Inhabit hotel on Southwick Street. This was confirmed by Environmental Health. The management of the smoking area on Devonshire Terrace was queried, and Mr Thomas confirmed that reception staff were responsible for supervising this area but did not anticipate that many smokers would be present due to the wellbeing nature of the hotel.

Mr Ian Watson, representing Environmental Health addressed the Sub-Committee. Mr Watson stated that he had, encouraged the Applicant to consider installing a secondary set of doors to the Queen's Gardens entrance to maintain a lobby area (similar to the entrance on Devonshire Terrace) to minimise noise and thereby address concerns raised by objectors. If this was not possible, the Sub-Committee should consider amending the relevant condition to limit the hours of use for this entrance. With regards to the conditions proposed, Mr Watson said that these are similar to those on the historic licence of the Premises, albeit with some changes, but go some way to alleviating concerns related to noise, disturbance and smoking but that other improvements could be made, such as moving the location of the smoking area.

Mr Watson stated that the hours for collections and deliveries are within the hours that align with deliveries and collections for the street of the hotel. However, it was unclear whether a private collection company, or Westminster City Council facilities, would be used by the hotel. Mr Watson requested that the specific address of the Premises was confirmed as this was unclear from the application but rejected enforcing that alcohol should only be allowed to be consumed with a substantial meal.

Ms Olga Nikoltsou, a local resident addressed the Sub-Committee. Ms Nikoltsou advised that she had been a resident since 1992 and knew the area well. She was concerned that quality of life, especially caused by environmental issues, would be negatively affected should this application be approved in its current form. Pedestrian and vehicular traffic would increase due to opening up the facilities to the public and the holding of events would affect the peaceful living of neighbouring residents, especially late at night. Ongoing problems with idling taxis was highlighted as affecting residents, and despite a certified taxi company being used by the hotel, it would be difficult for the hotel to manage the array of taxi firms naturally serving visitors and guests of the hotel. Ms Nikoltsou requested more detail from the Applicant regarding the exact nature of events planned and the logistics around managing these.

Ms Nikoltsou was concerned about smoking and the impact this has on residents within their homes in this highly residential area, as there were bound to be some smokers outside despite the hotel being no-smoking inside. The smoking area and

delivery area needed in her opinion to be relocated to reduce the impact on residents. Ms Nikoltsou appreciated the desire for the hotel to remodel, become more environmentally-friendly and focused on wellness, but requested proof from the applicant as to how late night events would be properly managed to minimise disturbance. Ms Nikoltsou welcomed the prior discussions that had taken place with the applicant and their representative to address certain issues but reiterated her concerns relating to noise, smoking and the environmental impact of increased activity.

Mr Richard Brown, of Citizens Advice Bureau Westminster representing a local residents' association (SEBRA) and others who had objected to the application addressed the Sub-Committee. Mr Brown stated that no representations had been received in support of this application. Mr Brown welcomed the engagement between SEBRA and the applicant and the tweaking of a number of conditions. Concern was raised regarding the increased intensity of use of the Premises, and it was questioned how the applicant would adequately manage guests leaving either entrance/exit of the hotel in a controlled manner so as not to disturb local residents, with specific concerns raised about the entrance/exit on Queen's Gardens and the size of bar attendance (91 people) in the public licensed area.

Mr John Zamit, Chairman of SEBRA, addressed the Sub-Committee. Mr Zamit said that he was surprised that the hotel was requesting permission to allow more non-hotel residents/guests to attend the Premises which could cause them operational difficulties. Mr Zamit reiterated concerns regarding pre-booked functions, smoking and the possibility of the designated smoking area being relocated to a corner of Queen's Gardens, or on the advice of the Environmental Health Officer. Mr Zamit agreed with the issues raised by Environmental Health regarding the entrance/exit at Queen's Gardens and the noise this could generate in its current form without a lobby. The entrance/exit would be better placed on Devonshire Terrace where the hotel had better facilities to manage people entering and leaving the Premises.

In response to questions from the Sub-Committee, and the tightening up of the wording of conditions relating to smoking and other issues advised by the Legal Advisor to the Sub-Committee (this concerned conditions 9, 15 and 16 listed in the report pack), Mr Thomas confirmed that he was in agreement to these changes. Mr Thomas detailed the nature of the ground floor seating arrangements but stressed the nature of the Premises as a hotel whereby residents would not necessarily want a substantial table meal where alcohol is required to be ordered as ancillary thereto and so requested that limitations were not put on the Licence that would restrict the sale and supply of alcohol in this way. This concerns condition 25 in the operating schedule. With regards to the installation of an additional entrance/exit on Queen's Gardens, Mr Thomas confirmed that if practicalities allowed, the Applicant would look into the possibility of doing this.

With regards to designated smoking areas and the concerns and questions raised, Mr Thomas reiterated that the nature of the business would not attract as many smokers as is feared. Since 2009, the condition in place for the current licence (15) has been adhered to and has led to no problems in relation to smoking. However, the Applicant is open to negotiation with Environmental Health on the precise location of the smoking area. With regards to questions and concerns about event management and how this could be controlled, Mr Thomas confirmed that these

would not include events such as Christmas or birthday parties that could cause disturbances but would be limited to mindfulness events only and attended by a variable number of people each time, as agreed in the conditions. Mr Thomas advised that the Applicant was content in altering proposed condition 28 (now Condition 38 as specified below) to alter timings of the use of the Queen's Gardens entrance if a second door is not installed. Mr Thomas reiterated again to the Sub-Committee the specific nature of the hotel as a mindfulness space, highlighted the effective and receptive management of the hotel and urged the Sub-Committee to consider the nature of the hotel and how this application would not attract the fear of potential nuisance raised by the objectors.

The Sub-Committee realises that it has a duty to consider each application on its individual merits. It was persuaded by the applicant that they were to be a responsible operator by working effectively with the Responsible Authorities, residents, and the Resident Association to mitigate the concerns raised through conditions on the Premises Licence and that they would promote the licensing objectives. The Sub-Committee noted the concerns of residents and concluded the conditions were robust and that the discussions held regarding the smoking area, alcohol without a substantial meal and the exit on to Queen's Gardens were to be taken into consideration and are reflected in the conditions below and in turn will help promote the public nuisance licensing objective.

The Sub-Committee noted the various undertakings given by the Applicant when it came to the holding of events at the Premises. These were to be pre-booked events associated with the Hotel's ethos of mindfulness and wellness which would also include cookery classes. The Sub-Committee decided to impose a condition on the licence in this respect and this is specified below as Condition 37.

The Sub-Committee noted that the applicant would engage with residents and in this regard considered it appropriate to impose model condition 24 on the licence which requires the applicant to provide a telephone number so residents can contact the Premises management on any given issue if there are problems

The Sub-Committee, in its determination of the matter, was satisfied that the activities and hours applied for were appropriate in all the circumstances of the case, with the amendment of conditions as above. The Sub-Committee arrived at this decision based upon the merits of the application and the various safeguards and measures the applicant is to implement in the running of the Premises that will uphold the promotion of the licensing objectives.

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. **To grant permission for Films (Indoors)** Monday to Sunday 00:00 to 00:00 hours Seasonal Variations/Non-Standard timings: None
2. **To grant permission for the Sale by Retail of Alcohol (On Sales)** Monday to Saturday 10:00 to 23:00 hours and Sunday 12:00 to 22:30 hours.

Seasonal Variations/Non-Standard timings: For residents and guests the times are 00:00 to 00:00 hours.

3. **To grant permission for the Hours the Premises are Open to the Public** Monday to Sunday 00:00 to 00:00 hours Seasonal Variations/Non-Standard timings: None
4. That the Licence is subject to any relevant mandatory conditions.
5. That the Licence is subject to the following additional 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. If the Hotel ceases to be used as a Wellness and Sustainable Hotel no alcohol will be sold to members of the public, but only Hotel residents and their Guests. In that event the Premises Licence Holder will notify the Licensing Authority in writing of the change in operation.
7. There is to be no external advertisement on the street of bar facilities/licensable activities.
8. 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.
9. Details of all hotel guests including name, address and telephone number will be kept on the premises.
10. Save for the provision of meals via room service the kitchen will close at 23:00 daily and 22.30 Sundays.
11. Meeters and Greeters will man the entrance from Queens Gardens during the opening hours of that entrance and the Main Entrance in Devonshire Terrace will be manned throughout the 24-hour period that the Hotel is open.
12. The Premises Licence Holder shall ensure that any patrons wishing to smoke do so on the Hotel side of Devonshire Terrace.
13. 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.
14. Clearly legible notices shall be displayed at the exit from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
15. The provision of films shall be restricted to the hotel bedrooms and there shall be no cinema style showing of films.

16. No deliveries and collections (including refuse and recycling collections) will take place between 18: 00 and 08:00 Monday to Friday. 18:00 and 10:00 at weekends and Bank Holiday Fridays and Mondays. The Premises Licence Holder will use its best endeavours to ensure that the recycling and waste collections only take place in Cleveland Square.
17. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the curb edge, is swept and/or washed, and litter and sweeping is collected and stored in accordance with the approved refuse storage arrangements.
18. A direct telephone number for the hotel at the premises shall be publicly available at times the premises are open. This telephone number is to be made available to residents in the vicinity.
19. The Premises Licence holder shall enter into an agreement with a designated taxi firm that can be used by patrons of the premises.
20. The Premises Licence Holder will install and maintain curtains in the windows that overlook Queens Gardens from the Ground Floor of the licensed area.
21. Staff engaged in the sale or supply of alcohol will receive refresher training at least every three months specific to the Licensing Act 2003 and the mandatory conditions.
22. The supply of alcohol in the public areas on the ground floor will only be to persons who are seated.
23. No members of the public including guests of residents will be permitted to remain in the premises after 23:30 hours Monday to Saturday and 22:30 hours Sundays.
24. After 23:30 hours Monday to Saturday and 22:30 hours on Sundays only hotel residents will be permitted use of the ground floor restaurant and lounge.
25. With the exception of the main external entrance door to the hotel located on Devonshire Terrace and the secondary entrance door located in Queens Gardens all windows and doors to the ground floor public area will remain closed at all times, save for immediate access and egress.
26. No TV screens shall be provided to the ground floor public area save for screens provided for the purpose of providing guest information or used as part of an educational presentation. This condition will cease to apply in the event that the Hotel ceases to be used as a Wellness and Sustainable Hotel.
27. A proof of age scheme, such as Challenge 21 or 25, 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.

28. No licensable activities shall take place until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority.
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. 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 are 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. 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.
31. 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 are 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.
32. 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:
 - i. all crimes reported to the venue
 - ii. all ejections of patrons
 - iii. any complaints received concerning crime and disorder
 - iv. any incidents of disorder
 - v. any seizures of drugs or offensive weapons
 - vi. any faults in the CCTV system
 - vii. any refusal of the sale of alcohol
 - viii. any visit by a relevant authority or emergency service.
33. The supply of alcohol throughout the premises shall be by waiter or waitress service except for the use of mini bars in the bedrooms.
34. The restaurant and lounge area will be permanently laid up with tables and chairs.
35. Except for a pre-booked function booked by a resident, or member of the public no residents or members of the public shall entertain more than 4 Adult bona fide guests at any one time. (For the avoidance of doubt this number does not include children of any guests).

36. 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.
37. All pre-booked events held at the premises shall be limited to events associated with the Hotels ethos of mindfulness and wellness including cookery classes.
38. The Queens Garden Entrance will only be used between 09:00-21:00 Monday – Sunday save for emergency access unless the Premises Licence Holder provides a secondary inner door. The hours shall then be agreed with Environmental Health but no later than 23:00 hours.

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

This is the Full Decision of the Licensing Sub-Committee which takes effect forthwith.

**The Licensing Sub-Committee
1 July 2021**