



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 8th July, 2021**, This will be a virtual meeting.

Members Present: Councillors Jim Glen (Chairman), Heather Acton and Aicha Less

1. MEMBERSHIP

1.1 THERE WERE NO CHANGES TO THE MEMBERSHIP.

2. DECLARATIONS OF INTEREST

2.2 There were no declarations of interest.

1. MAISON FRANCOIS, 34 DUKE STREET, ST JAMES'S, LONDON

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 3 **("The Committee")**

Thursday 8 July 2021

Membership: Councillor Jim Glen (Chairman), Councillor Heather Acton and Councillor Aicha Less

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Georgina Wills
Presenting Officer: Kevin Jackaman

Application for a Variation of Premises Licence - Maison Francois 34 Duke Street St James's London SW1Y 6DF 21/01603/LIPV

Premises

Maison Francois 34 Duke Street St James's London SW1Y 6DF.

Applicant

Chez Restaurants Ltd

Cumulative Impact Area

Not applicable

Ward

St James's

Summary of Application

This is an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises are a restaurant and within the St James's Ward. Neither the West End Cumulative Impact Zone nor Special Consideration Zone apply. There is a resident count of 94. The Applicant submitted a written submission at pages 3-7 of the additional papers together with an Operational Management Statement supplied at pages 21-28 of the Main Report which were considered by the Sub-Committee

The Premises have had the benefit of a licence (16/09788/LIPDPS) from 2016. The Applicant wishes to vary the licence as follows: -

- To extend the permitted hours for licensable activities (Late Night Refreshment (indoors) and On Sales of Alcohol) to 01:00 hours on Monday to Saturday and to extend Opening Hours to 01:00 hours Monday to Saturday effectively by 1 hour.

Activities and Hours on the Premises Licence

Late Night Refreshment (Indoors)

Monday to Saturday 23:00 to 00:00 hours
Sunday N/A

Sale by retail of alcohol (On Sales)

Monday to Saturday 09:00 to 00:00 hours
Sunday. 10:30 to 22:30 hours

Hours premises are open to the public

Monday to Saturday 07:30 to 00:30 hours
Sunday 07:30 to 23:30 hours

Representations received

- Metropolitan Police (PC Nicole Sondh) (Withdrawn)
- Environmental Health (Anil Drayan)

- Mr P Banda 76 Jermyn St London SW1Y 6NP
- Mr P Gibson 76 Jermyn St London SW1Y 6NP (Withdrawn)
- Mr J Woods 3, 37 Duke Street St.James's, SW1Y 6DF (Withdrawn)
- Mr D Mason O.B.E. 17 Duke Street, St James's London SW1Y 6DB (Withdrawn)

Summary of issues raised by objectors

- The proposed extension in hours for the licensable activities requested may lead to an increase in Public Nuisance in the area.
- The restaurant is located amongst the highest density of residential dwellings in the area, including being effectively attached to the side of a block containing 23 residential units. During the short time Maison Francois has been opened, there has been numerous late-night congregations between their patrons, with no security to monitor noise levels or stop the pavement being used to discard cigarettes. On the parallel road; Bury street, there have been years of issues with Quaglino's regarding litter, noise levels and using a private residential car park as a meeting point. It seems unnecessary and undesirable to further disturb residential neighbours in the immediate area.
- Whether required or not, the restaurant has made no private attempt to engage with neighbours, nor provided any supporting documents regarding traffic management or security in order to quash any potential issues.
- My concern is that the late extension will produce further disturbance to the residents in 76 Jermyn who overlook Ryder yard. The removal of bottles and garbage from Maison Francois to the bin store after 11pm will be very disturbing. The yard is already blighted by Quaglinos.

Policy Position

Policies HRS1 and Policy RTN1 of the City Council's Statement of Licensing Policy ("SLP") apply There is no policy presumption to refuse the application provided the relevant criteria and considerations in policies CD1, PS1, PN1 and CH1 are met.

DECISION AND REASONS

Mr Jackaman Presenting Officer outlined the application. He stated this is an application for a variation of the premises licence in respect of Maison Francois, 34 Duke Street, St James', London W1. The application is made by Chez Restaurants Limited (represented by Mr Alun Thomas). The applicant has applied to extend the permitted hours for licensable activities and the opening hours of the premises to 1am Monday- Saturday. Full details can be found at pages 2 and 3 of the report. Representations have been received from The Environmental Health Service (Mr Anil Drayan) and Mr Philip Banda, a local resident. Representations were also received from the Metropolitan Police Service and three further interested parties however following consultations with the applicant and agreement of further

conditions these were subsequently withdrawn. The Premises are situated within the St James's Ward and do not fall within any area of Cumulative Impact or Special Consideration Zone.

Mr Alun Thomas Solicitor appearing on behalf of the applicant addressed the Sub-Committee. Mr Thomas advised that the Premises opened at the end of 2020 and it was a great success before the happening of the Covid-19 pandemic. Like all premises it has been a difficult 18 months. However, during the time the Premises was open, both customers and management identified the need to open a little later mainly in the week but not exclusively. The application before the Sub-Committee is to extend the hours by 1 hour to allow people to finish off their meal and allow people to go home in a safe manner.

The Premises are not in the cumulative impact or special consideration zone. Mr Thomas referred to the comprehensive operational management plan and a dispersal strategy plan that had been circulated to local stakeholders the result of which, 3 out of 4 have withdrawn as well as the Metropolitan Police. The responsible authorities are happy with what the applicant has proposed in the operational management plan.

Mr Thomas said that in relation to the one sole residents' concern, Mr Banda he would summarise the representation as follows: -

1. **Congregation of patrons outside the Premises** – we have addressed this with the dispersal policy and the creation of a management plan. We would also be prepared to go further than this that there will be a door supervisor on Fridays and Saturdays from 22:00 to close which could be conditioned.
2. **Concerns at Quaglino's** – We can't control this.
3. **No attempt to engage or provide supporting documents** – these have been done and have been circulated. Mr Banda did not wish to engage further with us which is his absolute right. The interested parties that did engage have withdrawn their representations as a result.

Mr Thomas advised that the applicant has used the TENs regime and has had four days of TENs until 01:00, the last two were for last weekend and the first two were the weekend before that. Those have been without complaint. The Sub-Committee was further advised that the applicant is not aware of any complaints since the Premises has been open. The capacity for the Premises is 160 covers but due to Covid-19 and social distancing the Premises has not been operating to full capacity. Mr Thomas said that in relation to smokers there will only be 6 persons temporarily permitted to leave the Premises after 23:00. They will be supervised by staff and on Fridays and Saturdays this will be SIA door staff. The sale of alcohol will stop at 12:45 to allow patrons to leave the Premises safely before the Premises closes at 01:00. This is also set out in the dispersal plan.

Mr Thomas said that in terms of policy, it is within the committee's discretion to grant because the Premises are not in a cumulative impact area. The relevant policy seems to be paragraph F118 on page 99 of the SLP. This says the licencing authority will generally grant premises licences and variations for restaurants outside the cumulative impact area subject to the relevant criteria and considerations in policies CD1, PS1, PN1 and CH1. A stricter approach is only taken to premises

within the CIA. Therefore, no exception is required to be established only that the application should be considered on its merits.

Mr Thomas said that the preceding paragraph 117 was not entirely clear to him and was not sure whether this applies to the application. It says *new restaurant premises licences will usually be granted to core hours*, this is not a new premises licence, and it already exists. If it does apply, the issue which I will address is that even for premises outside the CIA, you could amend proposed condition 26 – *to say on the ground floor and in the basement after midnight, the sale of alcohol will only be supplied to those taking a table meal*. In that way, the extension of the hours will only be for those having a table meal and by waiter/ waitress service after midnight. Mr Francois O'Neill for the applicant addressed the Sub-Committee. He stated that we believe our customer base would like to finish up their meal and probably want to stay here rather than move to another location. It has been a hard 18 months and we would like to make the most of our opportunity here. Mr O'Neill said that using the TENS was a good experiment to see how the whole situation would work and the team did very well operationally. There were no concerns raised during the period of the TENS.

Mr O'Neill advised that the Premises opened in mid-September 2020 where we traded to the end of October. We reopened for 2 weeks in December and then closed. We then re-opened May this year. We did not do any trade throughout lockdown. We would do about 80-100 covers on a normal evening which would usually start at 18:00 hours with prime nights Thursday to Saturday. Our covers range from a Monday-Wednesday from about 80-100 and then we hope to do around 100-120 and we would like to increase those numbers. We would like to increase those hours. We would like to stay open later on Thursdays-Saturday as I don't envisage, we would have a huge amount of business from Monday-Wednesday in those later hours.

Mr Drayan on behalf of the Environmental Health Service addressed the Sub-Committee. He advised that following the submission of the operational management plan and also the conditions agreed with the Police, EH is satisfied with the application and that he was only present to assist the Sub-Committee.

Mr Drayan confirmed that he had visited the Premises and knew a little about the area. Mr Drayan said that he was interested to know what the last remaining objector had to say. He asked the Sub-Committee to note that the other resident objectors are residents who live either immediately next door or opposite the Premises which lead to the withdrawal of those objections following the submissions made by the applicant. Mr Drayan stated that there have been restricted opening times and limited capacity since the Premises has been open. EH have not received any issues with regard to the management of the Premises so far in terms of formal complaints. At this point the Sub-Committee queried whether there have been any actual noise complaints in the area which may not have been attached specifically to the Premises.

Mr Drayan advised EH was not aware of generalised complaints, there are complaints against individual premises, and this is all I can advise you on. If there is a general street complaint, that it is not possible to attach it to a Premises, it will go

under the general street location on our system which I have not checked directly. There are no complaints that are associated with this premises.

The Sub-Committee also queried whether as part of the operational management plan the use of electric taxis are used to prevent nuisance should the Sub-Committee be minded granting the application. An Informative could be added on the basis that all taxis are to be electric to get to zero carbon as well as zero pollutants. Mr Drayan confirmed this was a good idea and is something he usually advises in informal discussions for deliveries or taxis.

Mr Banda local resident addressed the Sub-Committee. Mr Banda said that he very much enjoyed the restaurant and that he would much rather find a solution rather than an objection. Mr Banda was of the opinion that the documents circulated by the applicant were positioned in a way which is not about patrons finishing their meal and getting them home safely but more in a way of keeping the bar open later and the Premises used as a drinking establishment.

Mr Banda said that from his own personal observations on the 24 & 25 June respectively there were at least 15-20 people outside the Premises after 23:00 but pictures were not taken. Mr Banda said that the person who was supposed to allow only 6 people outside was not doing their job properly. He said that the original document makes no mention of security, but this has only come out in the applicant's oral submissions. He added this would be a more feasible option but did not think 22:00-Midnight is long enough. Mr Banda said that he disagreed with there being no complaints.

Mr Banda said that there was an ongoing issue with the Premises staff using the nearby car park behind Ryder Court. He said the Premises staff use the carpark as their main entrance so every single day, the staff sit in the car parking spaces to smoke and talk on the phone. This is where one of the complaints stemmed from as on Saturday your staff were outside to 02:00 hours. This is a major issue that was not mentioned originally.

Mr Banda stated that every single delivery and staff members go through the car park at all hours of the day. The staff are not permitted to smoke or take phone calls here. This is something that Ryder Court security is to deal with. There has been no attempt of the restaurant management controlling this issue. It is being used as a hang out zone.

Mr O'Neill responded to Mr Banda's comments in respect of the car park and stated that he fully appreciated what he was saying, however, the car park is shared with 3 other restaurants too. Mr O'Neill said that we are very strict with the staff and I am very sorry if they have been hanging out and smoking here. We have strict time slots where deliveries can take place. We crush all our glass and cardboard in the basement which is collected within the reasonable hours. I don't want to get involved in speaking about other restaurants. We do go out of our way to ensure we do not disrupt our neighbours.

Mr Drayan addressed the Sub-Committee on the issue of noise and the car park. He said that it was very important to be clear what is a nuisance and what is not. If the car park is being used in normal working days, before 23:00 then it is not necessarily

a nuisance if you can hear them speaking. If this application results in the use of this carpark beyond 23:00 then any noise emanating could be regarded as a nuisance if it is causing a disturbance to residents i.e., preventing them from going to sleep. Mr Drayan said that it is important to realise that just because a car park is being used in the day, doesn't mean it is a nuisance unless excessive noise is being produced. We need to look at this particular application, it is a request for extended hours, would that result in the use of that car park by the staff at midnight or early hours of the morning? If so, we can condition that, if necessary, to prevent the restaurant staff using the car park beyond 23:00 or as is stated in the operational management plan. If staff are going out to smoke, they have to go out to the place agreed with the landlord. With regards to the extended hours and the use of the basement for drinking purposes only, the applicant has suggested the basement is ancillary to food for the extended hours. There will not be a bar extension to 01:00. At this point the Legal Advisor to the Sub-Committee went through the proposed conditions in particular dealing with the point of SIA door supervisor staff and a proposed further condition which would read "*There shall be a minimum of 1 registered door supervisor on duty after 22:00 on Thursday, Friday and Saturday until the terminal hour*".

The Legal Advisor then addressed the policy issue and confirmed that Paragraph F118 under the SLP would apply for the purposes of determining the application and this was confirmed also by the Policy Officer to the Sub-Committee.

Mr Thomas said that the above proposal was accepted, however his original suggestion was for SIA staff to be on duty only on Friday and Saturday. You will still need paragraph 35 as you may still need one on Thursdays.

Mr Thomas confirmed also that he was happy for a condition to be imposed on the licence to the effect that the applicant is to have in place an Operational and Management Plan and Dispersal Plan and any amendments would have to be reviewed by EH.

The Sub-Committee realises that it has a duty to consider each application on its individual merits. The Sub-Committee welcomed the amendment to the application by the applicant in that they were now only seeking an additional one-hour Thursday to Saturday for licensable activities. There is no policy presumption to refuse the application under Paragraph F118 of the SLP and accordingly the Sub-Committee determined the application on that basis. It must consider first and foremost whether the licensing objectives are to be promoted when looking at the request for an additional hour for licensable activities.

The Sub-Committee acknowledged that the applicant had been proactive in working with the Responsible Authorities which lead to the withdraw of those objections and whereby agreement had been reached on many of the contentious issues, including proposed conditions and was reassured by the undertakings and guarantees given by the applicant during the course of the hearing in its day to day management of the Premises.

The Sub-Committee however appreciated that the sole resident objector did have issues with the Premises but felt this could be overcome with conditions and regular contact with the management of the Premises. In this respect the Sub-Committee 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 was persuaded by the applicant that he was to be a responsible operator by having the necessary measures and safeguards in place that would help mitigate the concerns of those objecting and promote the licensing objectives. The Sub-Committee considered the Operational Management Plan and Dispersal Policy and imposed a condition on the licence whereby these are to be in place by the applicant so that the licensing objectives are promoted.

The Sub-Committee carefully considered the comments the resident objector made in respect of the car parking issues. It took the view that this was a shared car park by three restaurant premises and that imposing conditions in respect of its use would not be appropriate and disproportionate as there is no sufficient link to the promotion of the licensing objectives. The Sub-Committee accepted the undertaking from the applicant that they will investigate the various issues. This included checking the CCTV and the smoking in the early hours in the morning by staff.

The Sub-Committee wanted to reassure the resident objector that if the car park is being used by any staff of any restaurants causing a disturbance that should be reported to the Councils City Inspectors and will be properly investigated.

The Sub-Committee decided that it was appropriate to impose a condition on the licence to the effect that there is to be SIA door supervisors on duty Thursday, Friday, and Saturday. The Sub-Committee did carefully consider whether Thursday should be excluded, however, with Covid-19 restrictions likely to be lifted within the coming weeks the numbers entering the area are likely to increase so it is vital that the Premises has sufficient security in place to cover those busy days.

The Sub-Committee did consider whether condition 27 on the licence should be amended but took the view that this was not necessary and in all likelihood would be difficult to manage in practice by the Premises because if you had a table drinking and then closer to midnight they are required to start eating. The Sub-Committee considered from an enforcement perspective this would be also be difficult.

The Sub-Committee, in its determination of the matter, concluded that the hours it imposed on the licence were appropriate and proportionate. The Sub-Committee was persuaded by the applicant use of TEN's until the terminal hour of 01:00 which did not cause concern or complaints. This gave comfort to the Sub-Committee that the Premises knew how to operate the Premises until the terminal hour in accordance with the operational management plan and dispersal policy.

The Sub-Committee noted also that it was not the intention of the applicant to use delivery apps or operate deliveries as that was not part of their business model. The Sub-Committee was concerned that if this might have been the case then this would lead to problems causing public nuisance particularly for late night deliveries and thus disturb residents.

The Sub-Committee noted the undertakings given by the applicant when it came to conditions, the running of the Premises and the promotion of the licensing objectives.

If problems do arise as a result of the extension of the terminal hour for licensable activities, then a Review of the licence can be made.

Having considered all the evidence, the Sub-Committee was satisfied that the application was suitable for the local area and had addressed the concerns raised. The applicant had demonstrated that the application was appropriate, with the conditions proposed restrictive enough to ensure that it promoted the licensing objectives and would allay the fears of residents.

The Sub-Committee decided to grant the variation application subject to conditions, and an Informative being noted, below. The Sub-Committee therefore granted the application noting that licensable activities have been extended only on Thursday, Friday, and Saturday until the terminal hour of 01:00 as follows: -

1. **To grant permission for Late Night Refreshment (Indoors)** Monday to Wednesday 23:00 to 00:00 hours Thursday to Saturday 23:00 to 01:00 hours Sunday N/A. **There are no changes to seasonal variations.**
2. **To grant permission for the sale by retail of alcohol (on and off) the premises** Monday to Wednesday 09:00 to 00:00 hours Thursday to Saturday 09:00 to 01:00 hours Sunday 10:00 to 22:30 hours. **There are no changes to seasonal variations.**
3. **To grant permission for the hours the premises are open to the public** Monday to Saturday 07:30 to 01:00 hours and Sunday 07:30 to 23:30 hours. **There are no changes to seasonal variations.**
4. To add conditions in the terms specified below.
5. That the varied licence is subject to any relevant mandatory conditions.
6. That the existing conditions on the licence shall apply in all respects except in so far as they are varied by this Decision.
7. That the varied 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 the hearing

8. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
9. 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.
10. All exit doors to the premises will remain closed after 23:00 hours except for entrance and egress.

11. 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
12. No recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
13. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
14. 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.
15. 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.
16. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
17. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
18. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous
19. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
20. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business
21. 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
22. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.
23. No licensable activities shall take place at the premises 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.

24. 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.
25. On the Ground Floor, the supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
26. On the Ground Floor, the supply of alcohol shall be by waiter or waitress service only and by bar staff to customers seated at the bar
27. 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.
28. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
29. 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.
30. 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.
31. The sale and supply of alcohol in the basement shall only be to persons seated at tables, not exceeding a maximum of 60 (excluding staff).
32. 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.
33. 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.
34. The Premises Licence Holder shall continually review and risk assess the requirement to have SIA staff at the premises. This risk assessment will be available to review by the Responsible Authorities upon request.
35. There shall be no new entry of patrons after 00:30 hours Monday to Saturday.
36. 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.
37. There shall be a minimum of 1 registered door supervisor on duty after 22:00 on Thursday, Friday and Saturday until the terminal hour.
38. The Premises Licence Holder shall agree to have in place an Operational Management and Dispersal Policy which shall be available for immediate inspection by the Responsible Authorities.
39. 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.

Informative

40. The Premises Licence Holder is strongly encouraged to use electric taxis and electric or non-polluting vehicles for deliveries where possible.

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
8 July 2021**

2. GORILLAS TECHNOLOGIES LTD, GROUND FLOOR, 425 HARROW ROAD, LONDON, W10 4RE

WCC LICENSING SUB-COMMITTEE NO. 3 (“The Committee”)

Thursday 8 July 2021

Membership: Councillor Jim Glen (Chairman) Councillor Heather Acton and Councillor Aicha Less

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Georgina Wills
Presenting Officer: Kevin Jackaman

Application for a New Premises Licence in respect of Gorillas Technologies Ltd Ground Floor 425 Harrow Road London W10 4RE 21/01695/LIPN

Full Decision

Premises

Gorillas Technologies Ltd Ground Floor 425 Harrow Road London W10 4RE

Applicant

Gorillas Technologies Ltd represented by Mr Craig Bayliss of BCLP Law

Cumulative Impact Area

This Premises is not in a Cumulative Impact Area.

Ward

Harrow Road

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 (“The Act”). The Premises will be stocked with convenience goods including alcohol for packaging to fulfil customer orders made online or via an App. There is a resident count of 267 within the immediate area.

Activities and Hours applied for

[Sale by retail of alcohol \[off sales\]](#)

Monday to Sunday 08.00 to 00:00

Hours premises are open to the public

Monday to Sunday 08:00 to 00:00

There are no seasonal variations

Representations received

- Metropolitan Police (PC Nicole Sondh) Withdrawn
- Environmental Health (Anil Drayan) Withdrawn
- Mr Shaun Dyos 75 Bravington Rd London W9 3AA

Summary of issues raised by objectors

- The Supply of Alcohol and for the hours requested may have the effect of increasing Public Nuisance in the area.
- Taking into consideration the licensing objectives in the Prevention of Crime and Disorder and in the Protection of Children from Harm, the Metropolitan Police are making a representation against this application as there is insufficient information in the operating schedule. Furthermore, the hours applied for are out of the core hours listed in the Westminster Licensing Policy.
- How much traffic does an alcohol delivery service running 16 hours a day/night create? The delivery routes going north from the address run through residential streets, at the moment it's quiet at night and possible to get a good night's sleep there isn't much traffic. If hundreds of moped journeys are routed through this area on deliveries it will change the character and liveability of the area that has for the last 25 years been a peaceful place to live.

Policy Position

Policies HRS1 and OS1 of the City of Westminster Statement of Licensing Policy apply.

DECISION AND REASONS

Ms Abbott, presenting officer summarised the application to the Sub-Committee. This is an application for a new premises licence in respect of Gorillas Technologies Ltd, Ground Floor, 425 Harrow Road, London, W10 4RE. The application has been made by Gorillas Technologies UK Limited (represented by Mr Craig Bayliss of BCLP Law). The applicant has applied for retail by sale of alcohol. Full details can be found at page 42 of the report. Representations have been received by the Environmental Health Service and the Metropolitan Police Service but following the agreement of conditions they were later withdrawn. There has also been a representation received by an interested party, but they do not wish to attend today.

The Premises are situated within the Harrow Road Ward and does not fall within the West End Cumulative Impact Zone or Special Consideration Zone.

Mr Craig Bayliss Solicitor appearing on behalf of the Applicant addressed the Sub-Committee. Mr Baylis stated that the applicant provides an online grocery delivery service. Their unique selling point is that you download an APP on to your phone, order your groceries with a guarantee to deliver the goods within 10 minutes. It is a highly localised grocery delivery service.

Mr Baylis advised that about 20-25 similar licences have been applied for around London so far. They all operate in the same way and the public do not have any access to the stores. All the delivery drivers either use bicycles or electric bikes in order to minimise any noise and disturbance. All bikes are kept inside when they are not being used and the riders are also required to stay inside when they are on duty but not out delivering. Conditions have been agreed and there are no representations from local authorities.

Mr Baylis said that in relation to the 1 representation from a local resident, the resident seems to be concerned about noise from mopeds. Mr Baylis said that he did contact the resident and try and engage but did receive a response. He said that he wanted to put their mind at rest about noise from mopeds because these operators will only be using e-bikes or bicycles and there is no motorised noise from these vehicles.

Mr Baylis stated that the applicant has been operating since mid-April using the TENs regime and that no complaints have been received from local residents or anyone else in relation to the application.

The Sub-Committee noted the hours that have been applied for and the Councils core hours when it came to the selling of alcohol and the core hours policy for off-licences as stated in the SLP would be 08:00 to 23:00 hours Monday – Saturday and 09:00 – 22:30 hours on a Sunday and requested Mr Baylis to explain why the later hours were required.

In answer to the Sub-Committee questions Mr Bayliss advised that the he had discussed the hours with the Police and that the Premises operate between 08:00-midnight as these are the grocery delivery hours. Mr Baylis then referred the Sub-Committee to the Home Office Guidance which states within the discretion of the Sub-Committee it could grant a licence for the hours that the premises actually operates unless there is good reason to do so, we are not in a stress area. Mr Baylis said that in his submission the guidance should be followed and on that basis the hours applied for should be granted.

Mr Bayliss confirmed that the bikes are all branded, and all delivery drivers are employed directly by the applicant. There is ample room inside the Premises for the bikes to be stored overnight. Employees all wear branded clothing as well so that they are easily identifiable whilst out on their deliveries.

Mr Bayliss also confirmed that drivers wait and stay inside the Premises while orders are processed. An example was then given of the applicant's operation in the London Borough of Camden. This is a very small shop and we did have issues with keeping the bikes outside which lead to complaints by residents and so the applicant is fully aware that this is done properly.

Mr Bayliss briefly outlined the procedure for ordering to the Sub-Committee. He stated that the customer at home would order the groceries, the order then arrives at the warehouse on a screen, one of the riders accepts the order and rides around the store picking the goods. The rider puts the goods in the branded delivery bag and does not leave the Premises until he has everything he needs. The applicant only does one delivery at a time in order to comply with the 10-minute delivery rule. Mr Bayliss advised that the app can be used if a customer wanted to purchase alcohol such as a bottle of wine. There have been no issues in relation to problems with the alcohol delivery.

Mr Bayliss said that as far as the applicant operating under TENs was concerned this was around the 7 or 8 April and since then trading has been between 08:00-midnight which has carried them up to the end of June.

The Sub-Committee realises that it has a duty to consider each application on its individual merits. There is no policy presumption to refuse the application that is not within the Cumulative Impact Area provided the licensing objectives are not undermined.

The Sub-Committee noted that the applicant was an experienced operator in the running of these type of premises and had up to 25 premises already operating in a similar fashion. There have been no significant issues that had come to the attention of the Sub-Committee that would give cause for concern in relation to the management of the Premises on a day to day basis.

The Sub-Committee welcomed the fact that the applicant had been proactive in working with the Responsible Authorities which lead to the withdraw of those objections and whereby agreement had been reached on many of the contentious issues, including proposed conditions and was reassured of the direct employment of riders by the applicant.

The Sub-Committee noted that the applicant had tried to engage with the one remaining local resident but to no avail. It was noted that the resident did not attend the hearing to give evidence but that the applicant had reassured the Sub-Committee that the concern expressed in relation to potential noise from mopeds would not be a concern because the bikes used are electric and do not have a motorised engine.

The Sub-Committee considered the evidence as to how it will deal effectively and efficiently with its delivery drivers, noise, health and safety, challenge 25 and the consideration that is to be given to residents late at night particularly when deliveries take place and that members of the public are not permitted in the Premises at any time.

The Sub-Committee was persuaded by the applicant that he was to be a responsible operator by having the necessary measures and safeguards in place that would help mitigate the concerns of those objecting and promote the licensing objectives. The Sub-Committee, in its determination of the matter, concluded that the hours it imposed on the licence were appropriate and proportionate. The Sub-Committee noted that the Premises could operate with these hours without the sale of alcohol being delivered in any event. The Sub-Committee conditioned the sale of alcohol to be in sealed containers.

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 considering all of the individual circumstances of this case and the promotion of the four licensing objectives that the application is granted subject to the additional conditions as follows:

1. **To grant permission for the Sale by Retail of Alcohol Off the Premises** between 08:00 to 00:00 hours Monday to Sunday. There are no seasonal variations.
2. **To grant permission for the Hours the Premises are Open to the Public** Monday to Sunday 08:00 to 00:00 hours. **There are no seasonal variations.**
3. That the Licence is subject to any relevant mandatory conditions.
4. 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 the hearing

5. Delivery riders will only use e-bikes or bicycles.
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. 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.

9. A record shall be kept detailing all refused sales of alcohol upon delivery. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
10. A warning shall be displayed on the digital platform on which an order is placed informing customers that they must be aged 18 or over to make a purchase of alcohol and notifying customers that the delivery rider will carry out age verification on delivery. The customer will be asked to provide ID to prove their age in accordance with Challenge 21 or 25 scheme. If the rider is not satisfied, then the alcohol in the order will be withheld.
11. All delivery riders shall receive training in age restriction sales.
 - (a) Induction training must be completed and documented prior to the delivery of alcohol by the rider
 - (b) Refresher/reinforcement training must be completed and documented at intervals of no more than 6 months.
 - (c) Training records will be available for inspection by a police officer or other authorised officer on request.
 - (d) Training records will be electronically stored by the licence holder for a period of 12 months.
12. Members of the public will not be permitted to enter the premises.
13. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
14. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles and cans.
15. No deliveries from the premises, either by the licensee or a third party shall take place between (00:00) and (08:00) hours on the following day.
16. Delivery drivers shall be given clear, written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside the license premises.
17. Drivers shall wait inside the premises between deliveries/for deliveries.
18. All orders shall be taken by the premises at least 15 minutes before the terminal hour for licensable activities on the premises on any night.
19. Deliveries will only be made to bona fide residential or business addresses.
20. The Premises Licence Holder shall ensure that riders will not be permitted to smoke in the immediate vicinity of premises.

21. The Premises Licence Holder shall ensure that riders will not be permitted to congregate in the immediate vicinity of the premises.
22. The Premises Licence Holder shall ensure that riders will be instructed not to loiter in the vicinity of residential premises.
23. Management at the venue shall carry out a weekly written Risk Assessment to determine whether SIA are required. The risk assessment will be available to view by Responsible Authorities upon request.

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
8 July 2021**

The Meeting ended at 3.00 pm