



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 7th October, 2021**

Members Present: Councillors Karen Scarborough (Chairman), Susie Burbridge and Rita Begum

1. **MEMBERSHIP - NONE**
2. **DECLARATIONS OF INTEREST - NONE**
2. **355 EDGWARE ROAD, W2 1BS - GRANTED UNDER DELEGATED AUTHORITY**
3. **DEVELOPMENT SITE AT 1 LEES PLACE, 43 NORTH AUDLEY STREET AND 22 GROSVENOR SQUARE, W1K 6DT**

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.4

Thursday 7 October 2021

Membership: Councillor Karen Scarborough (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

Application for a Variation of Premises Licence in respect of Development Site at 1 Lees Place, 43 North Audley Street and 22 Grosvenor Square, London W1K 6DT

Officer Support: Legal Advisor: Vivienne Walker
Policy Officer: Aaron Hardy
Committee Officer: Georgina Wills
Presenting Officer: Karyn Abbott

Present: Alun Thomas (Legal Representative, Audley Grosvenor Limited), Darius Namdar (Applicant, Audley Grosvenor Limited) and Navid Mirtorabi (Applicant, Audley Grosvenor Limited)

Premises

Development Site at 1 Lees Place, 43 North Audley Street and 22 Grosvenor Square, London W1K 6DT.

Applicant

Audley Grosvenor Limited

Cumulative Impact Area

None

Ward

West End

Summary of Application

The Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises are currently licensed as a Hotel, Restaurant and Member's Club. The Premises are within the West End Ward but not within the West End Cumulative Impact Zone nor the Special Consideration Zone. The Premises have had the benefit of a licence (21/04705/LIPDPS) since August 2019. There is a resident count of 93.

The Applicant wishes to vary the licence as follows:

1. To update the operation of the hotel to allow for:
 - Films and Mini Bars in Hotel Bedrooms.
 - Off sales to customers seated in external area(s) appropriately authorised for the use of tables and chairs on the highway, limited to 23:00 hours.
2. To amend conditions 10, 15 and 31 as specified below.

Hours premises are open to the public:

Monday to Sunday 07:00 to 00:00

Sale by Retail of Alcohol – On and Off sales:

Monday to Sunday 07:00 to 00:00

Late Night Refreshment:

Monday to Sunday 23:00 to 00:00

Live Music, Recorded Music or Performance of Dance

Monday to Sunday 07:00 to 00:00

Representations Received:

- Local Resident

Summary of issues raised by objectors:

One local resident made representations on the grounds of the prevention of Public Nuisance. The resident had also raised concerns about the Premises tables and chairs causing obstruction on the public highway and the risk of transmission of Covid-19 to pedestrians. There were also concerns that the Applicant had failed to provide a layout of the external seating area.

Policy Position:

Under Policy HRS1, applications within the core hours will generally be granted subject to not being contrary to other policies in the Statement of Licensing Policy (SLP).

Under Policy HOT1 applications outside the West End Cumulative Impact Zone will generally be granted subject to the application meeting the requirements of the policies in the SLP.

SUBMISSIONS AND REASONS

The Sub-Committee considered an application by Audley Grosvenor Limited for a variation of a Premises Licence in respect of Development Site at 1 Lees Place, 43 North Audley Street and 22 Grosvenor Square, London W1K 6DT. The Presenting Officer provided a summary of the Application and advised there were additional submissions from the Applicant, and these were circulated to all parties.

Mr Alun Thomas, Legal Representative for the Applicant, Audley Grosvenor Limited, explained that the only area of the Application which was contentious was the external seating area. Mr Thomas advised that the Applicant had sought to have 'off sales' in this area and had offered a Condition which requires that sales are permitted only if the appropriate authorisation is received for tables and Chairs via a Pavement Licence, or a Planning Application being granted. He advised that all

tables and chairs will be rendered unusable after 23:00. Mr Thomas commented that the resident had also raised concerns that the pavements were too narrow, and this may increase the risk of covid-19 being transmissible to pedestrians using the pathway. The Sub-Committee were advised that the Applicant had submitted a Plan which outlined the proposed layout of the external seating. There would be a two meters width between the external seating and footway and it is envisaged that this distance would be acceptable to both Westminster City Council Planning and Highways Departments. Mr Thomas advised that representation from the resident was limited to the external seating and that an external plan had now been submitted which detailed the layout of this area. Mr Thomas reminded the Sub-Committee that use of the external seating area would be dependent on whether a Pavement License or Planning Permission was granted.

Mr Thomas confirmed that there will be continual dialogue between the resident and the Applicant. In response to questions from the Sub-Committee, Mr Thomas advised that the external seating may be located on the public highway and that pedestrians were unlikely to use this footpath as it was not a 'right of way'. The Sub-Committee noted that the Premises current licence had the restaurant model condition which required food to be ancillary to alcohol and questioned why this would not apply to the external seating area. Mr Thomas advised that the external area would also be used by the Members Club which was based in the Premises and residents and these parties may not always have a 'table meal'. There were concerns raised that that external seating would becoming a 'drinking area'.

In response to the Sub-Committee Mr Thomas advised that the Applicant had applied for the Variation to allow flexibility in their business model and to enable 'off sales' to be served to patrons. He advised that the Premises were not located in the Cumulative Impact Zone or the Special Consideration Zone and the external area would be ancillary to a hotel. Mr Thomas advised that there was also no policy presumption which required for the Variation to be refused. He commented that only one objection had been received and no representations had been made by the Responsible Authorities. He further commented that the resident's representation did not raise objection regarding the external seating hours of operation or 'off sales' not being ancillary to food. The Sub-Committee noted the importance of balancing the needs of Premises and local residents.

In response to the Sub-Committee, Mr Thomas advised that only part of the Premises on the Ground floor had restricted 'On Sales' and there were areas in the establishment which the Restaurant Model Condition did not apply. Mr Thomas advised that mini bars had now been added to hotel bedrooms and that existing Conditions would apply to these areas. He advised that the variation of Condition 31 had been sought to permit 'strip tease' and 'nudity' in hotel bedrooms as the current Condition prohibited these activities. The Sub-Committee were informed that Condition 31 was a standard condition used for hotels.

In response to the Sub-Committee, Mr Thomas confirmed that the Applicant did not wish to vary the Conditions regarding the Performance of Dance, Performance of Live Music and Playing of Recorded Music. He advised that hotel residents, Members and their 'bona fide' guests would be permitted to be served alcohol 24 hours. Mr Thomas advised that there was no limitation on how many 'bona fide' guest that hotel residents and Members were allowed, and this was permitted in the

current License and would remain the same in the Variation. Members are charged an annual fee of £1500. Mr Thomas advised that the number of external seating and when they will be rendered unusable would be subject to what is stipulated in either the Pavement License or Planning Permission that is granted.

Mr Thomas reminded the Sub-Committee that there was only one interested party, and that the individual resides at a significant distant from the Premises. He commented that the Applicant's concerns regarding the width of the footway would be resolved by the Planning and Highways Department. Mr Thomas reminded the Sub-Committee that the appropriate permission would need to be granted before the external seating area could be used.

The Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives.

Summary Decision

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

1. To grant permission for the **exhibition of films on** Monday to Sunday from 00:00 to 00:00 hours in the hotel bedrooms.
2. To grant permission for the **use of mini bars on** Monday to Sunday from 00:00 to 00:00 hours in the hotel bedrooms.
3. To grant permission for **off sales to customers seated in external area(s)** subject to any necessary highways licence for the use of tables and chairs on the highway until 23:00 hours.
4. To grant permission to amend conditions 10, 15 and 31 as 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.

Conditions consistent with the operating Schedule

10. Licensable activities shall only be provided to:
 - (a) members of a private club and their bona fide guests (not exceeding 4 guests per member). No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission; or
 - (b) persons attending a pre-booked and bona fide private function or event to which members of the public are not admitted. A register of persons attending

the event shall be kept at the premises for 31 days and made available for immediate inspection by Police or an authorised officer of the Council; or

(c) persons served by waiter/waitress service in the ground floor restaurant seated taking a table meal there and for consumption by such a person as ancillary to their meal; or

(d) persons served by waiter/waitress service seated in an external area(s) subject to any necessary highways licence for the use of tables and chairs on the highway; or

(e) residents and their guests; or

(f) bona fide guests of the management

11. A list of the names and addresses of members of the Club shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guests introduced by members. Both the list and the book shall be produced on demand for inspection by the Police or an authorised officer of the Council.
12. 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.
13. 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.
14. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
15. Save for sales to persons seated in an external area(s) subject to any necessary highways licence for the use of tables and chairs on the highway,

all sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.

16. There shall be no sales of alcohol for consumption off the premises after 23:00 hours.
17. All windows and external doors shall be kept closed after 23:00 hours, except for the immediate access and egress of persons.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. 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.
20. 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.
21. 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.
22. A Challenge 21 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.
23. A record shall be kept detailing all refused sales of alcohol. 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 are open.
24. 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.
25. 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.
26. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.

27. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
28. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
29. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
30. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
31. Other than in hotel bedrooms, there shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
32. 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.
33. The Licence will have no effect until the works as shown on the deposited plans (or subsequently substituted plans) have 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.
34. Before the premises open to the public, the plans as deposited (or subsequently substituted plans) 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.
35. 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.

Conditions attached after a hearing by the Licensing Authority

36. All outside tables and chairs shall be removed from the outside area by 23:00 hours each day.

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

**The Licensing Sub-Committee
7 October 2021**

