



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Thursday 28th October, 2021**, This is a virtual Teams Meeting.

Members Present: Councillors Murad Gassanly (Chairman), Barbara Arzymanow and Aziz Toki

1. MEMBERSHIP

1.1 There were no changes to the Membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

Licensing Applications

2. WANDS AND WIZARDS EXPLORATORIUM, 26 GREEK STREET, W1D 5DE

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 5 ("The Committee")

Thursday 28 October 2021

Membership: Councillor Murad Gassanly (Chairman), Councillor Barbara Arzymanow and Councillor Aziz Toki

Officer Support: Legal Adviser: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Roxsana Haq

Application for Variation of a Premises Licence in respect of Wands & Wizard Exploratorium, 26 Greek Street, London, W1D 5DE - 21/06502/LIPV

FULL DECISION

Premises

Wands & Wizard Exploratorium
26 Greek Street
London
W1D 5DE (The Premises)

Applicant

The Blind Phoenix Ltd
Represented by Jack Spiegler (Thomas and Thomas Solicitors), Matthew Cortland
and Rafael Karam (Applicants)

Cumulative Impact Area?

West End

Ward

West End

Proposed Application

The application seeks the following:

- *To Regularise changes to the authorised layout of the premises as shown on the plans appended to the application, including the addition of the basement and third floor to the licence demise.*

- *Add the following associated works condition:*

“No licensable activities shall take place at the premises until the licensing authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor’s Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority. Amended plans shall be substituted and lodged with the Licensing Authority in the event there has been minor changes to layout.”

- *Add the following new condition to the premises licence:*

“The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a shop and venue providing magical and theatrical entertainment.”

- *Replace existing premises licence condition 17 with the following:*

Alcohol may only be supplied to:

a) Persons attending a pre booked and bona fide private:

- (i) magical/theatrical experience;*
- (ii) class or seminar;*
- (iii) function or event; or*

b) Persons on the ground, first, second or third floors which shall operate as a restaurant:

- (i) in which customers are shown to their table,*
- (ii) where the supply of alcohol is by waiter or waitress service only,*
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,*
- (iv) which do not provide any take away service of food or drink for immediate consumption,*
- (v) which do not provide any take away service of food or drink after 23:00 and*
- by (vi) where alcohol shall or be sold or supplied, otherwise than for consumption persons who are seated in the restaurant and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals; or*

Notwithstanding condition [17], alcohol may be supplied before 21:00 on the ground, first, second or third floors by up to a maximum at any one time of 20 seated persons.

- *Amend existing condition 26 to: “The number of persons permitted on the premises for licensable activities at any one time (excluding staff) shall not exceed 50.”*

- *To add authorisation for the sale of alcohol for consumption off the premises until 11pm*

Monday to Saturday and 10.30pm on Sundays, subject to the following new condition:

“The sale and supply of alcohol for consumption off the premises shall be restricted to sealed containers only, except for alcohol consumed at appropriately authorised outside tables and chairs

Representations Received

- Metropolitan Police Service (withdrew on the 6 September)
- Licensing Authority (Kevin Jackaman)

- Soho Society (represented by Mr Richard Brown, Licensing Lawyer, Westminster Citizens Advice, and David Glesson, Soho Society)

Summary of Objections

- The Licensing Authority has concerns in relation to this application and how the Premises would promote the four Licensing Objectives. The Premises are located within the West End Cumulative Impact Area and as such various policy points must be considered, namely CIP1, COMB1 and PB1.
- The Licensing Authority had further concerns that the Premises currently trade predominantly as a restaurant. However, it is proposed that this will only come into effect after 21:00 and therefore before 21:00, the Premises will be able to trade as a bar. There are also concerns about the application to add off sales.
- The Soho Society's main concern is the request for bar use until 9pm each day and the request for off sales to outside tables and chairs. They feel that this is likely to increase public nuisance and to add to cumulative impact in the West End CIZ.

Summary of Application

This is an application for variation of a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises has had the benefit of a Premises Licence since 2014. The Premises currently operate as a retail shop and venue providing magical and theatrical entertainment ancillary restaurant within the West End Ward and located within the West End Cumulative Impact Zone

The application is to amend the current approved licence plans including the addition of a basement and third floor to the licensable area. To add and amend conditions on the Premises Licence and add off sales.

Policy Considerations

Westminster Statement of Licensing Policy was considered including, SHP1, CIP1, RNT1, COMB1, PB1. HRS1, PN1 and CD1.

SUBMISSIONS AND REASONS

Ms Roxsana Haq, Presenting Officer, outlined that this was an application for a variation to a Premises Licence to vary the layout of the Premises as shown on the plans attached to Appendix 1 of the report, add the basement and 3rd floor to the licensable area, add retail of alcohol for consumption off the Premises until 11pm Monday to Saturday and 10.30pm on Sunday, and amend and add conditions to the Premises Licence. She advised that representations had been received from the Metropolitan Police Service who had withdrawn their representation on the 6 September and the Licensing Authority who was still maintaining their representation. She confirmed that representations had been received from the

Soho Society. She advised that the Premises are located within the West End Ward and in the West End Cumulative Impact Area.

Mr Jack Spiegler, on behalf of the Applicant, addressed the Sub-Committee and advised that this was not your typical licenced Premises and for that very reason the application was exceptional and would contribute to Westminster's important cultural and entertainment offer as recognised in the Council's new policy.

Mr Matthew Cortland, Director of Blind Phoenix Limited, addressed the Sub-Committee and explained that the company was a technology lead entertainment studio that operated across food, beverage and retail to bring magic and fantasy to life with technology and science that interacts with the surrounding environment. He advised that the company had taken over the Premises last October and had transformed it into a vibrant place for both families and adults. The Sub-Committee noted the layout of the Premises: the ground floor was a retail shop containing interactive exhibitions; the first and second floors operated as food and beverage spaces for wizard afternoon tea experiences and switched to potion making experiences during the evening; and on the top floor was a magic wand building workshop where customers could create their own magic wand which would interact with the environment in the building.

Mr Spiegler explained to the Sub-Committee that he would split the application into five parts. He outlined that there was no objection to the proposal to change the layout of the Premises and that the applicant had proposed a works condition requiring Environmental Health to sign off the works before providing licensable activities. He advised of the following new condition to be added to the Premises Licence "The licensable activities authorised by this licence provided at the premises shall be ancillary to the main function of the premises as a shop and venue providing magical and theatrical entertainment". He asked the Sub-Committee to consider this element of the application under the new Shops Policy, SHP1, and highlighted that the Applicant's proposals were aligned with the City Council's policy objectives set out in F144 - "The licensing authority is keen to support shops who wish to offer ancillary licensable activities to the main purpose of their shop".

Mr Spiegler advised that the applicant wished to replace the existing condition 17 which was model condition 66 with the new wording set out on page 42 of the report which would allow continued alcohol sales to persons consuming a meal on the Premises but also persons attending a pre booked private function or event such as a ward making class. He added that he believed that the Soho Society had expressed concern about the proposal to allow sales of alcohol to 20 persons seated before 21:00 as they were concerned that the Premises was going to turn into a bar. Mr Spiegler explained that the Applicant wanted to enhance the retail offer which was very much in accordance with the Council's new policy objectives and that the primary activity at the Premises was entertainment, not selling alcohol, and that this new Premises would make a positive contribution to Westminster's cultural offer.

Mr Spiegler turned to the request for an increase in the capacity of the Premises from 40 to 50 persons, excluding staff, and explained that historically higher numbers of people would have visited the Premises specifically for licensable activities. He added that now, however, a significant number of customers would visit the Premises for retail and other activities not centred around alcohol. He emphasised

therefore that it was realistically foreseeable that, despite the slight increase in capacity, there will be less people visiting the premises on a day-to-day basis for licensable activities. Mr Spiegler highlighted that the Premises would be operated within core hours and controlled by way of conditions attached to the Premises Licence.

Mr Spiegler referred to the proposal to add the sale of alcohol for consumption off the premises until 11.00 pm Monday to Saturday and 10.30 pm on Sundays, subject to the following new condition: "The sale and supply of alcohol for consumption off the premises shall be restricted to sealed containers only, except for alcohol consumed at the appropriate authorised outside tables and chairs which shall be served by waiter or waitress service, served only to a person seated". He advised that this element had been added to the application to allow a limited range of alcohol (potion or cocktail making kit) to be available and sold in the wizard and magical themed shop. He added that the application had also been made in case any external seating was authorised in the future whether by way of a new alfresco dining scheme or otherwise. Mr Spiegler ended by advising that his Applicant wished to make a positive contribution to Westminster's cultural offer by transforming a standard restaurant licensed Premises into a venue providing an unique retail and entertainment offer to their customers

In response to questions from the Sub-Committee, Mr Cortland advised that alcohol could be supplied before 21:00 on the ground, first and second floor to a maximum of 20 persons seated. He emphasised that the proposed conditions to be attached to the licence would prevent the Premises becoming a bar and that under the council's new shop policy the sale of alcohol would be used to enhance the primary use of the Premises which was retail and magical entertainment. Mr Cortland advised that most customers would pre-book tickets for the various magical experiences which would keep the operation of the venue tightly controlled. He emphasised that allowing the Premises to serve a limited number of customers their magical drinks would enhance their experience of visiting the Premises. Mr Cortland explained that off sales would involve the sale of a sealed magical fun gin and tonic or cocktail set that customers could use at home. The Sub-Committee noted that the majority of customers would be taking part in one of the Workshops and the times for these different classes were staggered so that there would be a healthy flow of customers entering and exiting the Premises. Mr Cortland confirmed that at present the basement was purely used for operational purposes, however, there was an interesting magical greenhouse/enchanted wardrobe located in the basement which could be used once Environmental Health had agreed that the basement could be used for licensable activities.

In response to question from the Sub-Committee, Mr Spiegler confirmed that the maximum capacity at any one time would be 50 persons and that there would be a maximum of 10 people allowed outside at anyone time to smoke. Mr Spiegler advised that the Council's alfresco scheme had benefited the Premises enormously over the summer and that the Applicants were considering submitting a revised proposal for less seating on the pavement on Greek Street. The Applicant could then sale alcohol to person sitting in an appropriate consented outside area by way of 'off' sales; however, this was a future consideration.

Mr Kevin Jackaman, representing the Licensing Authority, advised that the Licensing Authority had maintained their representation as the Premises are in the West End Cumulative Impact Area and it had concerns regarding the amendment to condition 17 which would allow the Premises to trade as a bar which under the Council's policy should be refused unless in exceptional circumstances. Mr Jackaman advised, however, that since the submission of the Licensing Authorities representation there has been a revised licencing policy published which had introduced a new policy for Premises where the primary use was a shop. This new policy now allowed shops inside the West End area to be considered on their own merits. It would therefore be for the Licensing Sub-Committee to determine this application, given its location within the West End Cumulative Impact zone and the proposed style of operation.

Mr Brown, Licensing Lawyer, Westminster Citizens Advice, on behalf of the Soho Society, referred to his detailed representation in the additional information pack which had been circulated to all parties. He advised that there had been some engagement with the Applicant and Mr Spiegler which had crystallised the Soho Society's position which was set out in his written submission. He advised that the Soho Society were keen that the Council's strict licencing policies were upheld especially in the heart of Soho, as it was clear that even small incremental increases that were relatively modest could equal a significant overall increase in the cumulative impact area in the West End in due course.

Mr Brown referred to paragraph 3 of his written submission which set out the five parts into which the application was split. He advised that the Soho Society had no objections to the change in layout of the Premises and that they did not oppose the second part of the application which was to add the condition referencing magical and theatrical entertainment. He explained that the Soho Society's main concern was the request for bar use until 9pm each day for up to 20 persons and the request for off sales to outside tables and chairs. The Soho Society considered that this was likely to increase public nuisance and to add to cumulative impact in the West End CIZ.

Mr Brown advised that the request for 20 seated persons seemed a lot and was half of the current capacity. He added that no exceptional circumstances had been put forward by the Applicant as to why the Premises should be exempt from having the restaurant condition placed on their licence. Mr Brown confirmed that the Soho Society were not opposing the increase in capacity but were opposing the increase in the seated drinking capacity available without food. He then referred to the Council's new Shop Policy and advised that he was not sure whether this application fell within this new policy, despite Mr Jackaman's, comments as this Premises seemed to be offering a wide range of activities.

Mr Brown advised that if the Sub-Committee were minded to grant the application the Soho Society would prefer fewer people and an earlier cut off time for the consumption of alcohol only. Mr Brown explained that there was no objection to the off sales of branded goods such as gin and tonic and cocktail kits and that the Soho Society were happy to accept the Applicant's suggestion of incorporating an element into Condition 28 which would resolve residential concerns.

Mr Brown then referred to the tables and chairs located outside of the Premises which the Applicant had benefited from under the provision of the Business and

Planning Act, which had been extended until the 30 September 2022. Mr Brown confirmed that the AI Fresco scheme had caused issues for the residents whilst being very beneficial for Premises. He explained that going forward the Soho Society were keen to minimise the impact of outside activity due to the lack of pavement space and noise nuisance in the West End.

Mr Gleeson, representing the Soho Society, confirmed that the Soho Society were only opposing two of the five requests to vary the Premises Licence. He advised that he and a friend had visited the Premises a few weeks ago and were shown around each floor, with the exception of the basement, and he had come away still confused about what exactly the Premises was offering their customers. He explained that the Sub-Committee had heard a great deal about the Premises' cultural offer to Westminster and its wand making workshops and magical potion gin and tonic sets, however, it was the sale of alcohol without food which was the worrying element of the application. He advised that the Soho Society objected to alcohol being supplied without food before 9.00pm on the ground floor, first and third floor because they considered that the Premises was turning into a themed bar. Mr Gleeson then outlined that the Soho Society objected to off sales to outside tables and chairs and that he considered that the application was to open a themed bar and not a cultural event Premises and it was likely to increase public nuisance and to add to cumulative impact in the West End CIZ.

In response to questions from the Sub-Committee, Mr Brown confirmed that he did not consider that this application should be considered under the Council's new shop policy as the selling of goods was not going to be its primary activity. Mr Brown advised that he was not really in a position to say if the application did or did not fall within the new policy because he was not the Applicant and therefore could not explain in detail how the Premises would operate. He, however, considered it was useful to raise the point. He added in reference to the reduction of capacity from 20 to 15 persons, the Soho Society would prefer to see no consumption of alcohol without food before 21:00 in the Premises.

Mr Burnett, Legal Advisor to the Sub-Committee, asked for clarification regarding the proposed condition 17 and whether it related to the basement as well as the rest of the Premises. Mr Spiegler advised that the basement did not lend itself to a space where people would go for a meal however condition 17 did apply to all the other floors of the Premises. Mr Burnett then asked for confirmation regarding the proposed condition 26 which stated that the number of persons permitted on the Premises for licensable activities at any one time shall not exceed 50. Mr Spiegler explained that this condition had been agreed with the Metropolitan Police Service and that it was very unlikely that the capacity of the Premises would ever go over 50 persons as workshops/the opening of the restaurants/bar area were always staggered. Mr Spiegler advised that it was possible that cider would be sold at the Premises but that if it would either be a premium cider/beer or their own brand of cider or beer. He added that the Applicant occasionally liked to collaborate with breweries to create a magical themed beer and therefore the Applicant would prefer it if the condition would still allow him to be able to do this. Mr Spiegler confirmed that alcohol could not be sold outside of the Premises because the Premises did not have permission for external seating. Mr Spiegler also advised that the Applicant was happy to reduce the figure from 20 to 15 person seated for consumption of

alcohol only before 9pm if that would give the Sub-Committee some reassurance that the Premises was not going to turn into a themed bar.

Mr Simpkin, Policy Advisor, confirmed that this application should be considered under the new revised policy that only came into effect on the 1 October 2021. He advised that from he had heard from the Applicant this application would sit within the Council's new shops Policy. He advised that Mr Brown had raised the point that it did not specifically fit within that definition, however, the Council had always taken the approach when considering applications that it would look at the most appropriate policy to the operation and the proposal being put before the Sub-Committee. He explained, therefore, bearing this in mind paragraph F158 clearly states that from 9:00 PM onwards the Premises would need to demonstrate that they would not add to cumulative impact and that was something for the Sub-Committee to bear in mind and Paragraph F159 sets out that limited supply of alcohol for consumption on the Premises was permitted under this policy and the limited nature of this alcohol would need to be demonstrated by the Applicant. He added again this was something for the Members to determine as to whether they considered that the Applicant was providing a limited provision of alcohol sales on the Premises.

Mr Simpkin further referred to paragraph F161 which referred to shops providing entertainment to provide a draw to an establishment and advised that this was an experiential retail Premises and therefore it covered the crux of what the policy was put in place for which was to draw customers to retail Premises that provided a greater array of experiential activities in addition to just retail sales. Mr Simpkin then explained that the new policy needed to be considered alongside the council's core hours policy and the need to demonstrate that the Premises would not add to cumulative impact; and that this was a matter for the Members to determine.

Mr Spiegler advised that capacity would be reduced as there would be less people visiting the Premises specifically for full licensable activities but instead to take part in wand making, the magical experience of the Premises and the retail offer. He further asked that if the Sub-Committee were minded to stop the consumption of alcohol at 21:00 that they be given some drinking up time. He reminded the Sub-Committee that the Premises already had a license which allowed licensable activities until core hours. He finished by advising that this was going to be a very special cultural entertainment venue which would enhance and add value to the West End offer.

Mr Spiegler confirmed that the proposed conditions to be added to the Premises Licence if granted, were proportionate and appropriate to promote the licensing objectives.

Conclusion

The Sub-Committee has a duty to consider the application on its individual merits and took into account all of the committee papers and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee noted that the Environmental Health Service and the Metropolitan Police Service had withdrawn their representations and conditions had been agreed with the Applicant. The Committee decided that the Applicant had

provided valid reasons as to why the granting of the application would not add to negative cumulative impact in the Cumulative Impact Area and thus promote the licensing objectives.

In reaching its decision, the Sub-Committee took into consideration that the conditions had been agreed with all the responsible authorities, that the Council was activity encouraging these types of business to come to the West End to draw customers to retail Premises and that alcohol was not the main part of the business. The Sub-Committee concluded that the conditions imposed on the Premises licence were appropriate and would promote the licensing objectives.

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

1. To grant the changes to the authorised layout of the premises as shown on the plans appended to the application, including the addition of the basement and third floor to the licence demise.
2. To add conditions in the terms specified below.
3. To amend existing premises licence condition 17 and 26 in the terms specified below.
4. To add authorisation for the sale of alcohol for consumption off the premises from 11.00 to 23.00 Monday to Saturday and from 12.00 until 22.30 on Sundays.
5. To add the conditions agreed with the Metropolitan Police.
6. That the varied licence is subject to any relevant mandatory conditions.
7. That the existing conditions on the licence shall apply in all respects except in so far as they are varied by this Decision.
8. 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.

The Committee also discussed condition 15 below in more detail, and anticipate that on satisfying the ‘works’ condition 27, checks will be made by the Environmental Health Office to ensure adequate facilities will be available for proper disposal of cigarette remains

Conditions imposed by the Committee after a hearing

9. A record shall be kept detailing all refused sales of alcohol. The record shall 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. 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, which 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 or searching equipment or scanning equipment
 - (g) any visit by a relevant authority or emergency service.
11. 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 preceding 31 day period.
12. 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.
13. A Zero Tolerance Policy towards the use, possession and supply of illegal drugs shall be adopted and enforced.
14. No externally promoted events shall take place at the premises.
15. No open drinks shall be permitted to leave the premises at any time and no more than 10 patrons from the premises will be permitted outside for the purpose of smoking at any one time.
16. 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.
17. Alcohol may only be supplied to:
 - a) Persons attending a pre booked and bona fide private:
 - (i) magical/theatrical experience;
 - (ii) class or seminar;
 - (iii) function or event; or

b) Persons on the ground, first, second or third floors which shall operate as a restaurant:

- (i) in which customers are shown to their table,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
- (iv) which do not provide any take away service of food or drink for immediate consumption,
- (v) which do not provide any take away service of food or drink after 23:00 and
- (vi) where alcohol shall or be sold or supplied, otherwise than for consumption by persons who are seated in the restaurant and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals; or

Notwithstanding condition [17], alcohol may be supplied before 21:00 on the ground, first, second or third floors by up to a maximum at any one time of 15 seated persons.

18. Substantial food and suitable beverages other than intoxicating liquor shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
19. There shall be no take away of hot food or hot drink after 23.00 hours.
20. After 21:00 hours all external doors and windows to be kept closed save for Immediate access and egress of persons.
21. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
22. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
23. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
24. Deliveries to the premises shall only take place between 0800 and 2300 hours.
25. During the hours of operation 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 the aforementioned 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.

26. The number of persons permitted on the premises for licensable activities at any one time (excluding staff) shall not exceed 50.
27. No licensable activities shall take place at the premises until the licensing authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority. Amended plans shall be substituted and lodged with the Licensing Authority in the event there has been minor changes to layout.
28. The sale and supply of alcohol for consumption off the premises shall be restricted to sealed containers only, except for alcohol consumed at areas, appropriately authorised for outside tables and chairs which shall be served by waiter or waitress service, served only to persons seated.
29. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a shop and venue providing magical and theatrical entertainment.
30. Alcohol shall only be sold for consumption by persons attending a pre-booked and bona fide private function or event to which members of the public are not admitted.
31. A register of persons booking the event shall be kept for a minimum period of 31 days at the premises and made available for immediate inspection by police or an authorised officer of the Council throughout the entire 31-day period.
32. On the Day of London Pride:-
 - i. Alcohol sales (Off Sales) in respect of cans of beer or cider are limited to no more than 4 cans per person.
 - ii. The premises will not externally advertise local promotions of alcohol.
 - iii. No off sales of alcohol in bottles or glass containers are made during this period.
 - iv. Upon the direction of a Police Officer, using the grounds of the prevention of crime and disorder or public safety, the premises will immediately cease to sell alcohol until further directed by the Police.

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

**Licensing Sub-Committee
28 October 2021**

3. THE CLARENDON MEMBERS CLUB, 4 CLARENDON TERRACE, W9 1BZ

WCC LICENSING SUB-COMMITTEE NO. 5 (“The Committee”)

Thursday 28 October 2021

Membership: Councillors Murad Gassanly (Chairman), Barbara Arzymanow
and Aziz Toki

Officer Support: Legal Advisor: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Roxsana Haq

**Application Club Premises Certificate in respect of The Clarendon Members
Club, 4 Clarendon Terrace, London, W9 1BZ - 21/05518/LICN**

Full Decision

Premises

The Clarendon Members Club
4 Clarendon Terrace
London, W9 1BZ

Applicant

Mordecai Sassoon
Represented by Mr Monty Sassoon (Applicant)

Cumulative Impact Area?

The Premises is not located in a Cumulative Impact Area

Ward

Little Venice

Proposed Licensable Activities

- A Club Premises Certificate (CPC) to cover the basement, ground and first floor.
- Supply and sale of alcohol ‘On’ the premises from 11.00 to 23:00 hours Monday to Sunday

- live and recorded music and anything of a similar description to that falling within Live Music, Recorded Music, Performance of Dance (All indoors) from 11.00 to 23:00 hours Monday to Sunday
- Opening and closing from 11.00 to 23:00 hours Monday to Sunday

Following consultation, the applicant withdrew live music from the application.

Representations Received

- Environmental Health (“EH”) (Anil Drayan)
- Paddington Waterways and Maida Vale Society
Represented by Mr Richard Brown, Licensing Lawyer, Westminster Citizens Advice Bureau)
- Little Venice Management (Lizzie Peskin)
- Councillor Melvyn Caplan (representing local resident)
- Forty-three local residents objecting to the application (Angela Irving, Ajay Gupta and Alan Brown in attendance at the hearing)

Summary of issues raised by objectors

- The Environmental Health Services has concerns that the Sale and Supply of Alcohol and for the hours requested may lead to an increase in Public Nuisance in the area and the provision of the Regulated Entertainments and for the hours requested may also lead to an increase in Public Nuisance in the area.
- The residents have concerns about noise caused by members and their guests, entertainment and traffic including taxis. They also express concerns about customer parking in the area, dispersal, criminal damage, trespassing, customer smokers and contend that this is an inappropriate location for a member’s club. The Sub-Committee noted that were forty-three residential objections.

Policy Position

Westminster Statement of Licensing Policy was considered including, QUC1, HRS1, CH1, PN1 and CD1.

Summary of Application

This is an application for a Club Premises Certificate under the Licensing Act 2003 (“The Act”). The Premises already has the benefit of a Premises Licence. The Clarendon is to be an exclusive club for paid members which in turn provides entertainment for its members at exclusive events. The premises is located in Little Venice Ward but not within the West End Cumulative Impact Zone nor Special Consideration Zone.

There is a resident count of approximately 268.

DECISION

Having considered all the submissions made by all parties, the Licensing Sub-Committee decided to grant the application subject to additional conditions.

The Licensing Officer introduced the application and confirmed that following consultation the applicant had subsequently withdrawn live music from the application. The Licensing Officer advised that there had been forty-three residential representations against the application including from Paddington Waterways and Maida Vale Society and Little Venice Management.

Mr Sassoon, the Applicant, advised that he and a group of friends were applying for a Club Premises Certificate for the Clarendon Members Club. He explained that the word 'club' was a bit misleading and considered that a lot of residents had objected against the application, believing the premises would be opening as a nightclub with loud music. He confirmed, however that this would not be the case and the reason he was setting up this club was because the group of friends did not like loud noise and wanted to go somewhere decent where they could hear each other speak.

Mr Sassoon advised that he had met with the Environmental Health Service and the Metropolitan Police Service and had agreed with all their proposed conditions. He further advised that the club had their own set of rules which would only allow entry to adults over 21 years of age and that anyone causing a nuisance would be immediately barred and their membership suspended. He outlined that the club was not open to the general public but was specially a private members' club where friends could socialise together with a few drinks, dinner and maybe play a board games or watch football. He commented that the size of the bar area would be reduced by 60%, that there would a SIA security guard on duty at all times when the premises was open and security cameras had been installed both inside and outside of the Premises. He concluded that the members' private club would be a welcomed addition to the area.

In response to questions from the Sub-Committee, Mr Sassoon explained that there were a group of friends (between 35 and 50 adults) who were always celebrating and socialising together and who had decided to set up this club because the places they visited were either too small to cater for all of them, the drinks and food were very expensive or the venue was too noisy to hear each other speak. The group, therefore, had decided to invest in a premises where they could relax and play backgammon or play bridge, watch football or just have a quiet drink. He advised that he had withdrawn the live music element of the application and that the only sound coming out of the speakers would be from the TV.

Mr Sassoon confirmed that it was literally a group of friends getting together to socialise in a safe space and that any proceeds would go straight back into the club. He advised that he preferred not to reduce the hours of operation on Sundays by half an hour. He further advised that once the capacity of 30 persons had been reached a message would be sent out advising Members that the club was fully booked. He added that on popular evenings people would have to prebook in advance to gain access to the club. He further added that the club rules would state that a club member could bring in a maximum of three guests.

Mr Anil Drayan, on behalf of the Environmental Health Service, advised that the Environmental Health Service was satisfied with the application and that he was only present at the hearing to assist the Sub-Committee. He confirmed that Environmental Health were happy to withdraw their representation after listening to the Applicant's submission. Mr Drayan explained, for the benefit of the Sub-Committee, that the existing Premises Licence was for a full pub licence under the previous licensing regime so what the Applicant was proposing was for less hours and less licensable activities and with additional controls in way of the proposed conditions. He added that this, therefore, should reduce any potential impacts arising from the use of the premises as a commercial premises. He confirmed that the Applicant had agreed to all the proposed conditions from both the Environmental Health Service and the Police.

Mr Richard Brown, Licensing Lawyer, on behalf of Paddington Waterways and the Maida Vale Society, referred to his submission on page 59 of the report and his email contained in the additional information pack. He advised that there were benefits to a Club Premises Certificate for the Applicant, in that it was less heavily regulated than a Premises Licence as there was no requirement for a personal licence holder or a designated premises supervisor. He explained that there had been limited information on the application about the nature of the club. However, there had been reference to poker events and that holding a Club Premises Certificate gave the Applicant the ability to apply for a Club Gaming permit under the Gambling Act. He added that the Applicant had mentioned in his submission backgammon and bridge but had not mentioned anything about poker and requested that more information be provided to the Sub-Committee regarding the playing of poker at the club.

Mr Brown emphasised that this was a highly residential area and that there had been a large number of residential objections to this application. He added that it was an unusual application in that a friendship group had decided to get together to form a club. He commented that the live music element had been withdrawn however because of the deregulation of live music under the Licensing Act this was not actually a great deal of comfort to the residents because it could still be provided until 11pm. He further commented on the need for noise limiters/sound proofing, the fire exits, the front and back doors to be kept closed and specifically the number of smokers allowed to leave and re-enter the Premises. He asked for clarification regarding the surrender of the existing Premises Licence and whether it was in the gift of the Applicant to surrender it on the granting of the Club Premises Certificate or whether it was still held by the previous operators. He advised that it was for the Sub-Committee to decide whether this was a bona fide club.

The Sub-Committee noted that in the additional information pack the Environmental Health Service had included twelve additional conditions to be included on the Certificate if the application was granted and that condition 2 stated that no noise shall emanate from the Premises nor vibration being transmitted through the structure of the Premises which gives rise to a nuisance' which the Sub-Committee considered was satisfactory to alleviate resident's concerns.

Councillor Caplan, Ward Councillor for the Little Venice Ward, representing a number of local residents, advised that it was a highly residential area with flats

situated directly opposite the Premises and located all around the surrounding area. He explained that from the Applicant's submission it would appear that what was being offered would be ok. However, there was still significant concern regarding the playing of poker at the club if the betting were to go beyond the sort of few pennies type of thing. This was because the club would then require a gambling licence and this had not been applied for by the Applicant. Councillor Caplan asked for clarification regarding the Applicant's intention because this would be a significant difference than friends just gathering and hanging out together. He echoed Mr Brown's comment on whether the existing licence would be surrendered on the granting of this licence. He advised that the premises had not caused the residents any concern for a long time and asked for this to continue to be the case, he requested for specific conditions to be added to the licence in relation to the fire exit on Bloomfield court being used for this purpose only and for the front door to be closed at all times except when people were entering and exiting the building. He emphasised that the residents wanted core hours on Sundays.

Mr Alan Brown, local resident, advised that he had found the Environmental Health Conditions extremely helpful and was pleased that the Applicant had agreed to them all as well as withdrawing his application for live music. He advised that he was now only concerned regarding the parking in the street and how taxis' would wait to collect people from the club without blocking the road. He suggested alternatively that taxis' could wait in the car park around the corner which had room for 80 cars and that the club employ a receptionist/traffic warden type person to address any traffic issues caused by people coming and going from the club. He requested that the area for smokers be addressed and wondered if the courtyard could be used instead of the pavement, as the pavement was often used as a walkway through to Clifton Road because it took people away from the polluted air and busy roads.

Mr J Gupta, local resident, advised that he considered the Environmental Health additional conditions very helpful. He advised that he lived in Clarendon Court and his flat overlooked Clarendon Terrace. He was concerned with the mention of gambling and people drinking and smoking late into the night. He emphasised that he wanted the closing time specifically set out so that the Applicant and the residents knew exactly when the premises should close. He echoed what had already been mentioned about how difficult it was to find parking spaces. He also echoed Mr Brown regarding the need to keep with the Council's core hours policy on Sundays as it was a highly residential area. The Sub-Committee noted that there had only been one complaint recorded in 2019 however that related to the previous operator.

Ms Angela Irving, local resident, asked for clarification on whether there would be dancing on the Premises as dancing always meant that the music would be very loud. She advised of her concern regarding the use of the back door off Bloomfield Court and requested that this door only be used for receiving supplies into the Premises and staff members. She added that smoking should also only take place at the front of the Premises.

Miss Lizzie Peskin, representing Little Venice Management, advised that the area was highly residential with young families and the elderly. She commented that she was still unclear as to what this club was exactly going to be and asked if the Applicant was going to apply for a restaurant licence as serving drinks with dinner had been mentioned during his submission. She requested that the Applicant set

out the themes for the popular evenings mentioned and commented that it seemed odd to set up a club for people to play board games and watch football. She indicated that there might be something more going on which the Licensing Sub-Committee had not yet been made fully aware of and emphasised that people over 21 still got drunk and behaved inappropriately. She echoed the traffic and parking issues in the area that had already been mentioned at the hearing.

The Sub-Committee noted that once a licence had been issued the Premises was subject to random risk assessment inspections and any complaints received about the premises would be taken seriously and investigated by the Council's licensing inspectors to ensure compliance of the conditions on the licence.

Mr Steve Burnett, Legal advisor to the Sub-Committee, advised that if the residents had valid complaints or if they had concerns, they had the option of applying for a Review of the Club Premises Certificate which would mean that the certificate would come back before the Sub-Committee who would take suitable action as they see fit.

Mr Drayan advised that parking and traffic issues were not actually a licensing matter and could not be addressed by the Sub-Committee. Mr Drayan advised that gambling came under a different piece of legislation and that if the Applicant were to apply for a licence to the Gambling Commission, then it would be for the Gambling Commission's decision as to whether they would permit it on these premises. He explained that dancing and that the consumption of hot food and hot drinks was not a licensable activity until 11pm, so the Applicant did not need to apply for such a licence unless he was going to trade beyond 11pm. He highlighted that the proposed conditions ensured that no smells or odours would escape from the Premises.

Mr Simpkin, Policy Advisor for the Sub-Committee, clarified that gambling at the premises was covered by The Gambling Act 2005 and that there were restrictions associated with those gambling activities.

The Sub-Committee then clarified the following issues with the Applicant:

- He was keen to keep closing on Sundays at 11pm.
- He was content to limit the number of smokers leaving and re-entering the Premises to two persons as there were not many smokers within the friendship group. Mr Drayan suggested that the condition should read 'that the rear exit shall not be used by the public except for an emergency' and this would mean that smokers would have to go out to smoke via the front entrance.
- The only sound would be from the TV speakers and there was already enough sound proofing to prevent noise escaping as the noise created by the previous operator (the pub) could not be heard in the above flat
- The Premises was very small so there would only be room for say two acoustic guitar players to play in the venue.
- EH had advised that they were happy with the sound insulation in the property as long as no loud amplified music was played at the Premises and that he would be liable for any noise nuisance under the noise condition.

- Hot food would not be prepared on the Premises and would be brought into the Premises already prepared or be ordered in from outside Premises in one go for say themed nights. Individuals would not be able to order food to consume at the Premises so there would not be numerous deliveries to the Premises during the evening.
- It was not his intention to apply for a gambling licence in the future and what he had envisaged was holding a poker tournament where the winner would receive a small amount of the winnings and the rest of the proceedings would go to a nominated charity.
- He wanted to have a good relationship with the community and believed that what he was offering was much better than the existing licence.
- There would be no problem informing people when they arrive and leave to take into consideration the residential area as they were a close bunch of friends. There would be a doorman available at all times whilst the Premises was open to remind customers to leave quietly.
- He would obtain a certificate to hold the odd poker night if he needed one and would not go ahead with any tournaments before he had gained all the correct documentation. He emphasised to the Sub-Committee that his application for a Club Premises Certificate was not an attempt to open a casino, bar or night club but to open a place where people could come to enjoy a quiet drink.
- He was in agreement with all the proposed conditions and he wanted to be a good friend to the community.

The Sub-Committee noted, on legal advice, that betting and gaming at the premises were covered by other legislation and was not under their remit of dealing with the application under the Licensing Act 2003. If the members of the Club intend to conduct gambling at the premises, they should either seek independent legal advice or contact The Gambling Commission.

They further noted that the existing Premises Licence had remained with the previous operator and therefore the Applicant was unable to surrender the existing licence. The Sub-Committee finally discussed how drinking up time worked in practice with the Applicant.

Conclusion

The Sub-Committee has a duty to consider the application on its individual merits and took into account all of the committee papers and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee noted that the Environmental Health Service and the Police Service had withdrawn their representations and conditions have been agreed with the Applicant. The Committee decided that the Applicant had provided reasons as to why the granting of the application would promote the licensing objectives.

In reaching its decision, the Sub-Committee took into consideration that the conditions had been agreed with the responsible authorities and that this would be a private members' club operating within core hours. The Sub-Committee concluded that the proposed conditions on the Club Premises Certificate were proportionate and appropriate for 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 Committee has decided**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives the application is granted as follows: -

1. To grant permission for the sale and supply of Alcohol 'On' the premises from 11.00 to 22:30 hours Monday to Saturday and Sundays from 11.00 to 22.00.
2. To grant permission for anything of a similar description to that falling within Recorded Music and Performance of Dance from 11.00 to 22:30 hours Monday to Saturdays and from 11.00 to 22:00 hours on Sundays.
3. To grant permission for the opening times of the premises from 11.00 to 23.00 hours Mondays to Saturdays and from 11.00 to 22.30 hours Sundays.
4. To add conditions in the terms specified below.
5. That the CPC is subject to any relevant mandatory conditions.
6. That the CPC 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

7. The Club will have a designated a full time employee to ensure the rules under the Licensing Act 2003 are followed at all times. The role of this individual is to ensure the Members are provided with the information they require, to liaise with the Council and to manage the events in line with Certificate requirements.
8. Club Rules' will be issued to all members
9. Security will be posted at the entrance of the Club at all times and Identification of members and their guests will be checked and a written record made prior to entry.
10. At all times a Manager will be present during each event ensuring Club Rules/House Rules are operating.
11. (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.
12. 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.
 13. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
 14. A minimum of one (1) SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business and they must correctly display their SIA licence(s) when on duty so as to be visible.
 15. Waiter / waitress service shall be available throughout the whole of the premises.
 16. 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.
 17. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
 18. Alcohol may only be sold for consumption by members of a private club and their bona fide guests (not exceeding 3 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.
 19. 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.

20. Substantial food and suitable beverages other than intoxicating liquor shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
21. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
22. 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.
23. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
24. 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.
25. The Members shall ensure that when patrons are leaving, they do not congregate outside but leave the area immediately.
26. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
27. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
28. Deliveries to the premises shall only take place between 0800 and 2300 hours.
29. During the hours of operation 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 the aforementioned 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.
30. The number of persons accommodated at any one time (excluding staff) shall not exceed 30.
31. No licensable activities shall take place at the premises until the licensing authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the Licensing Authority. If there are minor changes during construction new plans shall be substituted and lodged with the Licensing Authority when requesting removal of this condition.

32. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 2 persons at any one time.
33. Customers shall not enter or leave the premises from the fire exit to Bloomfield Court, except in the event of an emergency or for deliveries.
34. All external doors shall be kept closed except for the immediate access and egress of persons.

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

**Licensing Sub-Committee
28 October 2021**