



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 13th January, 2022**, This is a virtual meeting.

Members Present: Councillors Karen Scarborough (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 changes to the membership.

1. REIGN, 215 - 217 PICCADILLY, W1J 9HN

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 4

Wednesday 13 January 2022

Membership: Councillor Karen Scarborough (Chair), Councillor Barbara Arzymanow and Councillor Aziz Toki

Officer Support: Legal Advisor: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Tristan Fieldsend
Presenting Officer: Karyn Abbott

**Application for a variation of a Premises Licence for Reign, 215 -217 Piccadilly
London W1J 9HN**

Full Decision

Premises

Reign,
215 -217 Piccadilly
London W1J 9HN

Applicant

Strongarm Holdings Limited

Represented by Mr Philip Kolvin QC (Leading Counsel) and Lana Tricker (LT Law)

Ward

St James's

Special Consideration Zone

West End

Summary of Application

The Sub-Committee has determined an application for a variation of a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises operates as a nightclub.

The Applicant wishes to vary the existing premises licence as follows:-

- *For a time limited period of 2 years; to extend the terminal hour for Saturday trade for existing licensable activities to 6am. With alcohol sales and late-night refreshment extended to 5am.*
- *To suspend condition 55 for a time limited period of 2 years. Condition 55 currently reads as: "There shall be no entry or re-entry (excluding persons from the smoking area) to the premises after 02:30 or such time as agreed in writing by the Westminster Police Licensing Unit (and a copy of any agreement to be held at reception)."*
- *To add additional conditions:*
 1. *A copy of the premises dispersal policy shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council.*

2. On Saturday trade there shall be a designated welfare officer appointed separate to SIA functions to monitor the behaviour and conduct of patrons within the premises and on dispersal.

3. The variation of hours under ref: xxxx shall be permitted for a limited period of 2 years only until (insert date).

There is a resident count of 43.

Licensable Activities and Temporary Hours applied for:

Sale by Retail of Alcohol (On the Premises)

Saturday 10.00 to 05.00

Late Night Refreshment

Saturdays 23.00 to 05.00.

Recorded and live music, performance of dance and anything similar to live and recorded music or the performance of dance

Saturdays 10.00 to 06.00

Opening Hours of the Premises:

Saturday 09.00 to 06.00

Representations Received

- Metropolitan Police Service – PC Adam Dewelz
- Environmental Health Services (EHO) – Dave Nevitt

Summary of issue raised by Objectors

1. The hours requested will have the likely effect of causing an increase in Public Nuisance within the area.
2. The hours requested could undermine the licensing objectives in relation to the prevention of crime and disorder.
3. The hours sought are beyond those of Westminster's Core Hours Policy

Policy Considerations

Under Policy HRS1, applications for hours within the Core Hours would generally be granted. Applications for hours outside Core Hours would be considered on their merits, subject to other relevant policies.

Under Policy MD1(A) applications outside the CIZ will normally be granted subject to Policy CD1, PS1, PN1, CH1, HRS1 and that the operation of the venue meeting the definition of music and dance premises as per Clause D

Under Policy SCZ1, in addition to meeting the other policies, applications within a designated Special Consideration Zone should demonstrate that they have taken account of the issues particular to the West End Buffer Zone, and should set out any proposed mitigation measures.

SUBMISSIONS AND REASONS

Karyn Abbott, the Presenting Officer introduced the application.

Mr Kolvin for the Applicant introduced Scott Chester from the Applicant Company, who was available to provide assistance to the Sub-Committee if required.

Counsel advised the Sub-Committee that this was an application for an extension to the terminal time for licensable activities with a 1 hour cool down period only on Saturdays until 17th August 2023 along with proposed conditions set out in Lana Tricker's letter in the additional material.

Counsel highlighted 7 brief points:

- 1) The premises traded under Temporary Event Notices (TEN's) on 14 occasions without complaints.
- 2) There are no residential objections
- 3) The police will be able to confirm that the operation is not a 'crime generator' and if there were incidents, the matter was dealt with in a professional way.
- 4) Potential nuisance is controlled:
 - a) Queues are monitored by door supervisors
 - b) No noise breakout at music is in the basement and subject to a noise limiter.
 - c) Customers cannot drink outside
 - d) There is no walk-in trade, all booked
 - e) No dispersal issues. Customers filter away and only around 40 – 50 patrons were found to remain on the premises at the end of the night.
 - f) The outside area is patrolled
 - g) There are conditions requiring the streets to be swept
 - h) Waste is controlled.
- 5) There is an extensive list of conditions, the premises is well managed, waiter service provided, operational manual, training for staff and Scott Chester co-ordinates all matters.
- 6) Conditions submitted relates to dispersal and use of a welfare officer.
- 7) The premises is not in a CIZ.

The Applicant advised the Sub-Committee that the SCZ is not to be treated as a CIZ and the application is to be considered on its own merits.

Policy D48 was highlighted and Mr Kolvin stated that customers may be vulnerable but must use taxis or use their own drivers.

The Sub-Committee were informed that the premises will not take potential customers who “just turn up” at the premises. Patrons are known to the management or have been vetted.

In response to further questions from the Members, Mr Kolvin advised that the premises is a high-end venue which was closed for 17 months during the pandemic and debts have been incurred. The Applicant wants to accommodate the demand to help with debts. Furthermore, closing at 06.00 would reduce the effect of an additional 400 patrons being dispersed from the Applicant’s premises into Central London at 04.00.

Mr Nevitt, advised the Sub-Committee of the positives but stated the risks were increased alcohol consumption, increase in road traffic at 06.00, so creating a risk to patrons leaving. He has considered Policy D44 and there are conditions proposed to alleviate his concerns.

PC Deweltz affirmed that the premises is located in SCZ and therefore the Sub-Committee must consider issues in relation to crime and disorder. The current Premises Licence permits the sale of alcohol to 3 am. He added that an additional 2 hours is not ideal. The police felt that patrons will leave the premises to purchase food after 06.00 and although the crime statistics are not high inside the venue, there is a risk of assaults and robberies outside. He knows there is training at the premises but the police envisage an increase in antisocial behaviour and crime and disorder.

PC Deweltz added that Reign is a high-end exclusive venue, but the main issues in the West End are sexual touching, spiking of drinks and robberies. Peak times for such offences are 00.00 to 04.00.

The Sub- Committee were advised that taxis were also less frequent after 06.00. However, in response to the Members Legal Adviser, Mr Kolvin confirmed that there is access to the tube station but most customers order and use taxis or UBERs. The Applicant have 5 personal licence holders on the premises at any one time and therefore would accept having 2 available on Saturdays if the application was granted. The Applicant would also have patrons supervised to their taxis to keep them safe and prevent predatory behaviour. Security would patrol around the premises.

The Applicant would prefer a last entry time of 4 am but would accept 03.30. The Metropolitan Police informed the Sub-Committee that the first 2 TEN’s had a last entry time of 03.00 and other venues in the area closed at 03.00.

Mr Kolvin will draft a last entry condition for the Members to consider but the Applicant highlighted that the premises did not operate a strict membership.

Reservation online was approximately 1% of their business. They prefer to know and vet customers using a dedicated team. Customers names are recorded, and the premises operate an ID scanning system. Under 21’s are not allow on the premises over the weekends.

Conclusion

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

The Sub-Committee had regard to the fact that the Applicant had applied for a time limited variation and had proposed conditions. It was also noted that the premises is already subject to an existing and generous premises licence and that the last 17 months have been difficult for all businesses in the area.

The Sub-Committee noted the Applicant operates a high-end venue and had dealt with previous, but limited incidents professionally. There were no reports on high levels of intoxication. The premises have also traded under TEN's without issue.

Due regard was given to Policy SCZ1 and the Sub-Committee recognised that the Applicant had attempted to address issues, particular to the West End Buffer Zone, and have set out proposed mitigation measures.

The conditions, time of licensable activities and closing time would have the overall effect of promoting the licensing objectives.

In reaching its decision, the Sub-Committee concluded that the conditions proposed by the applicant, as amended by the Sub-Committee and the additional conditions imposed on the Premises Licence were appropriate and proportionate and would promote the licensing objectives.

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

1. To grant permission for the **on sales of Alcohol** on Saturday from 10.00 to 05.00 until 17th August 2023
2. To grant permission for **Late Night Refreshment** on Saturdays from 23.00 to 05.00 until 17th August 2023.
3. To grant permission for **Recorded and live music, performance of dance and anything similar to live and recorded music or the performance of dance** on Saturdays from 10.00 to 06.00 until 17th August 2023
4. To grant permission for **opening hours** of the Premises Saturdays from 09.00 to 06.00 until 17th August 2023.
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 Condition 55 which is suspended on Saturdays until the 17th August 2023.
7. To add conditions in the terms specified below, valid until 17th August 2023.

8. That the varied licence is subject to the following additional conditions until 17th August 2023, imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing

Mandatory conditions 1-9 and:

10. From 21:00 until 30 minutes after close of business, a minimum of 2 SIA licensed door staff to be stationed at the entrance on Piccadilly whose tasks will include:

- o Reminding customers that this is a residential area and to respect the needs of neighbours
- o To maintain an orderly queue where necessary
- o To ask customers leaving the premises to do so quickly and quietly.

11. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

12. The number of persons accommodated at any one time (excluding staff) shall not exceed the following: Mezzanine- 140 persons; Basement Auditorium - 300 persons. Maximum capacity of 400 persons on the premises at any one time. A minimum of 50 seats will be provided in the mezzanine area and a minimum of 250 seats will be provided in the basement auditorium.

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 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.

14. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

15. The premises 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.

16. After 23.00hrs all security employed at the premises shall wear high viz jackets or tabards.

17. 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.

18. In the event that a serious assault is committed on the premises (or appears to have been

committed) the management will immediately ensure that:

(a) The Police (and where appropriate, the London Ambulance Service) are called without delay, using emergency telephone number 999;

(b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the Police;

(c) As is reasonably practicable, the crime scene is preserved so as to enable a full forensic investigation to be carried out by the Police; and

(d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises." 'Serious assault' includes (but is not limited to) any assault in which emergency medical treatment is required and any assault in which a weapon is used.

19. No children under the age of 16 shall be permitted on the premises after 21:00 hours.

20. No children under the age of 14 shall be admitted on the premises.

21. 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.

22. The highway in the vicinity of the premises shall be swept at regular intervals and also at the close of business. Litter and sweepings collected shall be stored in accordance with the approved refuse storage arrangement.

23. No unauthorised advertisements of any kind shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree or any other property, or is distributed to the public, that advertises or promotes the establishment, its premises or any of its events, facilities, goods and services.

24. No payment shall be made by or on behalf of the premises for distribution of flyers or tickets within public areas in the Licensing District of Westminster.

25. A daily log is to be maintained to ensure that any capacity limit set for the various floors and the overall capacity of the premises is recorded hourly and can be properly monitored. Information regarding the capacity will be given to an authorised officer or Police Officer on request.

26. Alcohol may not be sold or supplied to persons admitted after 23:00 other than to:

- (a) Persons taking a table meal; or
- (b) Persons who have paid a minimum admission fee of at least £20 for performance based entertainment (not to be credited against consumables)
- (c) Persons who have paid a minimum annual membership fee of at least £450 payable in advance for music, dancing and entertainment (not to be credited against consumables) and up to a maximum of 4 bona fide guests. A list of all people who have paid an annual membership fee and their guests will be held at reception for inspection by relevant authority; or
- (d) Persons given free membership and their bona fide guests where there has been an interval of at least 48 hours between application for membership. A list of all persons who have free membership will be held at reception for inspection by the relevant authority; or
- (e) Persons who are bona fide guests of the license holder or management, a list of whom shall be kept at reception for inspection by the relevant authorities; or
- (f) Artistes and persons employed by the premises; or
- (g) persons attending at private function; the function organiser's name and address to be kept at reception for inspection by the relevant authorities.

27. Substantial food and non-intoxicating beverages, including water, shall be available throughout the permitted hours in all parts of the premises where intoxicating liquor is sold and supplied for consumption on the premises.

28. The sale and consumption of alcohol must be ancillary to the use of the premises for patrons attending performance based entertainment.

29. No payment shall be made by or on behalf of the licensees to any persons bringing customers into the premises.

30. A noise limiter located in a separate and remote lockable cabinet from the volume control must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service's Community Protection Department so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured to the satisfaction of officers from the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the applicant only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement with the Environmental Health Service.

31. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service.

32. Any additional sound generating equipment shall not be used on the premises without being routed through the sound limiter device.

33. All entrance doors to be kept closed except for people's immediate access and egress.

34. No speakers shall be located in the entrance area.

35. All refuse will be paid, properly presented and placed on the street 30 minutes before any agreed collection time. Every endeavour will be made to prevent refuse being left on the street for more than 2.5 hours.

36. No bottles will be moved, removed or placed in outside areas between 23:00 and 08:00.

37. No persons shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

NOTE: This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.

38. The approved arrangements at the premises, including means of escape provisions, fire warning and fire fighting equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

39. The certificates listed below shall be submitted to the Licensing Authority annually:

- (a) Any emergency lighting battery or system
- (b) Any electrical installation
- (c) Any fire alarm system.

40. 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.

41. All exit doors shall be available at all times without the use of a key, code, card or similar means.

42. All fire doors shall be maintained effectively self-closing and not half open other than by an approved device.

43. Fire doors to ducts, service shafts and cupboards shall be kept locked shut.

44. The edges of the treads and steps and stairways shall be maintained so as to be conspicuous.

45. Only hanging, curtains, upholstery and temporary decorations, complying with the relevant British Standard shall be used. Where necessary these shall be periodically tested for flame resistance and re-treated as necessary.

46. Curtains and hangings shall be arranged so as not to obstruct fire safety signs, fire extinguishers or other fire fighting equipment.

47. Staff with specific responsibilities in the event of fire or other emergency, together with deputies, shall receive training and written instruction appropriate to their role.

48. Any special effects or mechanical installations shall be arranged and sorted so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given:

- dry ice and cryogenic fog
- smoke machines and generators
- pyrotechnics and fog generators
- firearms
- lasers
- explosives and highly flammable substances
- real flame
- strobe lighting.

49. Flashing or particularly bright lights on or outside the premises will not be permitted to cause a nuisance to nearby properties (save insofar as they are necessary for the prevention or crime).

50. After 21:00, at least one Personal License Holder shall be on duty on the premises while alcohol is being sold or supplied.

51. A minimum of two SIA staff shall be deployed with Body Worn Video, capable of recording audio and video in any light condition. 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.

52. There shall be an electronic search arch installed at the premises and every patron entering or re-entering the premises when in use under this licence (including from the smoking area) shall pass through the search arch with searching supplemented by the use of two functional metal detecting wands. Patrons shall be searched by an SIA-trained member of staff and monitored and recorded by the premises CCTV system.

53 (a) All customers entering the premises shall have their ID scanned on entry, save for when a biometric scanning system is in place (when fingerprint scanning will be required for all customers who have previously shown identification at the premises). The details recorded shall include a live facial image capture of the customer and capture the photographic identification produced. The details recorded by the ID scanner system shall be made available to the Police and the local authority upon request.

(b) The above requirement (a) is subject to the following exception, namely that a maximum number of 20 guests per night may be admitted at the Managers discretion without necessarily being ID scanned and recorded. A legible record (the Signing in Sheet) of these guests' names shall be retained on the premises for inspection by the licensing authority and Police for a period of 31 days. The name of manager authorising the admission will also be recorded by that manager. Guests shall be required to produce some form of ID such as a bank card (or emailed electronic photo I D) and an ID scan entry with a live photo shall be created.

(c) Notwithstanding (a) and (b) above, patrons who are attending a pre-booked corporate event at the premises do not need to have their ID scanned on entry and instead a written guest list shall be held at reception for the event, and will be

retained for 28 days after the event for inspection by the police and responsible authorities upon request.

54. All drinking containers used within the premises shall be polycarbonate. All glass bottles to be decanted into polycarbonate glassware or polycarbonate glassware carafes, with the exception of champagne and bottles of spirits of a minimum size of 70cl, supplied by waiter/waitress service to tables. Staff will clear all empty champagne and spirit bottles from the tables promptly. Customers will not be permitted to self-serve or remove bottles from the tables. Customers will not be permitted to drink directly from champagne or spirit bottles. Notwithstanding this condition, with the written agreement of the Westminster Police Licensing Team, a copy of which will be held at the premises reception, glass drinking vessels may be used for private or pre-booked events within the lounge/club area.

55. There shall be no entry or re-entry (excluding persons from the smoking area) to the premises after 02:30 or such time as agreed in writing by the Westminster Police Licensing Unit (and a copy of any agreement to be held at reception). **(This Condition is suspended on Saturdays until 17th August 2023)**

56. Risk reduction training inclusive of crime scene preservation shall be carried out by 2 February 2017 and refresher training every 6 months thereafter.

57. A minimum of one SIA licensed door supervisor to thirty-five customers shall be on duty at the premises whenever it is open for business.

58. Impartial unannounced compliance visits shall take place at the premises on a monthly basis. A written record of each visit shall be kept at the premises and produced for immediate inspection by a police officer or authorised officer of the licensing authority.

59. The premises shall provide a cloakroom and all coats and outdoor jackets shall be placed in the cloakroom by handing them to an attendant who shall be constantly on duty at the cloakroom during the whole time that the premises are open.

60. There shall be live, real-time CCTV monitoring of the premises at all times the premises is open for business except when the premises is being used exclusively for a private pre-booked event.

61. There shall be a dedicated search captain employed at the premises to supervise the searching of customers at all times when the premises are open.

62. a. No licensable activities shall take place on lower level 2 (basement auditorium) and in the toilet area and DJ booth on lower level 1 (mezzanine) of the premises until these areas of the premises 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.

b. No licensable activities shall take place in the trading room/bar on lower level 1 (mezzanine) of the premises until this area of 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.

c. Prior to the licence taking effect, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the LFEPA, Environmental Health Consultation Team, the Police and the Licensing Authority.

ADDITIONAL CONDITIONS APPLICABLE TO THE PREMISES ON SATURDAYS, UNTIL 17th August 2023.

63. A premises' dispersal policy shall in force at the premises and a copy be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council.
64. On Saturday trade there shall be a designated welfare officer appointed (separate to SIA functions) to monitor and address concerning behaviour and conduct of patrons within the premises and on dispersal
65. The variation of hours heard by the Licensing Sub-Committee on the 13 Jan 2022 and under Premises Licence ref: xxxx shall be permitted until 17th August 2023.
66. There shall be no entry or re-entry (excluding persons from the smoking area) to the premises after 03:00.
67. Condition 55 shall be suspended until 17th August 2023 on Saturday nights only.
68. There shall be at least 2 personal licence holders on duty at the premises.
69. From 2 a.m. until 30 minutes after closure of the premises the security deployment shall specifically include:
 - a) supervision of the egress of customers from the club and entry into taxi or private hire vehicles by a member of management and a Security Industry Authority licensed officer
 - b) patrol of patrons between the premises and the entrance to Piccadilly Circus Station by one Security Industry Authority licensed officer. The said officers shall wear hi vis jackets and a minimum of 2 body worn cameras shall be in use.

Advisory Note:

The Sub-Committee would like the applicant to note that this Decision is not to be used to pre-empt or support any future Licensing Act 2003 applications. Future applications will be dealt with on its own merits and in full with all matters and policies reconsidered.

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

**The Licensing Sub-Committee
12 September 2022**

2. THE RESIDENCY, 50 WESTBOURNE GROVE, W2 5SH

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 4

Wednesday 13 January 2022

Membership: Councillor Karen Scarborough (Chair), Councillor Barbara Arzymanow and Councillor Aziz Toki

Officer Support: Legal Advisor: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Tristan Fieldsend
Presenting Officer: Karyn Abbott

Application for a New Premises Licence for 50 Westbourne Grove, London W2 5SH

Full Decision

Premises

50 Westbourne Grove,
London
W2 5SH

Applicant

Mr Naveen Handa on behalf of the Applicant Company, Minhoco 61 Limited

Represented by Matt Foster (Mincoffs Solicitors)

Special Consideration Zone

Queensway/Bayswater (QB)

Ward

Bayswater

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises to be licensed proposes to be operated as a restaurant. Customer areas are located on the ground floor, There is a proposed external area at the rear of the premises for seated customers, which is on privately owned land.

This site had the benefit of a premises licence when it latterly operated as a Gourmet Burger Kitchen. That licence lapsed in November 2020

There is a resident count of 248.

Licensable Activities and Hours applied for:

Sale by Retail of Alcohol (On and off the Premises)

10:00-23:00 Monday to Thursday,
10:00-23:30 Friday to Saturday and 12:00-22:00 on Sunday

Sundays immediately prior to Bank Holiday: from 12:00 hours to 23:00 hours.

Recorded Music

10.00 to 23.30 Mondays to Thursdays
10.00 to 00.00 Fridays and Saturdays
12.00 to 22.30 Sundays

Sundays immediately prior to Bank Holiday 12.00 to 23.30

Late Night Refreshment

23.00 to 23.30 Mondays to Thursdays,
23.00 to 00.00 Fridays and Saturdays.

Sundays immediately prior to Bank Holiday: from 23:00 hours to 23.30 hours.

Opening Hours of the Premises:

10.00 to 23.30 Mondays to Thursdays
10.00 to 00.00 Fridays and Saturdays
12.00 to 22.30 Sundays

Sundays immediately prior to Bank Holiday 12.00 to 23.30

Representations Received

- Metropolitan Police – PC Reaz Guerra (**Withdrawn**)
- Environmental Health Services (EHO) – Mr Ian Watson
- Dr David Hexter - Residential Objection
- Ms Hilary Newiss – Residential Objection (Represented by Mr Richard Brown of Citizens Advice Westminster)
- Mr John Zamit of South East Bayswater Residents' Association (SEBRA) – Residential Objector (Represented by Mr Richard Brown of Citizens Advice Westminster)

Summary of issue raised by Objectors

1. The hours requested will have the likely effect of causing an increase in Public Nuisance within the QB SCZ.
2. Opening hours are unsuitable for a residential area. Attracts drunkards, rubbish, and foul behaviour. Opening hours should be limited to 10:00 during weekdays and Saturday and 10:00 pm on Sundays. Use of the rear garden area for customer seating should be prevented.
3. To prevent any public nuisance or potential crime and disorder there should be the addition of:
 - a) No alcohol to be allowed to be taken off premises in open vessels, except to those seated if any taking a table meal.
 - b) there will be no 'off sales' of beer or cider over 5.5% APV, unless premium brand in bottles or cans.
 - c) No sales of food or alcohol from the premises after 23.00 with Sunday after 22.30.
 - d) Entrance doors and windows to be kept closed after 21.00, accept for customers entering or leaving.
 - e) All Refuse and Recycling collections not to take place between midnight 00.00 and 0800,

Policy Considerations

SCZ1

- In addition to meeting the other policies within this statement, applications within a designated Special Consideration Zone should demonstrate that they have taken account of the issues particular to the Zone, and should set out any proposed mitigation measures in relation to those issues within their operating schedule.

HRS1

- Applications within the core hours will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.

RTN1 (B)

- Applications outside the West End Cumulative Impact Zone will generally be granted subject to the application meeting the requirements of policies CD1, PS1, PN1 and CH1.

SUBMISSIONS AND REASONS

Karyn Abbott, the Presenting Officer introduced the application and amended an error in the Agenda for the hours for indoor recorded music to Mon – Thurs 23.30 and Fri and Sat until 00.00.

Mr Foster for the Applicant explained that the Applicant had consulted with the EHO, and residents and as a result conditions had been agreed as shown in Appendix 5.

Mr Foster advised the Sub-Committee that this application was to replace the Premises Licence which had lapsed, and the new operation will be a restaurant. Mr Foster submitted that in light of Mr Brown's written submissions, the rear of the premises was the only remaining issue.

The Sub-Committee were informed that the premises was risk assessed and was of low risk under Policy PN1. During discussions with the EHO, there were a number of options available which could reduce the risk of nuisance to neighbours, such as closing the area at 20.00, operating an Outside Management Policy, no cooking in the outside area, training staff, erecting an acoustic fence, no groups of patrons larger than 6, tables to be fixed and music to be played at background level.

Mr Handa, provided the Sub-Committee with a history of his family run business.

The Sub-Committee were advised that their landlord's tenants lived above the premises, so it was in the operator's best interest not to cause a nuisance. The capacity of the garden will be between 25 -30 patrons. The premises is surrounded by residents but the outside area at the premises have high walls.

Mr Watson,(EHO) advised the Sub-Committee that there has been a pre-application consultation remotely, therefore a site visit only took place last Tuesday. There is now a new extractor and ventilator system. He was advised there would be no smokers in the outside area, no light nuisance and no recorded music. There would be notices on tables for patrons to consider residents.

Mr Watson suggested that a condition could be added to prevent the use of the outside area until assessed as acoustically suitable by the EHO.

The Sub-Committee heard from Mr Brown, who called objectors, Hilary Newiss and Mr Zamit, and their witnesses, to give evidence.

The Members heard that residents surrounded the premises, in what is normally a very quiet area and they, themselves, had lived in the area for a number of years. The outside area at the restaurant had not been historically used and the applicant is therefore bringing a nuisance to the residents. Previously the residents had complained about the noise from rubbish and the extractor fans which are located in the same area. However, there is no evidence shown to the residents of what work is required to prevent noise nuisance from patrons using the outside area.

The Sub Committee were informed that the residents were happy with the operation of the premises inside but the application to use the external area should be refused.

Conclusion

The Sub-Committee has a duty to consider the application on its individual merits and took into account all the committee papers, including the additional evidence, the Revised Guidance as issued under sec 182 of the Licensing Act 2003 and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee had regard to the fact that the Applicant had reduced the terminal times for licensable activities and closing times at the premises and that they had agreed conditions proposed by the Environmental Health Service and SEBRA.

The Sub-Committee acknowledged the Applicant had worked closely with the Responsible Authorities and liaised with the residential objectors.

However, the Sub-Committee is not satisfied that the use of the outside area of the premises by patrons and staff, drinking, eating, talking, smoking or just naturally enjoying themselves would not cause a public nuisance to residents living in close proximity to the premises.

The premises is located in a residential area.

The conditions, time of licensable activities and closing time applicable to inside the premises would have the overall effect of promoting the licensing objectives. However, the Sub-Committee are not persuaded that the use of the outside area to the rear of the premises would not cause a public nuisance.

In reaching its decision, the Sub-Committee concluded that the conditions imposed on the Premises licence are appropriate and proportionate 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, **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 **On and off Sale of Alcohol** Mondays to Thursday from 10.00 to 23.00, Fridays and Saturday from 10.00 to 23.30, on Sundays from 12.00 to 22.00, and on Sundays immediately prior to Bank Holiday from 10:00 hours to 23:00 hours.
2. To grant permission for **Late Night Refreshment** Mondays to Thursday from 23.00 to 23.30, Fridays and Saturday from 23.00 to 00.00, and on Sundays immediately prior to Bank Holiday from 23:00 hours to 23:30 hours.
3. To grant the permission for **Recorded Music** Mondays to Thursday from 10.00 to 23.30, Fridays and Saturday from 10.00 to 00.00, on Sundays

from 12.00 to 22.30, and on Sundays immediately prior to Bank Holiday from 10:00 hours to 23:30 hours.

4. To grant permission for **opening hours** of the Premises Mondays to Thursday from 10.00 to 23.30, Fridays and Saturday from 10.00 to 00.00, on Sundays from 12.00 to 22.30, and on Sundays immediately prior to Bank Holiday from 12:00 hours to 23:30 hours.
5. That the Licence is subject to any relevant mandatory conditions.
6. That the Licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives

Conditions imposed by the Committee after a hearing

Mandatory conditions 1-8 and:

9. The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.
10. 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.
11. The supply of alcohol shall be by waiter or waitress service only.
12. The premises shall be permanently laid to tables and chairs.
13. 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 and will include the external area immediately outside the premises entrance. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
14. 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.
15. A Challenge 21 or Challenge 25 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport or proof of age card with the PASS Hologram.

16. 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 regarding crime disorder
- (d) any incidents of disorder
- (e) any faults in the CCTV system
- (f) any refusal of the sale of alcohol
- (g) any visit by a relevant authority or emergency service

17. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of the 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 need of local residents and use the area quietly.

20. 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.

21. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel; at its junction with the kerb edge, is swept and or washed and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.

22. No deliveries to the premises shall take place between 23:00 and 08:00 hours on the following day.

23. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

24. 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.

25. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.

26. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.

27. No licensable activities shall take place until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.

28. 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.

29. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

30. No alcohol to be allowed to be taken off premises in open vessels, except to those seated (if any) taking a table meal. Re-sealed vessels can be taken off the premises.

31. There will be no 'off sales' of lager, beer, cider or perry over 5.5% ABV, with the exception of premium brands in bottles or cans.

32. No sales of food or alcohol for takeaway from the premises after 23.00 Monday to Saturday and 22:30 on a Sunday, with the last order to be taken no later than 21:30.

33. All external doors and windows to be kept closed after 21.00, except for access and egress.

34. Refuse and Recycling collections will not take place between 00.00 and 0800, in order to protect residential amenity of flats above and opposite.

35. The premises will not empty their bins at the rear after 21:00.

36. There shall be no use of the outside rear area of the premises for licensable activities by customers or staff.

37. There shall be no use of the door(s) to the outside rear area except for the immediate access and egress of persons in an emergency.

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

**The Licensing Sub-Committee
13 September 2022**

3. SILVERTIME AMUSEMENT LIMITED, 32 GERRARD STREET, W1D 6JA

The application was adjourned to 16 February 2022.

The Meeting ended at 3.00 pm

CHAIRMAN: _____

DATE _____