



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 20th July, 2023**, This will be an MS Teams Virtual Meeting.

Members Present: Councillors Robert Eagleton (Chair), Md Shamsed Chowdhury and Karen Scarborough

1. MEMBERSHIP

1.1 It was noted that there were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 It was noted that here were no declarations of interest.

1. **STK AT THE ME HOTEL (GROUND FLOOR), MARCONI HOUSE, 335 STRAND, WC2R 1HA**

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

Thursday 20 July 2023

Membership: Councillor Robert Eagleton (Chair),
Councillor Md Shamsed Chowdhury
Councillor Karen Scarborough

Officer Support: Legal Adviser: Steve Burnett
Policy Officer: Daisy Gadd
Committee Officer: Sarah Craddock
Presenting Officer: Karyn Abbott

Other Parties:

Mr Craig Bayliss (Solicitor, Keystone Law, on behalf of the Applicant),
Akhtar Abu (TOG (Aldwych) Limited – The Applicant),
Ms Sally Fabbriatore (Environmental Health Service - EHS),

Application for a variation of a Premises Licence for STK At The ME Hotel (Ground Floor), Marconi House, 335 Strand, London WC2R 1HA – 23/02043/LIPV

Full Decision

Premises:

STK At The ME Hotel (Ground Floor),
Marconi House,
335 Strand,
London
WC2R 1HA

Applicant

TOG (Aldwych) Limited

Ward

St James's

Summary of Application

This is an application for a variation of a premises licence under the Licensing Act 2003 ("The Act"). The Applicant is seeking to extend the ambit of the area for supply of alcohol on the premises to include the external area used under a pavement licence issued by Westminster City Council in order to use a mobile bar counter in that space to serve draught beer.

There is a resident count of 96

Cumulative Impact Zone

None

Special Consideration Zone:

None

Representations Received

- Sally Fabbricatore (Environmental Health Services)
- Vikas Kumar

Issues raised by Objectors

EHO states:

The addition of a mobile bar in the external area may cause an increase in Public Nuisance and may impact on Public Safety within the area.

EHO proposes a condition:

'There shall be no off sales of alcohol from the mobile unit save to the tables and chairs immediately outside the premises in a space approved by the City Council for such purposes.'

Vikas Kumar on behalf of the High Commission of India states:

- i. Crowding may cause a security risk to High Commission. Noise and other disturbances will affect Mission's functioning.
- ii. The High Commission and ME Hotel share a common area at India Place and Montreal Place. Any activity which may potentially obstruct vehicular access at any time, should not be permitted near High Commission. This area is also used to provide access to consular services seekers, which may be hindered.
- iii. A gathering specifically under the effect of alcohol near High Commission may compromise or dilute diplomatic immunity/privileges of the High Commission.
- iv. Activities which may potentially cause disturbances including noise, lights, litter, crowd etc to the High Commission, should not be permitted.
- v. This area is frequented by students, many of them are below the legal age for drinking. Such a development is not conducive for students

Policy Considerations

Policy RNT(1) states

- A. Applications outside the West End Cumulative Impact Zone will generally be granted subject to:
- B.
 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
 2. The hours for licensable activities being within the council's Core Hours Policy HRS1.
 3. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.
 4. The application and operation of the venue meeting the definition of a restaurant as per Clause C.
- C. For the purposes of this policy a restaurant is defined as:
 1. A premises in which customers are shown to their table or the customer will select a table themselves to which food is either served to them or they have collected themselves.
 2. Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at a table.

3. Which do not provide any takeaway service of food and/or drink for immediate consumption.
4. Where alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
5. The sale and consumption of alcohol prior to such meals may be in a bar area but must also be ancillary to the taking of such meal.

HRS1

A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.

Restaurants Core Hours

Monday to Thursday: 9am to 11.30pm.
Friday and Saturday: 9am to Midnight.
Sunday: 9am to 10.30pm.
Sundays immediately prior to a bank holiday: 9am to Midnight.

SUBMISSIONS AND REASONS

The Presenting Officer, Karyn Abbott, introduced the Parties and the application to the Committee and rectified an error in the Agenda papers, namely that the supply by retail of alcohol Mondays to Sundays 08.00 to 02.00 applies to members of the public.

Mr Bayliss on behalf of the Applicant, TOG (Aldwych) Limited confirmed to the Committee that the outside area at the premises has been subject of a Pavement licence issued by the Council for 2 years. This area has been used for the consumption of food and alcohol supplied from the inside bar and kitchen areas. The Applicant would like a bar servery in the outside area to permit the sale of alcohol rather than waiters/waitresses having to obtain alcohol from inside the Premises and navigate through customers inside and outside the Premises. Therefore, the use of the outside area by customers will be the same but there will be a mobile bar in situ.

In response to questions from the Committee, Mr Bayliss confirmed that the pavement area is very wide, and the Authority has already approved its use under a Pavement Licence. He identified the location of the mobile bar on the plans and agreed that the plans could be clearer.

Mrs Sally Fabbricatore (representing the Environmental Health Service) advised that the EHS have no concerns about public safety as the licensed area would be fenced with side hoardings and the pavement is wide enough to accommodate the licensed area and pedestrians. The Committee also received confirmation that the conditions

proposed, allays the EHS fears and that the area has already been trading using off sales to supply alcohol to that area.

Mrs Fabbriatore confirmed that no public nuisance had been reported and her condition 47 on page 37 of the bundle is to be deleted.

In response to questions from the Committee, the EHS stated that in response to the representation from the High Commission of India, the area is already being used and there have been no reported public nuisance. The Pavement Licence dictates the location of tables and chairs, time of use and capacity of the area and this has not changed. It is unlikely that there will be an adverse impact.

Mr Burnett, Legal Adviser to the Committee, discussed the wording of the proposed conditions (if the application is granted), with all parties. Mr Bayliss agreed the conditions, to splitting condition 46 on page 37 of the Agenda and deleting the EHS proposed condition 47. He also undertook to produce layout plans which comply with the Act.

Conclusion

The Committee has determined an application for a variation of a Premises Licence under the Licensing Act 2003.

In reaching their decision, the Committee took into account the Act, Westminster's Statement of Licensing Policy, the Revised Guidance issues under section 182 of the Act, all the Committee papers, additional evidence and the oral submissions made by all the parties.

The Committee was persuaded that the application met the policy requirements under Westminster's Statement of Licensing Policy. The Committee has imposed the conditions as agreed and amended and considered all the conditions to be appropriate and proportionate.

The Committee has decided, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. To grant permission to:

Extend the ambit of the licence area of the ground floor for the supply of alcohol for consumption on the premises to include the external area used under the authority of a pavement licence issued by Westminster City Council in order to use a mobile bar counter in that space to serve draught beer.

2. Relevant Mandatory Conditions to apply

3. Existing and additional Conditions consistent with the operating schedule:

10. After 01.00 hours, the sale of alcohol shall be ancillary to food, consumed by seated persons, supplied by waiter / waitress.
11. Substantial food and non-intoxicating beverages, including drinking water, shall be available on the premises where alcohol is sold or supplied for consumption on the premises.
12. The supply of alcohol shall be by waiter or waitress service or bar service.
13. The supply of alcohol for consumption 'Off' the premises shall only be,
 - (i) In sealed containers ancillary to a take-away meal
 - (ii) To persons seated at the outside tables and chairs by waiter/waitress service.
14. There shall be no self-service of alcohol.
15. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
16. The number of persons permitted in the premises between 01.00 hours and 02.00 hours (excluding staff) shall not exceed 200 persons.
17. All beers and lagers sold in glass bottles are to be decanted into drinking containers prior to being served.
18. 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 shall 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 shall include the external area immediately outside the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
19. 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.
20. 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 shall 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/scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

21. There shall be no new entry for non-residents after 00:30 hours.

22. 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.

23. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.

24. All tables and chairs shall be removed from the outside area by 23.00 hours each day

25. The Supply of Alcohol to members of the public shall be permitted from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

26. Where licensable activity is permitted, a minimum of one SIA registered door supervisor shall be on duty at the external entrance to the premises from 21.00 hours on Thursday to Saturday.

27. On Sundays to Wednesdays the requirement for and number of SIA door supervisors after 21.00 hours each day shall be risk assessed by the premises licence holder or DPS dependent upon the occasion, such risk assessment shall be kept at the premises for a minimum of 21 days following the occasion.

28. A noise limiter must be fitted to the musical amplification system set at a level determined by and in consultation with local residents to the satisfaction of an authorised officer of the Environmental Health Service, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

29. Loudspeakers shall not be located in the entrance lobby or external to the premises building.

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

31. 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.
32. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.
33. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
34. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
35. All deliveries shall be to the service road leading to the basement delivery area.
36. All refuse shall be stored internally prior to collection.
37. No rubbish including bottles shall be moved, removed or placed in outside areas between 23.00 hours and 07.00 hours.
38. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
39. 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.
40. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
41. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
42. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
43. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
44. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing should be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes, other than foyers, entertainment areas or function rooms, should be non-combustible.

45. Any condition on this licence relating to live music shall have effect and section 177A shall not apply to such conditions.

Conditions agreed and attached after a hearing by the licensing authority

46. Alcohol may be supplied from a mobile unit located in the outside area coloured red on the approved plan

47. Alcohol shall be supplied from the mobile unit by waiter/waitress service,

48. Alcohol shall only be supplied from the mobile unit to customers seated at tables and chairs immediately outside the premises in a space approved by the City Council for such purposes.

49. The mobile unit shall cease service and shall be taken inside the premises at 23.00.

50. There shall be no cash sales from the mobile unit which shall be monitored by staff at all times.

51. There shall be no off sales of alcohol from the mobile unit.

Informative:

The Applicant has undertaken to provide the Licensing Authority with updated plans showing this outside area as part of the overall premises and which complies with 23 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005

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

**Licensing Sub-Committee
20 July 2023**

2. JOHN SNOW, 39 BROADWICK STREET, W1F 9QJ

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

Thursday 20 July 2023

Membership: Councillor Robert Eagleton (Chair),
Councillor Md Shamsed Chowdhury
Councillor Karen Scarborough

Officer Support: Legal Adviser: Steve Burnett
Policy Officer: Daisy Gadd
Committee Officer: Sarah Craddock
Presenting Officer: Karyn Abbott

Other Parties: Niall McCann, Keystone Law (Solicitor for the Applicant),
Mr Samuel Smith (Director of the Applicant Company),
Mr Richard Brown (Solicitor, Westminster's Citizens Advice
representing Wendy Hardcastle of the Soho Society.

**Application for a variation of a Premises Licence for John Snow, 39 Broadwick
Street, London W1F 9QJ**

Full Decision

Premises:

John Snow
39 Broadwick Street
London
W1F 9QJ

Applicant

Samuel Smith Southern

Ward

West End

Cumulative Impact Zone

West End

Special Consideration Zone:

None

Licensable Activities and Hours to be varied:

Late Night Refreshment (Indoors)

The terminal times on Fridays and Saturdays varied from 23.30 to 00.00.

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

Retail Sale of Alcohol (Both)

The terminal times on Fridays and Saturdays varied from 23.00 to 00.00

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

Opening Times

The terminal times on Fridays and Saturdays varied from 23.00 to 00.00

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

Summary of Application

This is an application for a variation of a premises licence under the Licensing Act 2003 ("The Act"). The Premises operates as a public house. The Applicant is seeking to:

1. Extend all licensable activities (including opening hours) on Friday and Saturday until 00:00 hours.
2. To remove all conditions (numbered 9 to 11) currently attached to the Premises Licence and replace with updated conditions.
3. To add non-standard timings for all licensable activities (including opening hours) to extend for New Year's Eve. *'From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.'*

There is a resident count of 175

Representations Received

- PC Steve Muldoon (**Withdrawn 14th July 2023 subject to the terminal time for the sale of alcohol being reduced by 30 min**)
- One local resident
- The Soho Society

Issues raised by Objectors

Already a saturated the area with excessive licences with alcohol creating cumulative impact of noise level rendering the area unfit for children and unfit to live for adults both due to noise and unsafe area due to lack of police resources to control.

Objection to this application to extend the operating hours of this public house. This extension will fail to promote the licensing objectives and increase cumulative impact in the West End Cumulative Impact Zone.

The applicant has to demonstrate that there will be no increase in cumulative impact and promote the licensing objectives operating until midnight on Friday and Saturday the busiest nights of the week in Soho.

The additional hour will also result in more people being retained for longer in the area, a concern and raised within Cumulative Impact Policy.

Noise - increasingly a problem for residents. More disturbed sleep. Car doors slamming as patrons leave premises. Screaming/shouting. Pedicabs with boom boxes. Drug dealers hanging around in cars with loud music playing outside venues late at night. Street urination and vomiting. Anti-social drunken behaviour and vandalism.

The level of crime, disorder and anti-social behaviour continues to be a huge problem in Soho, the crime figures are high and increasing.

Policy Considerations

Policy PB1(B) states:

B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:

1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1.
2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.

C. The applications referred to in Clause B1 and B2 will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1, and/or,
2. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
3. The application and operation of the venue continuing to meet the definition of a Public House or Bar in Clause D.

D. For the purposes of this policy a Public House or Bar is defined as a premises, or part of a premises that's primary use is the sale or supply of alcohol for consumption

on those premises and/or for consumption off the premises for consumption outside the venue.

The Core hours for Pubs and Bars are:

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday: Midday to Midnight.

Policy CIP(1) states:

A. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment, other than applications to:

1. Vary the hours within Core Hours under Policy HRS1, and/or
2. Vary the licence to reduce the overall capacity of the premises.

C. Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.

D. For the purposes of this policy the premises types referred to in Clause A are defined within the relevant premises use policies within this statement.

Policy HRS1 states

A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.

Pubs and Bars Core Hours

Monday to Thursday: 10.00am to 11.30pm.

Friday and Saturday: 10.00am to Midnight.

Sunday: 12.00 pm to 10.30pm.

Sundays immediately prior to a bank holiday: 9am to Midnight.

SUBMISSIONS AND REASONS

Ms Karyn Abbott, the Presenting Officer, outlined the application to the Committee. She confirmed that the Metropolitan Police Service had now withdrawn their representation as the Applicant had agreed to reduce their application for the Sale of Alcohol by 30 minutes. She advised that two further representations had been received from Interested Parties and that the Premises situated in the West End Ward and falls within the Cumulative Impact Zone (CIZ).

Mr Niall McCann, Keystone Law (Solicitor for the Applicant), outlined the application along with Mr Sam Smith who was in control of the day-to-day operation. He advised that Mr Smith was one of the founding family and was in charge of the London Sam Smith pubs. He referred to his submissions at page 68 of the Agenda papers which had been considered by the Committee. He advised that there had been no complaints or allegations from local residents and/or the Responsible Authorities in respect of the Premises.

Mr McCann advised that the representations set out as their main points: the noise nuisance caused by pedicabs and anti-social behaviour and the criminal activity/gangs currently operating in the area. Mr McCann emphasised that the Applicant was not disputing these issues exist but did not accept that his Premises was the source or contributed to these issues.

Mr McCann advised that the Applicant had 17 Premises which were all traditional freehold pubs or long lease, and none had been Reviewed. He explained that Sam Smith pubs were unique in that they did not sell the usual mass market beers, spirits and snacks and that there were no TVs or music within the Premises. He added that customers tended to attend after the theatre and this extra 30 minutes would allow them to relax over their drink instead of having to rush to finish it before the pub had to close. He outlined how the Applicant was extending and promoting the food offer in all their Premises but especially pushing it within his London Premises. He added that this was not a venue for pre drinks before going to a late bar or nightclub. Mr McCann strongly stated that the representations set out the problem occurring within Soho and not these Premises.

Mr McCann advised that the Applicant had considered it prudent when making this application to update the conditions on the Premises Licence in line with the relevant Council's model conditions which he hoped would alleviate local residents and the Soho Society's concern. He further advised that the Applicant had agreed to decrease the terminal time for the use of the outside area from 11.30pm back to 11pm. He then reminded the Committee that the application complies with Westminster's Pubs Policy in that applications within Core Hours will generally be granted subject to other policies relating to crime and disorder and public nuisance.

Mr McCann concluded by informing the Committee that this was a modest application with appropriate agreed, additional conditions. He emphasised that the application was not driven by profit but by the extreme pressure on both operational costs on one side and consumer confidence on the other and that the Premises did not add to the CIZ.

In response to questions from the Committee, Mr McCann confirmed that after discussions with the Metropolitan Police Service the Applicant had agreed to accept reducing 30 minutes on alcohol sales to provide half an hour drinking up time on Friday and Saturday evenings. He advised that the Premises had a simple and diverse dispersal policy which the Applicant was very happy to adopt and be conditioned as part of the Premises Licence. He emphasised that in terms of the CIA the Premises was reducing the number of people drinking outside of the Premises late at night which was actually reducing the potential noise nuisance caused by patrons just chatting and talking on the streets. He advised that the

additional hour would mainly benefit the post-theatre crowd and allow them to have a quiet and relaxed drink before they made their way home.

Mr McCann outlined that the Premises Licence would now include the relevant Council's Model Conditions: 20, 23, 26, 42, 58, 63, and 67 which included displaying prominent notices, providing a telephone number to local residents, waste collection, smoking area(s), staff training and a dispersal policy. He confirmed that the Applicant had a Pavement Licence. He added that as a pub there was no capacity condition placed on the Premises Licence and emphasised that there had never been any queuing to get into the pub.

Mr Richard Brown (Solicitor, Westminster's Citizens Advice representing the Soho Society) informed the Committee that this was a straightforward application and there were no issues with how the Premises operated. He advised, however, that the pub was located in the CIZ and although there was no presumption to refuse the application, the Applicant must show that the application would not add to crime and disorder or public nuisance and must be assessed on its own merits.

Mr Brown referred the Committee to the Soho Society's representation and in particular to the statement that crime levels are now higher than the pre-pandemic levels and the sleep survey which found that 59% of residents were woken 3 to 4 times per night. He advised the Committee that the application by the increase in trading hours must add to CIZ, even though it was a modest application and not at the higher end of the scale. This means that the application is contrary to Policy despite there being no problems at the Premises and the Premises being well managed. He asserted that it was still a vertical drinking operation and this must be a factor in the Committee's consideration. He added that there were also concerns that the grant of this application would be used in support of other applications from the Applicant.

Mr Brown explained that where there were a large number of licensed Premises there would be a cumulative impact effect which would eventually lead to high levels of crime and disorder and public nuisance (if not controlled) and this was what was happening in Soho right now. He emphasised that it was not often an individual Premises operating in a harmful way but an accumulation of people attending an specific area that created problems. He advised that it was for Mr McCann to demonstrate that this application would not have an impact on the CIZ especially as the Police's crime figures/stats indicate that from 21:00 hours crime and disorder significantly increases within the CIZ. Mr Brown quoted PC Muldoon who stated in the report that 'the crime levels in Soho are astronomically high and the Police are struggling to cope.'

Ms Wendy Hardcastle (representing the Soho Society) advised that the Soho Society loved the pub, its history and longevity however they also supported local residents in densely populated areas in Soho from public nuisance. She echoed Mr Brown's submission especially regarding the Sleep Survey and set out that it was becoming increasingly difficult for people to live in Soho because of the constant noise and anti-social behaviour that was increasingly evident in the area. She advised how the pavements were regularly blocked by patrons standing outside of the pub drinking and outlined how Councillor Lilley, (Ward Councillor for the West

End) had been quite shocked at how congested the pavement had and had gone in to speak to the manager about the issue.

Ms Hardcastle advised that every single extension added to the CIZ and the problems in Soho. She outlined that having a drinking up time did not necessarily mean less drinking as a patron could order a double/two drinks to consume in that 30 minute period. She emphasised that many residents were seriously considering moving away from Soho because the situation was becoming intolerable. She advised that she had been very disappointed that the Metropolitan Police Service had withdrawn their representation. However, their data clearly set out the very high crime figures in Soho. She strongly added that it was not just about this application/Premises but the surrounding streets. She requested that the Committee consider the health and well-being of the residents and refuse this application on the grounds of cumulative impact.

In response to questions from the Committee, Mr Brown advised that attaching the updated conditions to the Premises Licence was both helpful and appreciated but it did not address the wider cumulative impact concerns of local residents and the Soho Society. He emphasised that this was especially so because this application was for an extension for vertical drinking in the West End Cumulative Impact Area. He confirmed that he did not consider that the addition of these conditions would mitigate even a small extension to the sale of alcohol.

Mr Steve Burnett, Legal Advisor to the Committee, advised that the application was within the Council's Core Hours Policy and these types of applications would generally be granted subject to other policies relating to crime and disorder, public nuisance and consideration of the four licensing objectives. This was confirmed by the Policy Officer, Ms Gadd.

Mr Burnett, Legal Adviser to the Licensing Committee, discussed the wording of the agreed proposed conditions (if the application is granted), with all parties. During his summing up, Mr McCann advised that the Premises Licence would include a condition for CCTV and further conditions that would tighten controls in all aspects of the Premises.

He emphasised that the Police had withdrawn their representation and that the other Responsible Authorities had not made representations nor had there been any complaints made by them or local residents. He concluded by informing the Committee that this was a modest application with appropriate agreed, additional conditions.

Conclusion

The Committee realises that it has a duty to consider each application on its individual merits and did so for the purposes of this application. This Decision is in no way intended to sway or influence any future decisions in relation to applications submitted by this Applicant. This Decision is not to be considered as persuasive or restrictive on the decision making process of other Sub-Committees. Other applications from the Applicant will be decided on their own merits.

Having carefully considered the matter and the need to promote the licensing objectives, the Committee has decided to **grant** the application. The Committee was persuaded that the application met the policy requirements. The Committee has imposed additional conditions and considered them to be proportionate and appropriate to promote the licensing objectives.

The Committee had regard not only to the written and oral evidence but also to the Act, The Guidance under section 182 of the Act and Westminster's Statement of Licensing Policy, in the main, CIP1, PB1 and HRS1.

It is noted that *"it is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for pubs and bars other than applications to vary the hours within Core Hours"* under Policy HRS1 which is the case in this application. This must be balanced with the policy that *"Applications within the core hours will generally be granted subject to not being contrary to other policies in the Statement of Licensing Policy."*

The Applicant does not seek to increase the capacity of the Premises or increase the hours to beyond core hours. Indeed, the new conditions and restriction on the use of the outside area reduces the risk of the Premises adversely affecting the Licensing Objectives and directs control not only on customers inside the Premises who will subsequently leave but also on customers using the outside area. The Committee accepts that the nature of trade at the Premises would not necessarily attract patrons wanting late pre club/bar drinks. The premises provides its own brand of beers and seeks to retain their existing clientele. It does not provide TV, live or recorded music.

It is accepted that any increase, no matter how small, in trading hours is likely to add to the Cumulative Impact by retaining patrons in the area for longer. However, this must be balanced with policy that *"applications within the core hours will generally be granted subject to not being contrary to other policies in the Statement of Licensing Policy"*, the nature of the operation, the history of issues emanating from the operation of the Premises, the appropriateness of the agreed conditions and the evidence given during this hearing.

Indeed, it was noted that the Police had withdrawn their representation and that no representation had been made by the or Environmental Health Service or the Licensing Authority, the Committees own experts on crime and disorder and public nuisance.

It is also noted that, conditions have also been offered which promotes the licensing objectives, including a reduction in the terminal time for the use of the outside area. Old, otiose conditions converted from the Licensing Act 1964, have been deleted and updated with conditions which are appropriate and proportionate to ensure that the licence promoted the licensing objectives.

Despite the representations that any minor increase in hours, albeit hours within Core Hours "must" add to Cumulative Impact in an area, the Committee has confidence that on balance, in this case, based on the evidence and lack of representations from the Authorities, this application can be **granted**.

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

1. **Vary:**

Late Night Refreshment (Indoors)

– Fridays and Saturdays - 23.00 to 00.00.

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

Retail Sale of Alcohol (Both)

– Fridays and Saturdays from 10.00 to 23.30

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

Opening Times

– Fridays and Saturdays from 10.00 to 00.00

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

2. **Apply relevant Mandatory Conditions.**

3. **Delete current conditions 9, 10 and 11.**

4. **Add agreed conditions consistent with the operating schedule and imposed at hearing:**

12.

(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.

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. 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.

15. No drinks to be taken outside after 23.00 hours.

16. All outside tables and chairs shall be rendered unusable by 23.00 hours each day.

17. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

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

19. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.

20. 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.

21. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

22. 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.

23. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.

24. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are properly

supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

Conditions proposed at Hearing and agreed as being appropriate and proportionate.

25. The Premises Licence Holder shall ensure that staff are trained in relation to and adhere to a written dispersal policy, a copy of which shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council

26. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.

27. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.

28. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

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

**Licensing Sub-Committee
20 July 2023**

3. 1 HORSE GUARDS AVENUE, SW1A 2HU

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

Thursday 20 July 2023

Membership: Councillor Robert Eagleton (Chair),
Councillor Md Shamsed Chowdhury
Councillor Karen Scarborough

Officer Support: Legal Adviser: Steve Burnett
Policy Officer: Daisy Gadd
Committee Officer: Sarah Craddock
Presenting Officer: Karyn Abbott

Other Parties:
Ben Sykes and Ina Ottmann (Head of Legal) on behalf of the Applicant,
Huckletree (1HGA) Limited

Ms Kudzaishe Mondhlani (Environmental Health Service - EHS),

Application for a New Premises Licence for 1 Horse Guards Avenue, London
SW1A 2HU – 23/01731/LIPN

Full Decision

Premises:

1 Horse Guards Avenue
London
SW1A 2HU

Applicant

Huckletree (1HGA) Limited

Ward

St James's

Summary of Application

This is an application for a new premises licence under the Licensing Act 2003 ("The Act"). The Premises Huckletree 1HGA is a workspace with shared workspaces, private offices, 1 event spaces/main breakout area and 4 meeting rooms.

The workspace is accessed by:

- (a) Office tenants - those persons with a minimum one month contract to occupy office space.
- (b) Resident desk members - those persons who pay a membership for access to a fixed desk;
- (c) Hot desk members - those persons who pay membership for access to shared workspace;
- (d) Persons attending a private pre-booked event, seminar or function;
- (e) Directors and employees of the licence holder and its affiliated companies;
- (f) Persons who have pre-booked a meeting room and paid a charge per visit;
- (g) Any guests of the above.

Huckletree's corporate events include networking, panel discussions, product launches, conferences and workshops which take in our meeting rooms and event space (with access to a terrace).

There is a resident count of 112

Cumulative Impact Zone

None

Special Consideration Zone:

None

Licensable Activities and Hours:

-

Retail Sale of Alcohol (on)

Mondays to Saturdays - 10.00 to 23.00

Sundays - 12.00 to 22.30

Opening Times

Mondays to Sundays – 08.00 to 23.00

Representations Received

- Kudzaishe Mondhlani – Environmental Health Services
- Peter David
- Caryl Topolski
- Johanna Du-Lac
- Lady Brownlie

Issues raised by Objectors

The granting of the application as presented would have the likely effect of causing an increase in Public Nuisance within the area.

Concerns about excessive noise levels, flashing lights, and unsightly mess.

This listed building was designed to be naturally ventilated via windows, (their appearance protected by listing), including those of sleeping accommodation/bedrooms, on the elevations above and sideways from the Applicant's external terrace.

The thought of yet another drinking establishment will affect peace in the evenings. Where alcohol is involved with loud talking and laughter which gets worse the later it goes on.

How will the security of the building be protected from unauthorised access through the licensed premises?

Policy Considerations

Policy PB states:

A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.

B. Applications for hours outside the core hours set out in Clause

C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:

1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.
2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.
3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.
4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.
5. The proposed hours when any music, including incidental music, will be played.
6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.
7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.
8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.
9. The capacity of the premises.
10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural

and sporting venues due to the nature of the operation.

11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.

12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.

13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.

14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.

Policy HRS1 states

A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.

SUBMISSIONS AND REASONS

The Presenting Officer, Karyn Abbott, introduced the Parties and the application to the Committee.

Mr Sykes on behalf of the Applicant, Huckletree (1HGA) Ltd explained to the Committee the reasons for the application. They offer workspaces, which can cater for the likes of the Ministry of Defence as the spaces are fitted out with Government tech. It is inevitable that they will host events, and this is likely to be during Mon -Sat 10.00 to 23.00. These events are not available to the public, since Government worker have strict protocols.

Mr Sykes advised the Committee that licensable activities and consumption of alcohol will only take place on the 1st floor in the area edged in red on the proposed plan. The remainder of the building contains private offices.

The capacity on the 1st floor is 54 but events in the red lined, first floor area will accommodate 50 people. Mr Sykes confirmed that they would seek a maximum capacity for the event area of 50 and he agreed to this being conditioned on the Premises Licence if granted.

The Applicant also agreed to conditions proposed by the EHS and Metropolitan Police. He would also accept the model condition to provide a telephone number of a manager to local residents and that events are to be monitored by staff. There are

security staff on site when the Premises is open and they will control access and egress.

In response to additional questions from the Committee, Mr Sykes confirmed that alcoholic drinks are purely for events. Other workers will not be able to purchase alcohol and wander around the building or consume it in other areas of the Premises. Their movement will be controlled by staff working at the event and security. No licensable activities or consumption of alcohol will take place outside the event space.

The redlined area on the lower ground floor plan is an error and will be removed. It is anticipated that there will be 2 to 3 events per week but not all will require the sale or supply of alcohol.

The Committee was informed that weddings and birthday parties would not take place. Members of the public are not permitted on site as the site will be hosting Government Officials.

The Committee was informed that the Premises is not a bar, pub or club. Smoking is not permitted on site. Smokers will have to leave the Premises and go to a park. There have already been events at the premises which has not attracted any complaints.

Ms Mondhlani (representing the Environmental Health Service) advised the Committee that the EHS maintained their representations because 4 residents had objected but as the Applicant has accepted the proposed conditions, the representation is now withdrawn.

Mr Burnett, Legal Adviser to the Licensing Committee, discussed the wording of the proposed conditions (if the application is granted), with all parties. Mr Sykes confirmed agreement of the proposed conditions from the Police and EHS. He confirmed a total capacity for the event space and terraced area on the 1st floor of 50 people and that each event will be supervised by staff. He will also arrange for the area on the lower ground floor, edged in red to be removed from the lower ground floor. The amended plan will be lodged with the Licensing Authority.

Decision

The Committee has decided an application for a grant of a New Premises Licence under the Licensing Act 2003.

In reaching their decision, the Committee took into account the Act, Westminster's Statement of Licensing Policy, the Revised Guidance issues under section 182 of the Act, all the Committee papers, additional evidence and the oral submissions made by all the parties.

The Committee was persuaded that the application met the policy requirements under Westminster's Statement of Licensing Policy. The Committee has imposed the conditions as agreed and amended and considered all the conditions to be appropriate and proportionate.

The Committee was also satisfied that the application was suitable for the local area and the Applicant had addressed the concerns raised by the parties. The Committee further considered the conditions were proportionate to ensure that the licence promoted the licensing objectives these would also help to alleviate concerns.

The Committee has decided, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. To grant permission for:

Retail Sale of Alcohol (on)

– Mondays to Saturdays - 10.00 to 23.00

Sundays - 12.00 to 22.30

Opening Times

– Mondays to Sundays – 08.00 to 23.00

2. Relevant Mandatory Conditions to apply

3. Conditions consistent with the operating schedule:

9. Notices shall be prominently displayed at exits reminding persons leaving to respect the needs of local residents and businesses and to leave the premises quiet.

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

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

Conditions proposed by the Environmental Health

12. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as offices.

13. The supply of alcohol shall only be to

- a) Directors and employees of the licence holder and its affiliated companies;
- b) Office tenants - those persons with a minimum one month contract to occupy office space.
- c) Resident desk members
- d) Hot desk members
- e) Persons attending a private pre-booked event, seminar or function.

Any guests of the above. A list of whom shall be kept on the premises at all times together with a record also showing the names and dates of attendance of any

guests introduced by members. All records shall be produced on demand for inspection by the police or an authorised officer of the Council.

14. 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.

15. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.

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

17. A 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.

18. There shall be no licensable activities **or consumption of alcohol** on the terrace after 22:00 hours

19. 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.

Conditions proposed by the Metropolitan Police Service

20.

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 shall 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 shall 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.

21. 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.

22. The Licence holder shall ensure a full risk assessment is completed for all pre-booked events in the event space. This risk assessment shall be available to the licensing authority and Police upon request.

23. 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 shall 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.

Conditions agreed and imposed at hearing.

24. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.

25. The total capacity of the Kitchen/Event Space and terrace areas on the first floor shall not exceed 50 people excluding staff.

26. The total capacity of the terrace area on the first floor shall not exceed 20 people excluding staff.

27. Consumption of alcohol purchased/supplied in the Kitchen/Event Space shall only be permitted in the Kitchen/Event Space and Terrace areas on the first floor.

28. All events taking place in the Kitchen/Event Space and terrace areas on the first floor, shall be supervised by staff at all times.

29. The sale of alcohol shall only be permitted in the Kitchen/Event Space area on the first floor

Informative

The Committee requests that the Applicant updates the layout plans removing the red-lined area on the lower ground floor, which the Applicant confirmed was an error, removing the red dots unless they are identified in a legend and plans which comply with 23 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005. The Licensing Authority will assist the Applicant in this regard.

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

**Licensing Sub-Committee
20 July 2023**

The Meeting ended at 3.14 pm