



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (4)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 23rd May, 2024**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Angela Piddock (Chair), Judith Southern and Melvyn Caplan

#### 1. MEMBERSHIP

1.1 There were no changes to the membership.

#### 2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

#### 1. TESCO, 40 EDGWARE ROAD, W2 2EH

### **WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.4** **("The Committee")**

Thursday 23 May 2024

Membership	Councillor Angela Piddock Councillor Judith Southern and Councillor Melvyn Caplan
Officer Support	Legal Advisor: Horatio Chance Committee Officer: Sarah Craddock Presenting Officer: Jessica Donovan
Others present:	Jeremy Bark (Solicitor for the Applicant) and Hardish Purewal (Applicant company)  Richard Brown - Licensing Advice Project on behalf of the Hyde Park Estate Association

**Application for a New Premises Licence in respect of Tesco 40 Edgware Road  
London W2 2EH 24/01193/LIPN**

**FULL DECISION**

**Summary of the Application**

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act") in respect of Tesco 40 Edgware Road London W2 2EH ("The Premises"). The Premises intends to operate as a supermarket in the Marylebone Ward. The Premises are located within the Edgware Road Buffer Zone Special Consideration Zone. There is no policy presumption to refuse applications of this type outside of the West End CIZ. However, the onus is on the Applicant to address the key considerations of the Edgware Road Buffer Zone at paragraphs D51 and D52 as set out on page 57 of the City Councils SLP.

**Paragraph D51 reads** "Edgware Road is 0.10km<sup>2</sup> in size, accounting for 0.4% of the borough's footprint. The local issues that need to be considered by applicants are: Serious Violent Crime at Night, Incidents relating to ambulance call outs at night to the locations of licensed premises for intoxication, injury related to intoxication and/or assault, Drug dealing at night, Robberies at Night, Theft incidents at night, Noise Nuisance at night; Paragraph D52 states; The incidents recorded between 2017 and 2019 were nearly four times the boroughs average rate of incidents per square kilometre).

The Applicant has addressed the concerns of the SCZ as part of their submission on pages 13-14 of the additional papers. The Applicant applied for Late Night Refreshment but has since withdrawn this from the application. Therefore, the sale of alcohol Off the Premises applies - the start time has been amended from 06:00 to 08:00.

There is a resident count of 180.

**Premises**

Tesco  
40 Edgware Road  
London  
W2 2EH

**Applicant**

Tesco Stores Limited

**Ward**

Marylebone

**Cumulative Impact Area**

None

## **Special Consideration Zone**

Edgware Road SCZ

## **Activities and Hours**

**Sale by Retail of Alcohol (Off the Premises)** Monday to Sunday 08:00 to 23:00.

Seasonal variations: None

**Opening Hours of the Premises:** Monday to Sunday: 06:00 to 00:00.

Seasonal variations: None

## **Representations Received**

- Metropolitan Police Service (PC Dave Morgan) (**Withdrawn**)
- Environmental Health Service (Kudzy Mondhlani) (**Withdrawn**)
- Susie Burbridge (Hyde Park Estate Association).
- Councillor Karen Scarborough.

The Hyde Park Estate Association (“HPEA”) and Councillor Karen Scarborough objected citing concerns regarding public nuisance, crime and disorder, Public Safety and Protection of Children from Harm. Both objectors wish for the applicant to be refused because the Premises is located within the Edgware Road Buffer Special Consideration Zone. Councillor Scarborough has since stated that if the revised delivery condition as proposed by Richard Brown is agreed then she would withdraw her objection – this features as Condition 26 below. HEPA also agree with Councillor Scarborough but wish for the hours on Sunday for the Sale of Alcohol to be reduced to core hours. If this is agreed then they will agree to withdraw their objection.

## **Summary of Representations received**

- *The Hyde Park Estate Association is a recognised amenity group by Westminster Council and we would like to support the objections sent in by the Marylebone Ward Councillors below. The Edgware Road is a Special Consideration Area. Although we would support moves towards a Stress Area. We are all well aware that what happens on of Edgware Road has an immediate effect on both sides. Hence Hyde Park Estate Ass. would support this objection by the Marylebone Ward Councillors that this application would not promote Westminster's Licensing objectives. We therefore ask the committee to refuse this application in order to uphold the Licensing objectives and our residents needs*
- *On behalf of the Marylebone Ward Councillors, I am writing to object to the above mentioned application as this will not promote the Licensing Objectives, namely , Prevention of Public Nuisance, Crime and Disorder, Public Safety and Children from Harm. We object to the hours sought for the sale of alcohol of 06:00 to 00:00 as this will not promote the Licensing Objectives and Edgware Road is a Special Consideration Area.*

## **Policy Considerations**

Policies SCZ1, HRS1 and SHP1 apply under the City Council's Statement of Licensing Policy ("SLP").

### **Policy SCZ1**

A. 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, in question as identified within the 2020 Cumulative Impact Assessment, and should set out any proposed mitigation measures in relation to those issues within their operating schedule.

B. For the purpose of Clause A, the designated Special Consideration Zones are:

- West End Buffer.
- Queensway/Bayswater.
- Edgware Road.
- East Covent Garden.
- Mayfair.
- Victoria

### **Policy 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.

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.

C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:

6. Pubs and bars, Fast Food and Music and Dance venues

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.

D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.

## **Policy SHP1**

A. Applications for a shop outside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.

2. The hours for licensable activities are within the council's Core Hours Policy HRS1.

3. The operation of any delivery services for alcohol meeting the council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1.

4. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.

5. The application and operation of the venue meeting the definition

of a shop in Clause C.

B. Applications for a shop inside the West End Cumulative Impact Zone will be considered on their own merits and subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol meeting the council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1.
4. The applicant having demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
5. The application and operation of the venue meeting the definition of a shop in Clause C.

C. For the purposes of this policy:

1. A shop is defined as a stall, vehicle, vessel, temporary structure, building or part of a stall, vehicle, vessel, temporary structure or building where the primary activity is the sale of goods or services to customers upon payment.
2. The licensable activities for the sale of alcohol for consumption on the premises, regulated entertainment and/or late-night refreshment must be ancillary to the primary use of the premises as a shop.
3. The licensable activity of the sale of alcohol for consumption off the premises must be an ancillary function to the primary use of the premises unless that primary use is to sell alcohol for consumption off the premises, e.g. a traditional off licence.

### **SUBMISSIONS AND REASONS**

Ms Jessica Donovan, Presenting Officer, introduced the application to the Sub-Committee. She advised that representations had been by Councillor Karen Scarborough and the Hyde Park Estate Association. She outlined that the Metropolitan Police Service and the Environmental Health Service had agreed conditions with the Applicant and had withdrawn their representations. She added that additional submissions had been received and circulated to all parties.

Mr Jeremy Bark Solicitor appearing on behalf of the Applicant addressed the Sub-Committee. He outlined the application along with Mr Hardish Purewal (Applicant Company). Mr Bark advised that Tesco was effectively relocating to a smaller store as the landlord was redeveloping the existing Tesco store. He explained that this was the reason there was some mismatch regarding the Sunday trading hours as Tesco supermarkets were slightly different in the sense of their trading hours compared to the format of Tesco Metro stores. He advised that Tesco Metro stores around the country operated successfully from 06:00 hours to midnight every day of the week.

Mr Bark advised that the Applicant had applied for Late Night Refreshment purely due to a drink vending machine that Tesco had in all its stores where customers had to purchase a token within the store to obtain a cup of coffee from the machine. He added that this was technically a licensable activity and if the customer were able to place money directly into the vending machine then the Applicant would not have to

apply for Late Night Refreshment. He suggested that a condition stating 'Late Night Refreshment shall be limited to the use of a hot drinks vending machine' be attached to the Premises Licence as the Applicant had no intention of expanding this offer. Mr Bark outlined that the Applicant was a very responsible operator who had over 20 Tesco stores and 23 Premises Licence within Westminster, all of which promoted the licensing objectives. He advised that all the Tesco stores had excellent relationships with the Licensing Authority, local residents and Resident Associations.

Mr Bark advised that the Applicant would like the opportunity to sell alcohol up to 23:00 hours on a Sunday as they considered they were a responsible operator. He outlined that Tesco was the first store to introduce Challenge 21 and 25 within all their stores and had won various awards for their in-store systems and procedures. He explained how audits were conducted within all Tesco stores with mystery shoppers testing out the Challenge 25 policy. He advised of the training that Tesco provides to all its staff and how refresher training was conducted at regular intervals during the year. He confirmed that Tesco had strong policies on the sale of alcohol and set out how if a member of staff refuses the sale of alcohol and a complaint is made to the management, the management would always support the refusal of the member of staff. He added, therefore, in essence once Tesco says no; the answer remains no. He emphasised that Tesco believed there was no point in empowering and encouraging staff to refuse a sale and then overriding their decision.

Mr Bark stated that Tesco was intending to transfer the majority of its staff from Tesco Supermarket to the new Tesco Metro Store and that any remaining staff would transfer to other stores within Westminster. He advised that the Applicant anticipated that there would be a management team of four with 20-25 members of staff working in the store on a rota basis. He confirmed that the store was well staffed at all times and there was no comparison compared to the staffing levels at a corner shop. He added that there was CCTV within all their stores and that there was good visibility of the alcohol display from the cash tills which was a feature in all Tesco Metro Stores. He explained that the majority of the store contained food.

Mr Bark advised that in terms of the objections there had been no suggestion that the Premises Licence should not be granted. He advised that the Applicant had demonstrated that the Tesco Metro would be well operated due to the CCTV, regular staff training and their strong alcohol policies in place. He confirmed that delivery conditions had been agreed with the Responsible Authorities and that the Metropolitan Police Force, the experts in crime and disorder, were content with the extension of the sale of alcohol on a Sunday until 23:00 hours.

Mr Bark confirmed that the Applicant and the conditions that would be attached to the Premises Licence would promote the licensing objectives. He also added that there was almost a presumption to grant this application as there was no evidence before the Sub-Committee to suggest that they should refuse this application on policy grounds. He requested that the application be granted.

In response to questions from the Sub-Committee, Mr Bark advised that all staff received conflict resolution training and that there would always be three members of staff wearing body cameras: one on the shop floor, one by the cash tills and the team shift supervisor. He added that a number of stores actually had permanent security staff and that risk assessments were regularly conducted every eight to

twelve weeks as security was constantly being assessed by the management. He outlined that there would be CCTV in store monitoring customers entering and exiting the store. He added that there were panic buttons and the ability to control the front door to stop customers entering the Premises. He further added that the staff also has the opportunity to completely lockdown the store if necessary if an incident occurs and wait for help from the Police. He outlined that not all Tesco stores had permanent security staff however sometimes they were brought in at specific times of the year such as Christmas. He added that it was more than likely that this store would have permanent security staff due to its location in a Special Consideration Zone.

Mr Brown, representing the Hyde Park Estate Association, referred to Ms Burbridge's submission contained in the Agenda Pack. He advised that the Association was pleased that the hours had been reduced and that no hot food would be sold for takeaway. He added, however, that they were still unhappy with the request for the four additional operating hours on a Sunday due to the Premises becoming a destination point for street drinkers. He advised that he had done a random search and had not found any other Tesco Metro stores or off licence shop that were operating beyond the Council's Core Hours Policy and therefore the residents did not see any reason as to why this Premises should be treated any differently and/or why the Council should depart from its Core Hours Policy. Mr Brown confirmed that he did not have any concerns regarding the operation of the Premises however, the residents would like the Premises to operate within the Council's Core Hours Policy.

In response to Mr Brown's submission, Mr Bark emphasised again the strength of the Applicant's policies and systems and strongly advised that the Metropolitan Police had no concerns with the Premises operating during the requested hours on a Sunday. He further emphasised that no evidence had been produced that there were issues with street drinking in the area and although the Licensing Authority was best place to set polices to promote the Licensing Objectives in an area, all applications should be determined on their own individual merits.

During his summing up, Mr Brown advised that street drinkers could be very resourceful and news of a Premises selling alcohol earlier and later than others on a Sunday would rapidly become known and a destination Premises for street drinkers. He advised that the Applicant needed to justify and set out why they need these hours in a Special Consideration Zone and that the Sub-Committee needed to ensure that the right conditions were attached to the Premises Licence. During his summing up, Mr Bark requested that the Sub-Committee place weight on the Responsible Authorities withdrawing their representations and agreeing conditions with the Applicant. He confirmed that Late Night Refreshment would be limited to the use of a hot drink vending machine. He advised that Tesco was an excellent operator, had excellent policies and that the Sub-Committee had no evidence to refuse the application. He requested that the Sub-Committee grant the application accordingly.



## **Conclusion**

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so for the purposes of this application. There is no policy presumption to refuse the application.

The Sub-Committee had regard not only to the written and oral evidence but also to the Act, the Revised Home Office Guidance issued under section 182 of the Act and the City Council's SLP, in particular policies HRS1 and SHP1.

The Sub-Committee noted that there was no presumption to refuse an application for a shop premises outside of the West End CIZ provided the requirements of policies CD1, PS1, PN1 and CH1 are met.

The Sub-Committee was satisfied that the Applicant had addressed the local issues contained in the Edgware Road SCZ.

The Sub-Committee noted that Conditions had been agreed with the Responsible Authorities namely the EHS and the MPS after both Responsible Authorities withdrew their objections and so were not present at the hearing. The Licensing Authority did not object to the application.

The Sub-Committee noted that the Applicant had multiple established practices and procedures in place which included extensive and regular staff training, security, and Challenge 25. The Sub-Committee further noted the Applicant's assurances and various undertakings that the Premises would be well run-in accordance with those established practices and procedures already in bedded over time in respect of other licensed premises that are to be applied and adopted for these Premises.

The Sub-Committee concluded that these measures would help mitigate the concerns raised by those who had objected and ultimately have the effect of promoting the licensing objectives.

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

The Sub-Committee took the view that the right balance has now been struck when considering the needs of those who had objected to the application, in particular the objections from Councillor Scarborough and HPEA and the commercial needs of the Applicant who after all has a duty to run his Premises to the highest professional standards and in accordance with the promotion of the licensing objectives. It is hoped that all the parties going forward can work together to ensure that a fruitful dialogue is maintained whereby any issues are resolved expeditiously.

In relation to the Sunday hours the Sub-Committee was persuaded that the Applicant had the right policies and security measures in place that will help promote the licensing objectives. There was no evidence to suggest that street drinkers would be attracted to the Premises and this was not a valid reason for restricting the Premises on a Sunday to core hours based on the evidence before the Sub-Committee.

In terms of the conditions these are the conditions as set out on pages 9 and 10 of the additional agenda report. This includes the Delivery condition as amended and a condition requiring that Late Night Refreshment shall be limited to the use of a hot drinks vending machine.

The Sub-Committee having carefully considered the matter and the evidence before it decided to **Grant** the application with the hours and licensable activities as applied for, noting that the start time had been amended to 08:00 which was most welcomed. The Sub-Committee considered that this was the right balance when considering the objections for the start time and terminal hours accordingly.

The Sub-Committee considers that the conditions it has imposed on the premises licence to include CCTV by way of security, signage, age verification, that not more than 15% of the sales area shall be used at any one time for the sale of alcohol, a restriction placed on the strength of alcohol sold (save for premium and craft products), alcohol to be stored in lockable cabinets outside of the permitted hours, deliveries and collections of waste to the Premises within permitted hours so as to prevent nuisance to be appropriate and proportionate and will have the overall effect of promoting the licensing objectives, in particular the prevention of public nuisance and crime and disorder licensing objectives.

In reaching its decision, the Sub-Committee concluded that the conditions attached to the licence would mitigate and alleviate the residents' concerns of the parties who had objected and were appropriate, proportionate, enforceable and would have the desired effect of promoting the licensing objectives.

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

1. To grant permission for **Late Night Refreshment (Indoors)** Monday to Sunday 23:00 to 00:00 **Seasonal variations:** None.
2. To grant permission for **the Sale by Retail of Alcohol (Off the Premises)** Monday to Sunday 08:00 to 23:00 **Seasonal variations:** None.
3. To grant permission for the **Opening Hours for the Premises** Monday to Sunday 06:00 to 00:00 **Seasonal variations:** None
4. That the Licence is subject to any relevant mandatory conditions.
5. That the existing conditions on the licence shall remain in full force and effect save as otherwise varied by the addition of three new conditions as specified below and numbered 6-27 which are considered appropriate and proportionate to promote the licensing objectives

**Conditions imposed by the Committee after a hearing with agreement of the Applicant:**

6. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All customer entry and exit points will be covered enabling frontal identification of a person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities. 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.
7. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
8. The Store Manager or a designated member of the team will be happy to work with local residents and businesses should this be required.
9. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that accessible alcohol within the premises is secured in a locked cabinet to prevent access to the alcohol by both customers and staff.
10. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, with the exception of premium and craft products.
11. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
12. There shall be no self-selection of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
13. 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 and any other ID approved by the Home Office.
14. The store shall operate a refusal system. When alcohol is scanned at the checkout then a prompt will appear to either agree or refuse the sale.
15. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
16. The premises licence shall carry out a risk assessment on the need for SIA licensed door supervisors to be on duty at the premises whilst it is open for business. Such assessment shall be reviewed as a minimum once every 6 months.

17. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system, searching equipment or scanning equipment
  - (g) any visit by a relevant authority or emergency service.
18. No miniature bottles of spirits of 20 cl or below shall be sold from the premises.
19. Delivery of alcohol shall be to a residential address or business address.
20. Where alcohol is delivered to a residential or business address the customer will be asked to provide ID to prove their age in accordance with the Challenge 25 proof of age scheme. If the rider is not satisfied, that acceptable proof of age has been provided then the alcohol in the order will be withheld.
21. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a retail supermarket.
22. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
23. 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.
24. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
25. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 06.00 hours on the

following day unless collections are arranged during the times for the Council's own commercial waste collection service for the street.

26. Delivery drivers shall be given instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside the license premises; not to leave engines running when the vehicles are parked.
27. Late Night Refreshment shall be limited to the use of a hot drinks vending machine.

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

**The Licensing Sub-Committee  
23 May 2024**

**2. THE CHANDOS PUBLIC HOUSE, 29 ST MARTIN'S LANE, WC2N 4ER**

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.4**  
**("The Committee")**

Thursday 23 May 2024

Membership	Councillor Angela Piddock Councillor Judith Southern and Councillor Melvyn Caplan
Officer Support	Legal Advisor: Horatio Chance Committee Officer: Sarah Craddock Presenting Officer: Jessica Donovan
Others present:	Niall McCann (Solicitor for the PLH) and Samuel Smith (Director, PLH)

**Application for a Variation of Premises Licence in respect of The Chandos Public House 29 St Martins Lane London WC2N 4ER 24/00808/LIPV**

**Summary of the Application**

The Sub-Committee has determined an application for a Variation of Premises Licence under the Licensing Act 2003 ("The Act") in respect of The Chandos Public House 29 St Martins Lane London WC2N 4ER ("The Premises"). The Premises currently operates as a Pub. The Premises Licence Holder ("PLH") is Samuel Smith (Southern).

The PLH seeks to vary the Premises Licence as follows:-

- *To extend the timings for Late Night Refreshment and the Opening Hours until 00:00 hours on Friday and Saturday. (plus 30 minutes)*
- *To extend the timings for the Retail Sale of Alcohol until 23:30 hours on Friday and Saturday. (plus 30 minutes)*
- *To add non-standard timings for all licensable activities including the opening hours to extend for New Year's Eve.*
- *To remove all conditions currently attached to the Premises Licence and replace with the conditions shown at **Appendix 4** of the agenda report.*

By way of submissions the PLH has provided the following appearing at **Appendix 1** of the Agenda Report:-

- Written Submissions.
- Food and drinks menus.
- Photographs of the premises.

The Premises have had the benefit of a licence since 2005 under Licence number 05/05535/LIPC. A copy of the licence can be found at **Appendix 2** along with the premises history at **Appendix 3**.

The Premises are located within the St James's Ward and fall within the West End Cumulative Impact Zone. There is no policy presumption to refuse applications of this type inside the West End CIZ other than to vary existing core hours and reduce overall capacity. However, where these requirements are not met an exception to policy must be found.

There is a resident court of 42.

### **Premises**

The Chandos Public House  
29 St Martins Lane  
London WC2N 4ER

### **Premise Licence Holder ("PLH")**

Samuel Smith (Southern)

### **Ward**

West End

### **Cumulative Impact Area**

West End Cumulative Impact Zone ("West End CIZ")

## **Representations received**

- Environmental Health Service (**withdrawn**)
- Local resident.

## **Summary of Representations Received**

- *To extend the hours from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. This is excessive and allowing continuous opening for a period of more than 36 hours is unnecessary. Fri/Sat opening hours should be in line with other public hours in the area. There is no mention in Annex A about CCTV signage being displayed, nor of the GDPR protection / redaction process for providing CCTV footage to enforcement agencies.*

## **Policy Considerations**

Policies CIP1, HRS1 and apply under the City Council's Statement of Licensing Policy ("SLP").

### **Policy CIP1**

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**

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.

C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:

6. Pubs and bars, Fast Food and Music and Dance venues

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.

D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.



## **Policy PB1**

A. Applications outside the West End Cumulative Zone will generally be granted subject to:

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 operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has taken account of the Special Consideration Zones policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meet the definition of a Public House or Bar in Clause D.

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 late-night 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.

## **SUBMISSIONS AND REASONS**

Ms Jessica Donovan, Presenting Officer, introduced the application to the Sub-Committee. She advised that a representation had been received from one Interested Party who was not in attendance at the hearing and by the Environmental Health Service who had withdrawn it on the 20 May 2024.

Mr Niall McCann (Solicitor) appearing on behalf of the PLH addressed the Sub-Committee. He outlined the application along with Mr Samuel Smith (Director, of the PLH). Mr McCann outlined that this was a modest application to extend the hours by half an hour on Fridays and Saturdays and that there was now only one outstanding representation. He advised that there had been no complaints from the Metropolitan Police Service and the Environmental Health Service had withdrawn their representation in respect of the application.

Mr McCann advised that the PLH 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 stated that the PLH was extending and promoting the food offer in all their premises but especially pushing it within its London Premises and that this particular pub had a dedicated floor offer on its first floor.

Mr McCann advised that the PLH 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. He then reminded the Sub-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. He advised that the location of the Premises meant that it did not experience the same public nuisance of crime and disorder as some of the other Sam Smith's pub in the West End.

Mr McCann referred to the representation from the Interested Party and set out how they had sent them an email but had received no response back. He added that they believed it was a slightly bizarre representation in that the person did not live locally but in the Home Counties and that in any case there had been no allegations or history of complaints regarding these Premises.

Mr McCann concluded by saying that the Chandos was a beautiful pub and by informing the Sub-Committee that this was a modest application with appropriate agreed, additional conditions and that the Premises did not add to the West End CIZ. In response to questions from the Sub-Committee, Mr McCann emphasised that all Sam Smith pubs were very traditional and their margins of profit were quite narrow. He advised that it was a family owned business and they were in it for the long run and not to make a quick buck.

## **Conclusion**

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining the matter.

The Sub-Committee had regard not only to the written and oral evidence but also to the requirements of the Act, The Home Office Guidance issued under section 182 of the Act and the City Councils SLP in the main policies, CIP1, HRS1 and PB1.

The Premises operates as a traditional Pub under Policy PB1 and so there is no policy presumption to refuse a variation application of this type that is within the core hours policy and operating within the West End CIZ.

The Sub-Committee noted that the rationale for the application was to give the PLH more flexibility when managing the Premises in order to allow for the extension of hours for licensable activities by an extra 30 minutes daily and to extend opening hours by 30 minutes also.

The Sub-Committee welcomed that the PLH had listened to those who had objected to the application namely the EHS who were satisfied with the application after agreeing conditions and then later withdrawing. It was noted that the PLH had tried to engage effectively with the one remaining local resident but no response had been received after email contact via the Licensing Authority.

The Sub-Committee also noted that the EHS were satisfied with the application and there had been no further representations received from other Responsible Authorities.

The Sub-Committee noted that the Premises was well run free from complaint and had a unique concept and long standing tradition. This branding is entirely unique to the Premises as more particularly detailed in the PLH's submission at Appendix 1 of the agenda report which states "*The Applicant is a long standing independent brewery which takes a long term view. It is unique in that it only stocks its own products (including soft drinks and snack) and has a staunchly traditional approach to its pubs in that they do not play music, nor have televisions, nor permit laptops to be used. The whole ethos is that local communities can enjoy spending time together without unwanted distractions. By not playing music and showing television, the pubs do not attract trouble*".

The Sub-Committee having carefully considered the matter and the evidence before it decided to **Grant** the variation application with the extended hours for licensable activities. The Sub-Committee considered that this was the right balance when considering the objections, the terminal hour and any possible impact on the West End CIZ which was considered minimal due to the extra hours applied for being within core.

The Sub-Committee noted the various undertakings and commitments given by Mr McCann on behalf of the PLH into the daily running of the Premises and the robust management practices the PLH already employs that promote the licensing objectives.

The Sub-Committee considered that it was not appropriate nor proportionate to add additional conditions on the Premises Licence because the existing conditions are comprehensive enough and will first and foremost promote the licensing objectives. Moreover, there was no evidence to suggest by way of reported breaches or complaints leading to public nuisance or crime and disorder that the PLH was nothing other than a good operator with a proven track record operating a well-run Premises within the City of Westminster that was responsible and promoted the licensing objectives.

In reaching its decision, the Sub-Committee concluded that the existing conditions attached to the licence would help mitigate and alleviate the concerns of those two parties who had objected and were appropriate, proportionate, enforceable and would promote the licensing objectives.

Having carefully considered the committee papers and the submissions made by all parties, both orally and in writing, **the Committee had decided**, after taking into

account all the individual circumstances of this case and the promotion of the four licensing objectives:

1. To grant permission to extend **Late Night Refreshment (Indoors and Outdoors)** until 00:00 hours on Friday and Saturday.
2. To grant permission to extend the **Sale by Retail of Alcohol (On and Off the Premises)** until 23:30 hours on Friday and Saturday.
3. To grant permission to extend the **Opening Hours of the Premises** until 00:00 hours on Friday and Saturday.
4. To add **non-standard timings** for all licensable activities including the Opening Hours to extend for New Year's Eve.
5. That all existing Conditions on the Premises Licence are hereby removed and replaced with new Conditions as specified below numbered 8-24.
6. That the Licence is subject to any relevant mandatory conditions.
7. That the new conditions now imposed on the Licence shall have full force and effect which are considered appropriate and proportionate to promote the licensing objectives.

**Conditions imposed by the Committee after a hearing with agreement of the Applicant:**

8.
  - (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.
9. 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.
10. 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.
11. No drinks to be taken outside after 23.00 hours.

12. All outside tables and chairs shall be rendered unusable by 23.00 hours each day.
13. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
14. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
15. 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.
16. 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.
17. 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 card with the PASS Hologram.
18. 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.
19. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.
20. 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.
21. 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.

22. 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.
23. 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.
24. 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 of the Licensing Sub-Committee which takes effect forthwith.**

**The Licensing Sub-Committee  
23 May 2024**

The Meeting ended at 11.50 am