



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (6)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** held on **Thursday 7th December, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Aziz Toki (Chair) and Caroline Sargent

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. BERWICK STREET MARKET LAYOUT - STREET TRADING APPLICATION

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 6

7th DECEMBER 2023 – ITEM 1

Membership: Councillor Aziz Toki (Chair) and Councillor Caroline Sargent

Officer Support Legal Adviser: Michael Carson
 Policy Officer: Aaron Hardy
 Committee Officer: Jack Robinson-Young
 Presenting Officer: Shannon Pring

Application for a Street Trading Application in respect of Berwick Street Market Layout 23/08352/ST _ VAR

Other parties present: Catherine Brice (Head of Markets), Harry Whitehouse (Market Development Officer), David Doyle (London Fire Brigade), Anil Drayan (Environmental Health)

Full Decision

Premises

Berwick Street Market

Applicant

Westminster City Council

Ward

West End

Summary of Application

The Sub-Committee has determined a Street Trading Application from Westminster City Council. Proposals include fire breaks between pitches and a choice between the number of pitches available.

Representations received

- 18 Pitch holders
- 6 Local residents

Summary of issues raised by objectors

Objections centered around the reduction in market pitches, provision of electric to the pitches and the fire report submitted.

Policy Position

Policy ST5 applies under the City Council's Statement of Licensing Policy apply (SLP).

SUBMISSIONS AND REASONS

Ms Shannon Pring, from the Licensing Service of Westminster City Council, explained that several pitches had been removed in the new layout options put forward as there was not enough space to have the same number of pitches whilst including a one metre fire break, and one pitch would not have access to electricity.

Ms Catherine Brice, Head of Markets at Westminster City Council, addressed the Sub-Committee and informed Members currently there were 26 pitches but this number of pitches did not comply with the 1 metre fire break regulation. Ms Brice said that if there were to be 26 pitches with the 1 metre break, the pitches would have to be smaller than the 3 metre by 3 metre current sizing, commonly used across the borough. Ms Brice said that options 1 and 2 were closely aligned with the layout now, and option 3 differed the most but gave greater access to power for the traders.

The Sub-Committee asked that if no decision was made, what the outcome would be. Ms Brice said that her aim was to improve layout pitch markings which helps with enforcement and stated there had been extensive consultation with traders. The Sub-Committee asked if there were to be any changes to the drainage of the area. Ms Brice said this was not part of this consultation as this focusses solely on the layout.

The Sub-Committee were informed by Mr Anil Drayan from Environmental Health that the restriction on the amps of electric for the traders was to ensure that power was supplied in a uniform way and to ensure that the market was not dominated by food outlets. Ms Brice said that the Highways Team have ensured this level of power is safe.

Mr David Doyle from the London Fire Brigade addressed the Sub-Committee and said that markets are a great local resource with a variety of usage. Mr Doyle said that Berwick Street was very narrow and the inclusion of a 6 metre gap would allow access in case of a fire, and allows access to Kemp House for fire engines. Mr Doyle reiterated the importance of a fire break in protecting the market stalls and Mr Doyle said that of all three options, option 1 was his preferred.

The Sub-Committee asked if there was a safety risk in this street, Mr Doyle said that the ability to get a fire engine as close to the fire as possible was key, especially with regards to Kemp House. Mr Doyle said that if no decision was made, the market

would default to as it is now. Mr Doyle said that Option 1 would give fire officers the best chance of getting to and stopping a fire.

The Sub-Committee asked if there was a regulation on the distance between units, Mr Doyle said that the 1 metre gap was best practice and simply guidance. Mr Drayan from Environmental Health said that the Council must make sure that whatever is being provided for access to members of the public must be safe, even if there are no direct regulations.

The Sub-Committee then asked the policy officer and legal adviser if they had any questions which they confirmed they did not.

The Sub-Committee retired to consider the application having read the papers and having heard from the attendees.

The Sub-Committee returned and the Chair gave its decision that, having regard to the overwhelming importance of public safety, the Sub-Committee approved Option 1 to become the new layout for Berwick Street Market and to vary the licences for pitches 1111 onwards as set out in the circulated report of the Licensing Service.

The date for appealing the decision will not start until the Full Reasoned Decision has been sent to the Parties.

**Licensing Sub-Committee (6)
7 DECEMBER 2023**

2. 9-11 KINGLY STREET, W1B 5PH

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 6

7th DECEMBER 2023 – ITEM 2

Membership: Councillor Aziz Toki (Chair) and Councillor Caroline Sergeant

Officer Support

Legal Adviser: Steve Burnett
Policy Officer: Aaron Hardy
Committee Officer: Jack Robinson-Young
Presenting Officer: Jessica Donovan

Other parties present:

Alun Thomas (T&T Solicitors),
Julia Wilkinson (Shaftesbury AV),
Jamie Hazel (Little Door & Co)

Karyn Abbott (Licensing Authority LA)
Maxwell Koduah (Environmental Health – EHO),
PC Tom Stewart (Metropolitan Police Service -
MPS)

Local Residents:

Ms Angela Fealy
Mrs Shirley Sprosta
Judith Murray KC

Mr Richard Brown (CAB) on behalf of the Soho
Society.
Marina Tempia – Soho Society

**Application for a New Premises Licence in respect of 9-11 Kingly Street W1B
7PH - 23/05401/LIPN**

Full Decision

Premises

9-11 Kingly Street
London
W1B 7PH

Applicant

Little Door & Co Limited and Shaftesbury AV Limited

Cumulative Impact Area

West End

Ward

West End

Special Consideration Zone

N/A

Application

This is an application for a new premises licence under the Licensing Act 2003 ("The Act"). This application seeks to permit the premises to trade as a bar.

The premises has had the benefit of a premises licence since 2005.

To Permit:

Live and Recorded Music, Performance of Dance and Anything similar (Indoors)

Monday to Saturday 09:00 to 01:00

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

Sale by Retail of Alcohol (Both)

Monday to Saturday 09:00 to 01:00

Sundays 12:00 to 22:30

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

Late Night Refreshments (Indoors)

Monday - Saturdays 23:00 to 01:00

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

Hours Premises Are Open to the Public

Monday to Saturday 09:00 to 01:30

Sundays 12:00 to 23:00

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

Representations Received

- Kevin Jackaman – Licensing Authority (LA)

- Maxwell Koduah – EHO
- PC Andy Elliot - Metropolitan Police Service
- 54 Supporting representations
- 1 Objection from Interested Party

Issues raised by Objector.

The Licensing Authority has concerns in relation to this application and how the premises would promote the four Licensing Objectives.

The Licensing Authority require the applicant to provide submissions as to how the operation of the premises will not add to cumulative impact in the West End cumulative impact zone, in accordance with policy CIP1.

The EHO states the application will have a likely effect of increasing public nuisance.

MPS states:

The proposed extension of licensable activities is likely to undermine the licensing objectives of The Prevention of Crime and Disorder.

They have concerns about the premises being located in the CIZ and the increase in capacity and later hours on a Saturday. They also have concerns about the removal of the membership conditions.

Residents and Premises users support the application, some stating that the operation is safe, will promote the licensing objectives and a safe venue for women.

The Soho Society objects to the application and have concerns about the peak in crime and the change in the nature of the operation to a public bar/ dance venue.

Policy Considerations

Policy CIP 1 states:

C. Applications for restaurants 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 HRS 1 state:

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,

C. For the purpose of Clauses A and B above, the Core Hours for **Pubs and bars, Fast Food and Music and Dance venues:**

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to 12am.

Sunday: 9am to 10.30pm.

Sundays immediately prior to a bank holiday: 12pm to 12am.

F96 states:

The Licensing Authority does not consider a case to be exceptional because the capacity of the premises, or any proposed increase in capacity is small. The high number of premises within the West End Cumulative Impact Zone means that a small increase in capacity in each premises would lead to a significant increase overall within that area. It has been commonly argued that customers will be drawn from other premises and there will be no increase in people within the area. The experience of the Licensing Authority is that this is not the case. The massive increase in capacities in the past and the continuing number of further applications and the observable night-time occupancy levels of premises serve to discredit the argument. Each incremental increase in capacity contributes in part to increasing the attraction of the area as a “honey pot” destination for night-life and to the cumulative problems created by such a high concentration of activity in the area.

SUBMISSIONS AND REASONS

The Presenting Officer introduced the application to the Committee and introduced the Parties at the hearing.

Mr Thomas on behalf of the Applicant then requested Mr Richard Power from the Soho Business Alliance to address the Committee. Mr Power believed that the application was good for Soho and good for jobs. A 03.00 am licence in Soho's CIZ is very generous and for an operation to give that up is exceptional. Mr Power said this would bring in the right sorts of people to Soho.

Mr Thomas informed the Committee that the reduction in hours throughout the week under this operator and with a food offering was much more preferable than the current licence which did not permit food and permitted trade until 3am. There would be a 30 person increase in capacity a layout adjustment to include a kitchen and increased seating.

Mr Thomas stated that the previous Committee refused an earlier application. There were concerns about the egress of an additional 70 people into other areas of Soho. The current application has requested a capacity of an additional 30 people. He intimated that that the Soho Society will state that just because the previous application was refused, then this application should also be refused.

Mr Thomas said there have a similar operation with late hours in Greek Street, Soho for 2 years and there have been almost no issues with the venue since they opened. Greek Street is in CIZ and has a high crime area. Mr Thomas informed the Committee that the venue in Kingly Street, has only 7 residents within 75 metres and none of these are directly above or to the side of the premises. The Committee heard that the expert evidence found that customers will be able to drink for a reduced number of hours overall.

The Committee asked what the current table layout was. Mr Jamie Hazel confirmed that all seating was on sofas and chairs, not high stools.

Mr Thomas, in response to the Member's questions confirmed that there was no extension on a Sunday. This application required food to be available and there is a dispersal policy. Furthermore, planning has been granted for an increased capacity. The main exception to policy is 4 hrs is removed on Thursdays and Fridays, in the CIZ and only 1 hour added on Saturdays.

In the location, there is 24/7 security provided by Shaftesbury AV Limited with CCTV. The Committee were referred to para D18 of the SoLP. On Mondays to Fridays, the capacity of this Premise in the CIZ is reduced to zero after 01.00 instead of a capacity of 150 until 03.00. Seat for 95 people was confirmed and food is an important part of the operation.

Mr Hazel for the Applicant Company Little Door explained the nature of the operation.

Ms Karyn Abbott from the Licensing Authority addressed the Committee outlining that this premises was located within the Cumulative Impact Area and an exception to policy must be proved. The Licensing Authority were concerned that the increase in patrons and increase in hours on a Saturday will lead to cumulative impact.

PC Tom Stewart from the Metropolitan Police informed the Committee and said that a grant is likely to undermine the licensing objectives and the aims of Westminster's Licensing Policy. PC Stewart said that the quality of the operator is to be given little evidential weight, as all operators should be good operators to hold a Premises Licence. He reminded the Committee that the presumption is to refuse the application unless an exception can be shown.

PC Stewart said there would be a large impact if this application was granted as the Premises has been vacant for 4 years. PC Stewart said that in mitigation he would like to see conditions placed on the licence including two SIA doormen on the door and the reduction to the original capacity. Mr Thomas agreed to the door supervisor condition but not reduction of the capacity.

The MPS do welcome the concessions offered including the conditions and the reduction in hours but it is felt that with the increase in capacity, would increase cumulative impact in the area. Reduction of hours Mondays to Thursday should be given limited weight.

Mr Maxwell Koduah from Environmental Health addressed the Committee and stated that with the reduction in hours but an increase in capacity, this is still over 1,000 hours of drinking. Mr Koduah said that a food offer would reduce the risk of public

nuisance but if the operators could create a dispersal corridor to encourage people to leave the area, this would give comfort. The EHO wants people to leave the area and wanted door staff on the pavement to escort customers away from the Premises. However, reduction of hours did mean a reduction in Public Nuisance. The local residents addressed the Committee and informed those present that many had attended the Applicant's other Premises and the premises worked as a restaurant and a bar and unlike other venues, most clientele at these premises would remain there for the entirety of the night.

They explained they had lived in the area for a number of years and would go to the Premises with work colleagues, friends and family. They feel safe in and when leaving the venue at night.

The residents stated that that the operation is a relaxed, safe space especially for women where patrons can have a full entertainment and dining experience under one roof, There is always help at the doors to assist patrons to their taxis or public transport. They have never seen a problem at the Premises.

Mr Richard Brown representing the Soho Society informed the Committee that there had been a clear increase in the number of licenses being applied for in the area. Mr Brown said that the reduction in the total number of hours being available to drink should be disregarded as they were not properly calculated and what is to be considered was that the change in hours was enough to mitigate the increase in capacity. Mr Brown said that the "green" areas highlighted in the data from the Metropolitan Police were still high traffic areas compared to other parts of the City, they were only comparatively low to other places in the immediate area.

It was advance by Mr Brown on behalf of the Soho Society that the increase in capacity is throughout the week and seating for 95 people is of no benefit.

Ms Marina Tempia from the Soho Society said that there were a large number of residents who were close to the venue, but outside the 75-metre radius detailed in the Agenda. Ms Tempia said that although the Applicant had said that patrons stay in the venue all night, this was simply not the case as people do move around. She informed the Members that in Soho CIZ area, there are 121 premises which have a closing time between 01.00 and 06.00.

The Policy Officer asked the Applicant how the 95 seats figure was come to, Mr Hazel said that this was a balance in the ability to have as many seats as possible without compromising the feel of the venue. They have been authorised a larger capacity than that requested in this application. The Policy Officer also asked how obvious it was that food was available, Mr Hazel said menus were readily available and in the menu itself that food came before drinks.

The Legal Advisor asked Mr Thomas about the removal of the membership conditions. Mr Thomas confirmed that they are not a private members club, but the previous operator ran the premises as a private members club.

The Licensing Authority and Environmental Health had nothing further to add. PC Stewart from the Metropolitan Police said that the quality of the operator should carry little weight when they are considering the application. PC Stewart said that although

the clientele will change, this will have no effect on crime as those wanting to commit crime target people regardless. Ms Tempia and Brown said that the increase in hours on a Saturday and the increase in capacity will have a detrimental impact the CIZ and on local residents.

Mr Thomas on behalf of his client that crime does get worse after 1am, and that the reduction from 3am to 1am should be welcomed. Mr Thomas said there was no evidence that their clientele and patrons from the venue were victims of crime or that they moved on to other venues. Mr Thomas said that there was overwhelming support for the application with over 50 representations made in support.

DECISION

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

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

The Committee noted that the Applicant offered a female friendly environment and accepted numerous conditions including requiring door supervisors to be on duty. There is waiter/ waitress service available throughout and seating available for 50% of the total capacity. The Committee gave credit to over 50 statements in support of the application but gave limited weight to those which did not address one of the four licensing objectives.

A 03.00 am licence in Soho's CIZ is valuable and for the Applicant to surrender that Premises Licence is noted as exceptional.

Importantly the existing Premises Licence permits the Premises to trade Mondays to Fridays until 03.30, without the benefit of security and allows the Premises to trade as late bar/club. The proposal is that this Premises Licence will be surrendered if this application is granted. This new application reduces the terminal times Mondays to Fridays until 1.30 and increasing the terminal hour on Saturdays by 1 hour to 01.30. Late-night drinking until 3am, with intoxicated dispersal from 3.30am creates a risk of disturbing residents in the middle of the night and retains customers in the CIZ area post 03.30. This is reduced by this application and the Committee notes in particular the reduction of late hours on Thursdays and Friday, which are days notorious for late night nuisance and crime and disorder.

Individually the above does not amount to exceptional circumstances but together the Committee is satisfied that exceptional circumstances were demonstrated and that the application could be granted, subject to compliance with other relevant policies.

The Premises Licence applied for will dramatically reduce late night drinking in the West End CIZ overall. There is a significant net reduction in late night drinking capacity during the whole week which is preferred in comparison to the existing 03.00 am Premises Licence.

The conditions offered and agreed are proportional and appropriate and will promote the Licensing Objectives in particular, having door supervisors, seating for customers, a dispersal policy, surrender of the existing 03.00 Premises Licence and noise limiter condition. The Committee heard the representations in relation to deleting the noise limited conditions but felt on balance, the condition should remain to promote the prevention of public nuisance.

Taking all the above into consideration, the Committee felt that on balance the increase in capacity to 180 was sufficiently mitigated by the above, the nature of the operation and the additional security measures offered by Shaftesbury AV Limited. Furthermore, the Committee gave weight to the fact that on Mondays to Fridays nights, the capacity of this particular Premise in the CIZ is reduced to zero after 01.00 instead of maintaining a capacity of 150 until 03.00.

Therefore, having carefully considered the Committee papers, the additional papers and the submissions made by all of the parties orally, the Act, SoLP and Guidance issues under 182 of the Act, the Committee has determined, 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:

To Permit:

Live and Recorded Music, Performance of Dance and Anything similar (Indoors)

Monday to Saturday 09.00 to 01.00

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

Sale by Retail of Alcohol (Both)

Monday to Saturday 10.00 to 01.00
Sundays 12.00 to 22.30

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

Late Night Refreshments (Indoors)

Monday - Saturdays 23.00 to 01.00

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

Hours Premises Are Open to the Public

Monday to Saturday 09.00 to 01.30
Sundays 12.00 to 23.00

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

2. Relevant Mandatory Conditions to apply.

3. To add conditions proposed to form part of the operating schedule:

Conditions consistent with the operating schedule:

10. (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.

11. 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.

12. 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.

13. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

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

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

16. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall not be permitted to take drinks or glass containers with them.

17. 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.

18. 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.

19. 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.

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

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

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

23. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.

24. Loudspeakers shall not be located in the entrance and exit of the premises or outside the building.

25. There shall be no sales of alcohol for consumption off the premises after (23.00) hours.

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

27. 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.

28. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (07.00) hours on the following day.

29. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (07.00) hours on the following day.

30. 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.

31. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

32. 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, searching equipment or scanning equipment
- (g) any visit by a relevant authority or emergency service.

33. No deliveries to the premises shall take place between **(23.00)** and **(07.00)** hours on the following day.

34. No deliveries from the premises, either by the licensee or a third party, shall take place between **(23.00)** and **(07.00)** hours on the following day.

35. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed (180) persons.

36. There shall be seating available in the premises for at least (90) patrons at all times.

37. 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.

38. A copy of the premises' dispersal policy shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council and all customer facing staff shall be trained to implement its contents.

39. 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.

40. No licensable activities shall take place at the premises until the Premises Licence for 9-11 Kingly Street, London W1B 7PH (22/09921/LIPT or such other number subsequently issued) has been surrendered and is incapable of being resurrected under the LA 2003.

41. A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria:

- (a) the limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses,
- (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder,
- (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team,
- (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and
- (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

42. From 21.00 hours on Friday and Saturday, a minimum of two (2) SIA licensed door supervisors shall be on duty at the premises at all times, until all patrons have left the premises and the immediate vicinity. At all other times, the requirement for SIA licensed door supervisors shall be subject of a written risk assessment which shall be made readily available at the premises for inspection by a Police Officer and/or an authorised officer of Westminster City Council.

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

**Licensing Sub-Committee (6)
7 DECEMBER 2023**

3. BULGARI HOTEL RESTAURANT AND BAR, 4 KNIGHTSBRIDGE GREEN, SW1X 7QA

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 6

7th DECEMBER 2023 – ITEM 3

Membership: Councillor Aziz Toki (Chair) and Councillor Caroline Sergeant

Officer Support	Legal Adviser:	Steve Burnett
	Policy Officer:	Aaron Hardy
	Committee Officer:	Jack Robinson-Young
	Presenting Officer:	Karyn Abbott

Other parties present: Craig Baylis (Keystone Law) for LDV Hospitality Ventures UK Limited (The Applicant).
Rob Keddle (Chief Operating Officer) Applicant,
Kostas Sfaltos (General Manager Bvlgari Hotel)

Anil Drayan (Environmental Health - EHO),

Richard Brown on behalf of Knightsbridge Neighbourhood Forum,
Simon Birkett (Knightsbridge Neighbourhood Forum),

Melvyn Haggard (Knightsbridge Association)
Robert Botkai (Winckworth Sherwood LLP) on behalf of Knightsbridge Residents Management Company Ltd.

Caroline Stoclin (Resident)

Application for a New Premises Licence in respect of Bvlgari Hotel restaurant and bar, 4 Knightsbridge Green, London, SW1X 7QA -23/05776/LIPN

Full Decision

Premises

Bvlgari Hotel Restaurant & Bar
4 Knightsbridge Green,
London,
SW1X 7QA

Applicant

LDV Hospitality Ventures UK Limited

Cumulative Impact Area

N/A

Ward

Knightsbridge & Belgravia

Special Consideration Zone

N/A

Cumulative Impact

N/A

There is a resident count of 221.

Application

This is an application for a new premises licence under the Licensing Act 2003 (“The Act”). Currently the two areas operate as part of a 5 star and hotel. The licensed areas applied for is for the restaurant on the ground floor and a bar area in the basement of the hotel.

The terminal hour in the basement bar will be reduced to 00:00 on Monday to Wednesday. On Thursday to Saturday the terminal hour in the basement bar will be increased to 02:00.

Food will be available in the basement bar at all times and service will be to table by waiting staff at all times.

The whole hotel including the restaurant and bar has had the benefit of a premises licence since 2012.

To Permit:

Live and Recorded Music, (Indoors)

Monday to Wednesday 10:00 to 00:00

Thursday to Saturday 10:00 to 01:30

Sundays 10:00 to 23:00

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

Hours in the ground floor restaurant to be 07:00 to 00:00 Monday to Saturday and 07:00 to 23:00 on Sundays.

Sale by Retail of Alcohol (On Sales)

Monday to Wednesday 10:00 to 00:00

Thursday to Saturday 10:00 to 02:00

Sundays 10:00 to 23:00

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

Hours in the ground floor restaurant to be 07:00 to 00:00 Monday to Saturday and 07:00 to 23:00 on Sundays.

Late Night Refreshments (Indoors)

Monday to Wednesday 23:00 to 00:00

Thursday to Saturday 23:00 to 02:00

Sundays 23:00 to 00:00

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

Terminal hours in the ground floor restaurant to be 00:00.

Hours Premises Are Open to the Public

Monday to Wednesday 10:00 to 00:00

Thursday to Saturday 10:00 to 02:00

Sundays 10:00 to 23:00

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

Opening Hours for the ground floor restaurant to be 07:00 to 00:00.

Representations Received

- Anil Drayan – EHO
- 11 Objections from Interested Parties

Summary of Issues raised by Objectors.

The EHO states the application will have a likely effect of increasing public nuisance.

The residents object to the application and have concerns about traffic, public nuisance and crime in the area. They also have concerns about the extended hours to 02.00, outside core hours and two separate licenses covering the areas. There are concerns that the Applicant has not consulted directly with the residents.

Policy Considerations

RNT1 States:

- A. Applications 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 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 application and operation of the venue meeting the definition of a restaurant

PB1 States:

- 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 application and operation of the venue meet the definition of a Public House or Bar

HRS1 sates:

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.

C. Core Hours for applications for each premises use type as defined within this policy are:

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.

Restaurants

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

The Presenting Officer introduced the application to the Committee and introduced the Parties at the hearing.

Mr Craig Baylis introduced the application on behalf of the Applicant and explained that the Premises already has a 1am licence from Monday to Saturday which has been in existence since 2019. There is no change in the operation and there have been no complaints.

Mr Baylis informed the Committee that the Applicant was seeking a one-hour extension to hours Thursday to Saturday with a reduction in the hours in the earlier days of the week for the bar area, however there would be no change to the trading times for the restaurant.

The Applicant is applying for a separate Premises Licence as the legal relationship between the two premises and the Hotel had changed. However, the relationship between the Applicant and the Hotel management remains amicable and there is a contractual agreement between the Applicant and the owners of the hotel. Mr Baylis confirmed to the Committee that the proposal is that after 1am the side entrance to the two Premises onto Knightsbridge Green will not be used for egress by patrons. Customers will be directed from the venues through the main hotel entrance. Mr Baylis informed Members that his client has always had a positive relationship with local residents.

The lounge bar provides table service, and this is conditioned. It is not a pub or club, nor does it have a dancefloor and has a capacity of 90. There have been no complaints from the authorities or residents about this operation.

The Committee investigated how customers arrived and left by cars and how this is controlled. Mr Kostas Sfaltos, of the five star, Bvlgari Hotel, confirmed that there are double yellow lines outside the Hotel and door staff ensure the quick egress of people from the venue either on foot or in a car. There is always security at the Hotel front doors and they encourage customers to wait inside the hotel for their taxis. This is how it has been done historically without issue and this will be continued.

Anil Drayan from Environmental Health informed the Members that the premises already operates beyond core hours. Mr Drayan said that the premises had no issues recorded against it expect for one incident a month ago where there was a complaint about deliveries being delivered 45 minutes before the current Premises Licence allow. Mr Drayan said that to ensure this does not happen at these premises, a condition restricting deliveries should be placed on the licence.

Mr Drayan proposed conditions to be attached to the Premises Licence if granted. However, Mr Burnett, Legal Advisor to the Committee stated the conditions were not enforceable.

Mr Robert Botkai from the Knightsbridge Neighbourhood Forum addressed the Committee advising that residents in the local area have a right to a good night's

sleep. Mr Botkai said that the exchange of hours from earlier in the week to later was not a fair trade off and this would have a significant impact.

He further asserted that it is not suitable for the Premises to have a separate licence. The existing Hotel Premises Licence should remain, and the Bvlgari should remain responsible for all the premises in question.

Mr Botkai said there was a history of noise from cars in the early hours of the morning and car park on double yellow lines outside the hotel. Mr Botkai said residents do not submit a complaint every time there is an issue with the hotel, they deal directly with the hotel and therefore he was disappointed there had been no consultation between the applicant, residents or the neighbourhood forum before the application was submitted. Mr Botkai informed the Committee that this was the wrong licence in the wrong location and while he accepted the current hours were on the Premises Licence, to move beyond these hours was not necessary.

Mr Botkai felt that a separate licence was not suitable and should not be permitted. It needed to be clear who was responsible for the venue and compliance with the conditions. He preferred to go through each and every condition on the existing Hotel Licence to assess which should be transferred to the proposed licence for the bar and kitchen, and this causes concerns. He suggested the application should be withdrawn pending proper consultation with his clients.

Ms Stoclin informed the Committee that she also spoke on behalf of another objector Robert Hayes. They live in close proximity to the hotel and she was aware of the complaint about the noise from deliveries. She directed the Members to the photographic evidence and said that there had been numerous reports of serious crime in the area of the hotel. The local resident said that cars idling was an issue both people in their own cars and chauffeurs. Members were informed that beggars, litter and rubbish was also an issue for local residents. However, she did confirm that most of the crime and noise nuisance was as result of Zuma, Knightsbridge. The local resident informed those present that they did not feel as though it would be clear who was responsible for what with two licences overlapping.

Mr Melville Haggard from the Knightsbridge Association said he saw no reason as to why the initial licence from 2017 should be changed. Mr Haggard questioned the necessity for two licences.

Mr Simon Birkett from the Knightsbridge Neighbourhood Forum addressed the Committee and highlighted that there have been constant vehicle and traffic problems. Mr Birkett said that having two licences would reduce protections to residents. He supported the refusal of this application.

Mr Richard Brown for the Knightsbridge Neighbourhood Forum advised the Committee that the increase to 2am and the split from the hotel licence and confuse matters. Mr Brown said that this was outside the core hours policy already and an extension to this would take the hours even further away. Mr Brown said that the status quo should be left as it is. He asserted that it should be clear who was legally responsible for the operation of a Premises.

Mr Baylis said it was common for a hotel to have a restaurant or a bar within the hotel with its own licence. Mr Baylis said this was because the hotel was not operating that part of the venue and does not employ the workers of those venues. In response to questions from the Committee Mr Bayliss confirmed that the Applicant was happy to add any proportional and appropriate conditions attached on the current Premises Licence for the Hotel. This included a condition requiring the Managers telephone number to be made available to residents, a condition on door supervisors and on delivery. Mr Drayan from Environmental Health said it was important to determine which licence holder would be responsible for what. Mr Birkett from the Knightsbridge Neighbourhood Forum said that if this licence was granted would cause confusion. Local residents present at the Committee said that the addition of security would not reassure them that the addition of an extra hour would not cause an issue.

Mr Botkai from the Knightsbridge Neighbourhood Forum summarised said that residents wanted to be able to sleep peacefully, and the granting of this licence for an additional hour would only reduce their ability to do this. Having two licences would not put the residents in a better position. Mr Botkai said that a dispersal policy does not alleviate their concern about customers arriving and leaving the premises. It was also stated that if there was an issue, a Review could be commenced by the residents, but this would be at double the costs if two Premises Licences were reviewed.

Mr Baylis said that there will be no confusion between the two licences, and that this process was common practice. Mr Baylis reminded the Committee that there had been no issues raised since it began trading in 2017 and that responsibility could easily be placed on the right people for the licensable activities that are to be carried out. However, Mr Bayliss agreed on behalf of his clients and with approval from Mr Sfaltos that the two areas to be licensed would be removed from the existing Premises Licence covering the whole Hotel.

Mr Baylis said that the issue here was the addition of three extra hours on Thursdays to Saturdays with conditions having been offered and a reduction in hours for the rest of the week to mitigate any issues that might arise, despite there having been none raised previously.

DECISION

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

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

In relation to this matter, commercial businesses such as shopping centres, and large hotels have long had concessions operating under individual and separate Premises Licence, even when an overarching Premises Licence for the whole venue exists. It must be right that any breach of an individual Premises Licence by the operator must result in enforcement against that operator rather than the landlords, owners or other businesses who have had no involvement in the management of that operation.

Furthermore, if there are issues, there is nothing stops the Authorities or an interested party from Reviewing both Premises Licences. There are no application costs for a Review under the Act.

It is expected that all Premises Licence Holders will comply with the terms of their Premises Licence. Failure to do so can result in enforcement action. There has been no evidence produced to show that the Applicant or the managers of Bvlgari Hotel are bad operators. Indeed, there has only been one complaint in relation to deliveries to the Authorities since all areas of the Hotel, including the licensed areas have been trading.

Mr Bayliss explains that the legal arrangement between the hotel and operators of the basement bar and restaurant has changed and the operators of the two areas is a separate company. The responsibly of trade under the Act must therefore fall at the feet of the new Applicant company.

Therefore, on balance and in this particular case, there are no reasons why a second Premises Licence for the basement bar and ground floor restaurant cannot be granted. However, the Committee note Mr Bayliss' undertaking on behalf of the Hotel that the restaurant and bar areas will be removed from the Bvlgari Hotel Premises Licence which hopefully will provide the objectors with some comfort.

The Committee note that the Premises is not located in a CIZ or SCZ area and there have been no representations for the Licensing Authority or the Metropolitan Police. It is hoped that the Highway Authority will control and deal with illegal parking, but this does not fall under the remit of the Act. It is also noted that Knightsbridge is already a busy thoroughfare and the concessions made by the Applicant to restrict access and egress to Knightsbridge Green, use door supervisors, and duplicate some of the appropriate conditions from the existing Hotel Premises Licence to the new proposed Licence. The conditions offered and agreed are proportional and appropriate and will promote the Licensing Objectives.

The current operation differs from the proposed operation of the areas in that in the bar area, the terminal time will be reduced from 01.00 to 00.00 Mondays to Wednesdays and on Thursday to Saturdays the terminal hours are to increase from 01.00 to 02.00. The trading times for the restaurant remains unchanged.

The Hotel has a licensed history of trading late hours under TEN's without there being any complaints of nuisance (including noise escape) or crime and disorder to the Authorities. There will be no vertical drinking in the bar and the Premises Licence Holder will have a dispersal policy in place which will require the cooperation of the Hotel Management. This has historically been the same and traded without issue. If at any stage, the Hotel withdraws their cooperation, it will require this Applicant to make an application to vary certain conditions, the effects of which can then be carefully considered by all Parties.

It is noted that there are concerns that the Applicants did not consult with the interested Parties in advance of submitting their application. There is no legal requirement for Applicant to do this, although it is accepted that this is on occasions beneficial. However, the Committee is satisfied that the Applicant complied with the Act in its duty to consult by way of a notice at the Premises and in the newspaper.

The Committee hopes however, that the residents, residents' associations and forum and other interested parties will continue to work with the operators to ensure the Licensing Objectives are promoted.

Therefore, having carefully considered the Committee papers, the additional papers and the submissions made by all of the parties orally, the Act, SoLP and Guidance issues under 182 of the Act, the Committee has determined, 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:

To Permit:

Live and Recorded Music, (Indoors)

Monday to Wednesday 10:00 to 00:00

Thursday to Saturday 10:00 to 01:30

Sundays 10:00 to 23:00

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

Hours in the ground floor restaurant to be 07:00 to 00:00 Monday to Saturday and 07:00 to 23:00 on Sundays.

Sale by Retail of Alcohol (On Sales)

Monday to Wednesday 10:00 to 00:00

Thursday to Saturday 10:00 to 02:00

Sundays 10:00 to 23:00

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

Hours in the ground floor restaurant shall be 07:00 to 00:00 Monday to Saturday and 07:00 to 23:00 on Sundays.

Late Night Refreshments (Indoors)

Monday to Wednesday 23:00 to 00:00

Thursday to Saturday 23:00 to 02:00

Sundays 23:00 to 00:00

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

Terminal hours in the ground floor restaurant to be 00:00.

Hours Premises Are Open to the Public

Monday to Wednesday 10:00 to 00:00

Thursday to Saturday 10:00 to 02:00

Sundays 10:00 to 23:00

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

Opening Hours for the ground floor restaurant to be 07:00 to 00:00.

3. Relevant Mandatory Conditions to apply.
4. To add conditions proposed to form part of the operating schedule:
 9.
 - 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.
 10. 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.
 11. 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.
 12. 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.

13. There shall be no vertical drinking in the basement bar and mezzanine area.

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

15. The refuse and delivery arrangements to the premises shall be in accordance with the detailed provisions agreed under the planning consent for the premises.

16. On occasions when the Knightsbridge Green door is used for public access or egress to the hotel itself notices shall be prominently displayed throughout the time of such use at this exit requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.

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

18. No unauthorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) is inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree or any other property, or is distributed to the public, that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services.

19. A proof of age scheme, such as Challenge 21, shall be operated at the premises where a customer wishes to purchase alcohol and the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.

20. The premises shall employ its own internal SIA registered security personnel together with such additional external SIA registered security personnel at it believes is necessary for particular times or days of the week. The numbers of such personnel employed shall be kept under review and shall take account of any activities or events being hosted at the premises. In assessing the numbers of personnel required the premises shall have regard to any advice provided, or comments made, by the police. The requirement for SIA staff at these premises shall be separate to and independent of the requirement for SIA staff at the main hotel.

21. There shall be a minimum of 1 SIA door staff on duty from 21.00 to close, and the premises licence holder shall risk assess the need for additional SIA door staff in accordance with activities at the premises.

22. All patrons exiting the premises after 01.00 shall use the main hotel exit on Knightsbridge and the Premises Licence Holder shall ensure patrons are dispersed in an orderly manner.
23. There shall be no new entry to the premises after 00:30 except for hotel residents and their bona fide guests
24. The premises shall adopt and operate a specific policy in relation to the management of smoking areas outside of the hotel. Such policies shall make provision for any external areas to be monitored and supervised at all times when used. The primary designated smoking areas shall be on Knightsbridge Green and there shall be no designated smoking areas on Knightsbridge but for the avoidance of doubt this shall not preclude any individual from smoking on Knightsbridge.
25. The sale of alcohol in the ground floor restaurant area shall only be to persons seated at tables and as ancillary to table meals except for hotel residents and up to 3 guests for each resident, (additional guests may be allowed only with the prior authorisation from the manager in writing for specific additional guests, a copy of which shall be held at the hotel reception and made available for inspection at the request of the Police or authorised officer) save for in the hatched area (as shown on the approved layout drawings) where alcohol may be consumed by persons who are seated and where food shall be available. Within the hatched area up to 10 persons may consume alcohol whilst standing as they temporarily wait to be seated within the ground floor restaurant.
26. The ground floor restaurant shall be laid out as a restaurant and shall have no more than 140 persons (excluding staff) within this area at any one time.
27. The maximum capacity within the basement bar area shall not exceed 90 persons (excluding staff) at any one time.
28. The supply of alcohol in the ground floor restaurant shall be by waiter or waitress only other than to persons seated at the counter who may be served directly.
29. The supply of alcohol in the basement bar and mezzanine area shall be by way of waiter/waitress service only other than to persons in the hatched area immediately in front of the bar in the basement.
30. 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.
31. A host shall be present at all times within the ground floor restaurant meet and greet lobby area whenever this area is open to non-residents.
32. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted.
33. There shall be a minimum of 1 personal licence holder in the basement bar area at all times the bar is open to the public.

34. The Premises Licence Holder shall maintain a dispersal policy, the contents of which shall be agreed with the Hotel and 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.

35. Customer facing staff shall be trained on the contents of the Dispersal Policy to ensure orderly dispersal of patrons from the Premises, through the Hotel and away from the Premises.

36. Sufficient members of staff shall be on duty to manage patron's access and egress.

37. Loudspeakers shall not be located at entrance, the lobby or outside the premises building with the exception of loudspeakers used in connection with an emergency.

38. The Premises Licence Holder or their representative shall attend the residents' meetings between the Hotel and the management company of 199 Knightsbridge.

39. Whenever the Premises intend to apply for a standard Temporary Event Notice then the Premises Licence Holder shall notify the 199 Knightsbridge residents (via its management company) of such Temporary Event Notice at least 5 days before the event takes place.

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

INFORMATIVE:

Mr Bayliss, solicitor for and on behalf of the Applicant, agreed to an undertaking to remove the basement bar and ground floor restaurant from the ambit of the licensed area on the current Premises Licence for the Bvlgari Hotel, held by Prime Hotels (UK) Limited.

The Committee accepted Mr Bayliss agreement to do this by way of a Minor Variation under the Licensing Act 2003 before the Premises commences trade under this New Premises Licence.

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

**Licensing Sub-Committee (6)
7 DECEMBER 2023**

Special Consideration Zone

N/A

Summary of Application

This is an application for a variation of a premises licence under the Licensing Act 2003 ("The Act"). Currently the Premises operates as a sustainable burger restaurant.

The premises has had the benefit of a premises licence since 2008.

The application is to Vary:

Late Night Refreshments (Indoors)

Monday to Saturday until 23.30 vary **to** 01.00.

Sunday until 23.00 vary **to** 00.00.

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

Sale of Alcohol (Both)

Monday to Thursday until 23.30 vary **to** 00.30.

Friday and Saturday until 00.00 vary **to** 00.30.

Sunday until 22.30 vary **to** 23.30.

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

Hours Premises Are Open to the Public

Monday to Thursday until 23.30 vary **to** 01.15.

Friday and Saturday until 00.00 vary **to** 01.15.

Sunday until 22.30 vary **to** 00:15

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

2. Add off sales of alcohol 11:00 to 23:00 Monday to Sunday and add a condition that reads, notwithstanding condition 10, all sales of alcohol for consumption off the premises shall be in sealed containers and ancillary to a takeaway meal only and shall not be consumed on the premises.

3. Add new condition: There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.

4. Replace existing condition 12 with CCTV model condition.

5. Replace existing condition 14 with incident log model condition
6. Replace existing condition 19 with general noise model condition.
7. Add new condition “A copy of the premises’ dispersal policy shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council”.
8. Add a new condition “A Challenge 25 proof of age scheme shall be operated 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”.
9. Add other new conditions detailed in the committee agenda papers.

Representations Received

- Steve Muldoon - MPS
- Maxwell Koduah – EHO
- Jessica Donovan – Licensing Authority (LA)
- 8 Objection from Interested Party

Summary of Issues raised by Objectors.

The EHO states the application will have a likely effect of increasing public nuisance. Request conditions.

The MPS state the Premises is in CIZ and the grant will undermine the Licensing Objectives and adversely affect the CIZ.

The LA states the application falls outside core hours and requests Model Conditions 19 and 20.

The residents object to the application and have concerns about sleep deprivation, traffic (Pedicabs), public nuisance and crime in the area. They also have concerns about the extended hours.

Policy Considerations

Policies of Westminster City Council’s Statement of Licensing Policy (SLP).

CIP1 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.

HRS1 sates:

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.

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:

Restaurants:

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.

RNT1(B) state:

B. Applications inside the West End Cumulative Impact Zone will generally be granted subject to other Policies in the Westminster Statement of Licensing Policy. (SoLP)

SUBMISSIONS AND REASONS

The Presenting Officer outlined the application to the Committee and introduced the attendees.

Ms Lana Tricker, for the Applicant, introduced the application and explained the operation of the vegan restaurant. She confirmed it does not operate as a bar, with alcohol sales accounting for 3% roughly. Ms Tricker stated that there is no bar in the premises, so alcohol is not on show.

The Committee were informed that the hours were sought to be extended having tested those hours under Temporary Event Notices earlier in the year which were welcomed by customers. There were no complaints, finances improved and there were no issues relating to the CIZ area.

The operation currently operates Challenge 25 which they will continue to do so. Ms Tricker said that restaurants do not have the same issues that nightclubs or venues with vertical drinking have. Ms Tricker said that taxi telephone numbers are provided, and they monitor the egress of people for effective dispersal.

In response to a question from the Committee, Ms Tricker confirmed that there can be no more than 25 people on the ground floor, there is a small volume of alcohol sold, there is no super strength lager, dispersal will be gradual from the restaurant

and easy due to the number of taxis available and there have been no historical complaints about the operation.

Ms Tricker continued by identifying that customers from the Premises have not been victims of crime including when they operated under the TENs and the primary function of the venue is food led.

The Applicant stated that they wanted to use delivery companies but there would be no delivery of food or alcohol after 23.00. He stated the busiest nights are Saturday 19.00 to 21.30. He then informed the Committee that they wanted to attract people from bars in the area.

Ms Jessica Donovan from the Licensing Authority addressed the Committee and said that the application to increase is located in a Cumulative Impact Area. She confirmed their objection and that as a result of mediation, conditions on page 288 of the agenda had been agreed.

Mr Maxwell Koduah from Environmental Health Officer (EHO) addressed the Committee and said that there have been no issues recorded with the venue. Mr Koduah said he had visited the premises and the pavement on the street was narrow with one way traffic towards Charing Cross, which is heavily residential. Mr Koduah said that as this is asking for later hours within a Cumulative Impact Area, Environmental Health had maintained their representation. He also highlighted that the area is a hotspot and later opening is likely to attract drinkers and retain them in a problem area.

The EHO stated that if the application is granted, conditions 9, 10 and 11 should be deleted and replaced with MC66, delete 37 and MC 24 should also be added. PC Tom Stewart from the Metropolitan Police (MPs) informed the Members that they had maintained their representation as they felt if this were to be granted it would undermine the licensing objectives.

PC Stewart said that the hours sought for went beyond core hours and the location of the premises was of concern. He has no criticism of the operator, but the MPS felt that although limited alcohol is to be served, and there is to be a substantial food offering, this does not alleviate his concerns as people in the Cumulative Impact Area are likely to be victims of crime regardless. PC Stewart said although this is a modest application, it would still add to cumulative impact.

The MPS confirmed that Old Compton Street is one of the busiest areas with 51 licensed premises in a small area. It is an area of high crime and violence peaks at 00.00 and remains high. He highlighted the operator's comment that he wanted to attract customer from bars and therefore retain people in the CIZ.

Mr Richard Brown on behalf of the Soho Society addressed the Committee stated that there was a substantial number of residents around this area. Mr Brown said it was clear the operation was not a bar, but saturation and increase in hours in this location are such that even a restaurant will negatively add to cumulative impact. This would be an increase in the epicentre of the CIZ area.

Mr Brown asserted that there is nothing exceptional about the application and it is the Applicant who has to prove that the operation will not add to the CIZ. There has been nothing submitted by the Applicant to warrant additional hours being added with conditions to this Premises at this location.

Ms Doyle addressed the Committee said that she had lived in the area for a number of years. There is a high amount of crime in the area and a big issue were delivery drivers causing a nuisance.

The Committee asked the Applicant why they were asking for an additional hour, given their busier hours were earlier in the evening. Ms Tricker said that this came from their trial of Temporary Event Notices which showed people wanted to dine at their premises later.

Responsible Authorities had nothing to add in their summing up. Mr Richard Brown from the Soho Society summed up and said that his opinion on the extension to the hours is in excess of core hours, and nothing had been said to demonstrate that the increase in hours and conditions would not add to cumulative impact or crime in the area.

To sum up on behalf of her client, Ms Tricker reiterated that this was a restaurant and that key anti-social behaviour indicators are linked to bars and not a restaurant. Ms Tricker pointed to the fact that this is a restaurant, with MC66 conditions and asserted that the operation would not add to the CIZ or attract people to the CIZ. She reminded the Committee that the Metropolitan Police had said this was a modest application.

DECISION

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

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

The Committee notes that the Premises operates as a restaurant selling a limited amount of alcohol and has traded extended hours under TENs without issue. The Premises is located within the West End CIZ and so there is a presumption to refuse the application unless the Applicant can show that the operation is not against other policies within SoLP and demonstrate that they will not add to cumulative impact.

The Committee concluded that the Applicant had not provided sufficient reasons as to why the application should be granted and why the operation would not add to cumulative impact in the West End CIZ.

The Premises is located in an area saturated with licensed premises and although there is no criticism of management, the requested hours are beyond Core Hours Policy and Old Compton Street is an area which is a busy area and an area with high crime rates according to the evidence and data.

An increase in hours, even with the proposed conditions, will add to the cumulative effect of licensed premises in the area especially on crime and disorder and nuisance.

The Committee also noted the concerns of the parties that had objected to the application particularly in relation to crime and disorder, nuisance and the problems caused by delivery drivers which was disturbing residents.

The Committee finally had regard to the comments from the Applicant himself who stated that one of the purposes of requesting longer hours is to attract custom for from bars. An extension of hours as requested, will undoubtedly retain people in the area and will extend dispersal time.

The right balance had been struck when considering the views of the Responsible Authorities and local residents who had objected, and the Applicant request for extended hours.

Having carefully considered the committee papers, the additional papers and the submissions made by all of the parties orally, the Act, the Guidance issued under sec 182 of the Act and Westminster's' SoLP, **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 **to REFUSE the application.**

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

**Licensing Sub-Committee (6)
7 DECEMBER 2023**

The Meeting ended at 5.10 pm