



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 11th July, 2024**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Robert Eagleton (Chair), Md Shamsed Chowdhury and Louise Hyams

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. CARBONE, AMERICAN EMBASSY, 24-31 GROSVENOR SQUARE, W1K 6AH

WCC LICENSING SUB-COMMITTEE NO. 3 ("The Committee")

Thursday 11 July 2024

Membership: Councillor Robert Eagleton (Chair), Md Shamsed Chowdhury and Councillor Louise Hyams

Officer Support: Legal Adviser: Steve Burnett
Committee Officer: Sarah Craddock
Policy Officer: Daisy Gadd
Presenting Officer: Kevin Jackaman

Other Parties: Luke Elford (John Gaunt Solicitors on behalf of the Applicant)
Jon Varthalis (Director of Gardiner & Theobald)
Luis Sarabando (In attendance Virtually)
Sally Fabbricatore (Environmental Health Services – EHS)

Application for a New Premises Licence in respect of Carbone, American Embassy, 24 - 31 Grosvenor Square, London W1K 6AH - 24/02275 /LIPN

Premises

Carbone,
American Embassy,
24 - 31 Grosvenor Square,
London
W1K 6AH

Applicant

30 Grosvenor Restaurant Limited

Ward

West End

Cumulative Impact

N/A

Special Consideration Zone

N/A

There is a resident count of 19

Application

This is an application for a new premises licence under the Licensing Act 2003 ("The Act"). This is a new premises licence application and therefore no premises licence history exists.

The premises proposes to operate as a Restaurant.

The applicant has proposed twenty-three conditions and agreed three conditions with Environmental Health to form part of the operating schedule.

The applicant has also submitted a updated schedule of conditions, presentation, letter to objector and a wider location plan. These can be found in **Appendix 2**.

The Application is to Permit:

Sale by Retail of Alcohol (on)

Monday to Sunday 09:00 to 00:00

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

Late Night Refreshments (Indoors)

Monday - Sunday 23:00 to 00:00

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

Hours Premises Are Open to the Public

Monday to Sunday 06:00 to 00:00

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

Representations Received

- Sally Fabbricatore – Environmental Health Services (EHS)
- 1 Objection from Interested Parties

Issues raised by Objectors.

The Environmental Health Services states that the premises would have the likely effect of causing an increase in public nuisance in the area and may impact of public safety.

The resident states:

- 1) Concerns about the access to the building and additional traffic.
- 2) Concerns about delivery noise
- 3) Concerns about taxi access.

Policy Considerations

HRS1 states:

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

The Core Hours for restaurants are:

Monday to Thursday: 9am to 11.30pm.
Friday and Saturday: 9am to 12am.
Sunday: 9am to 10.30pm.

Sundays immediately prior to a bank holiday: 9am to 12am.

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.

C. For the purposes of this policy a restaurant is defined as:

1. A premises in which customers are shown to their table or the customer will select a table themselves to which food is either served to them or they have collected themselves.
2. Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at a table.
3. Which do not provide any takeaway service of food and/or drink for immediate consumption, except if provided via an ancillary delivery service to customers at their residential or workplace address.
4. Where alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
5. The sale and consumption of alcohol prior to such meals may be in a bar area but must also be ancillary to the taking of such meal.

SUBMISSIONS AND REASONS

1. The Presenting Officer, Kevin Jackaman, Senior Licensing Officer, introduced the application.
2. Mr Elford on behalf of the Applicant confirmed that there would be no deliveries of food and deliveries to the Premises will be to an internal system.
3. Although there is a 146 bedroomed hotel next to the Premises, the Premises will be a separate restaurant, with its own entrance and exit, an external area and internal area with a capacity of no more than 300, as will be assessed by the EHO. This is detailed as a proposed condition. The nearest residents who could be disturbed by the operation of the Premises are therefore hotel residents. The PLH will be careful not to do cause a nuisance to residents.
4. The Committee was further advised that the Premises is located outside the CIZ and SCZ areas and the Premises will not adversely affect the Licensing Objectives.
5. Mr Elford stated that the external area will be supervised by staff at all times.
6. The EHO confirmed she was there purely to assist the Committee and the EHS were content with the application. Conditions have been agreed.

DECISION

7. The Committee heard an application for a new Premises Licence and noted the Premises is not located in a CIZ or SCZ area. There is no presumption to refuse this application which is slightly outside Westminster's core hours.
8. There will be no food or drink deliveries. There is an external dining area and the capacity of the Premises, excluding the terrace is no more than 300. It is expected the terrace will accommodate approximately 75 covers.
9. It is noted that the Applicant tried to liaise with the outstanding objector but had no response.
10. The EHS states that they are content with the application and that the operation will not impact on the Licensing Objectives.
11. Conditions have been negotiated and agreed for this 'stand-alone' operation, which has the benefit of its own exit/ entrance.

Having carefully considered the Licensing Act 2003, the Guidance issued under section 182 of the Act, Westminster's Statement of Licensing Policy, the committee papers, additional papers and the submissions made by all of the parties orally, the Committee has **DECIDED** after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. To **GRANT** permission:

To Permit:

Sale by Retail of Alcohol (on)

Monday to Sunday 09:00 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

Late Night Refreshments (Indoors)

Monday - Sunday 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

Hours Premises Are Open to the Public

Monday to Sunday 06:00 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

2. Relevant Mandatory Conditions to apply.

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

Conditions consistent with the operating schedule

9. With the exception of the areas shown hatched on the Licensing Plan the supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.

For the purpose of this condition a 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

10. With exception of service directly across a bar counter the supply of alcohol shall be by waiter or waitress service only.

11. 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.

12. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.

13. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team:

- a. All entry and exit points shall be covered enabling frontal identification of every person entering in any light condition.
- b. 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.
- c. All recordings shall be stored for a minimum period of 31 days with date and time stamping.
- d. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

14. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.

15. 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 refusal of the sale of alcohol
- h. any visit by a relevant authority or emergency service

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

17. 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.

18. 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.

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

20. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

21. All windows and external doors at the Premises shall be kept closed after 22:00 except for the immediate access and egress of persons.

22. Use of the external seating area shall cease at 23:00 daily.

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

24. 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.

25. 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.

26. 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 glass containers with them.

27. The premises licence holder shall ensure that any patrons 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.

28. 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.

29. 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.

30. Before the premises opens to the public the plans as deposited shall be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises as constructed. Where the premises layout has changed during the course of construction, new plans shall be deposited with the licensing authority and this condition removed from the licence.

31. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. (this capacity shall be no more than 300 persons (excluding staff) inside the premises).

32. Unless the existing internal dedicated building refuse system is used, no collections of waste or recycling materials (including bottles) from the premises shall take place or be moved, removed from or placed in outside areas between 23.00 and 08.00 hours on the following day.

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

34. Unless the existing dedicated building delivery system is used, no deliveries to the premises shall take place or be moved/removed from or placed in outside areas between 23.00 and 08.00 hours on the following day.

This is the Full Decision reached by the Licensing Sub-Committee

**Licensing Sub-Committee
11 July 2024**

2. SUN & THIRTEEN CANTONS, 21 GREAT PULTENEY STREET, W1F 9NG

WCC LICENSING SUB-COMMITTEE NO. 3
("The Committee")

Thursday 11 July 2024

Membership: Councillor Robert Eagleton (Chair), Md Shamsed Chowdhury and Councillor Louise Hyams

Officer Support: Legal Adviser: Steve Burnett
Policy Officer: Daisy Gadd
Committee Officer: Sarah Craddock
Presenting Officer: Kevin Jackaman

Other Parties: James Anderson and Alex Tomlinson (Solicitor, Poppleston Allen),
Mr Callum Thomas (General Manager) and Ms Tara Buffini (Area Manager) – (Fullers Smith & Turner PLC).

Ms Karyn Abbot (Licensing Authority)
Ms Sally Fabbriatore (Environmental Health Service)

Mr Richard Brown (Licensing Advice Project (on behalf of the Soho Society) and
Ms M.T (on behalf of the Soho Society).
Mr J.W (Soho Housing Association)
Ms W.H and Mr P.F (Residents)

Application for a Variation of a Premises Licence in respect of Sun & Thirteen Cantons, 21 Great Pulteney Street, London W1F 9NG - 24/01972/LIPV

FULL DECISION

Premises

Sun & Thirteen Cantons
21 Great Pulteney Street
London W1F 9NG

Applicant

Fullers, Smith and Turner PLC

Ward

West End

Cumulative Impact

West End

Special Consideration Zone

N/A

There is a resident count of 150

Application

This is an application for a variation of a premises licence under the Licensing Act 2003 (“The Act”) to extend the terminal hours for the sale of alcohol (on and off), late night refreshment and opening hours to core hours on Monday to Saturday only.

The Application is to Permit:

Late Night Refreshment

On Fridays and Saturday to vary the terminal time from 23:30 to 00:00

Sale by Retail of Alcohol (Both)

On Mondays to Thursdays to vary the terminal time from 23:00 to 23:30 and
On Friday and Saturday from 23:00 to midnight.

Hours Premises Are Open to the Public

On Fridays and Saturday to vary the terminal time from 23:30 to 00:00

To remove Condition 9 and add conditions on pages 78 to 79 of the Agenda.

Representations Received

- Ayesha Bolton – Environmental Health Services (EHS)
- Karyn Abbott – Licensing Authority (LA)
- 15 Objections from Interested Parties
- Soho Society

Issues raised by Objectors.

The Environmental Health Services states that the premises is located in West End CIZ area, and the sale of alcohol would have the likely effect of causing an increase in public nuisance in the area and may impact of public safety. The hours for LNR would have the likely effect of causing an increase in public nuisance in the area

The LA states the Premises is located minutes from the corner of Great Pulteney Street and Beak Street approximately 7 minutes’ walk from Piccadilly Circus. The area is predominantly made up of commercial with limited residential properties within 50 meters of the premises.

The premises are located within the West End Cumulative Impact Zone and as such various policy points must be considered, namely CIP1, HRS1 and PB1.

The Residents and Soho Society have concerns about:

- 1) Queue and outside drinking already causing an issue with noise from patrons outside and blocking the pavements.
- 2) Extension will cause disruption to residents.
- 3) Pedestrians have to walk in the road which causes an issue of public safety.
- 4) Extension will cause disturbance to resident's sleep.
- 5) Noise from deliveries and servicing causes a disturbance.
- 6) Crime increases during the hours requested.
- 7) Crowd management is poor even from security staff.
- 8) Don't understand why Off Sales extension over the weekend is required.
- 9) Nuisance caused over the weekend from vomit, glass and other debris.
- 10) Louder music from the venue.
- 11) Noise from patrons who have drunk continues later into the night.
- 12) Previous application withdrawn but new application submitted.
- 13) This is a residential area.
- 14) An extension will increase noise, crime and disorder in the CIZ.

Policy Considerations

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.

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.

PB1(B) states:

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

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

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

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

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

HRS1 states:

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

The Core Hours for Pubs/bars are:

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.

SUBMISSIONS AND REASONS

1. Mr James Anderson (Solicitor, on behalf of the Applicant) advised the Committee that the Applicant had agreed to amend their application to apply for an extension of the Sale by Retail of Alcohol (On sales) from 23:00 hours to midnight on Saturdays only and also closing on Saturdays at midnight.
2. He outlined that this was because the Applicant considered that this was the best balance for the Premises and the residents. He explained that there were a number of concerns about the use of the outside area but this application is not a Review of the Premises Licence, and that the Committee could only consider the matters set out in the report and either grant the variation application and impose the proposed conditions or refuse the application. He emphasised that the Committee could not grant part of the application and/or impose conditions that would make the Premises more restrictive and harder to operate such as restrict the use of the outside area.
3. Mr Anderson referred to the proposed conditions attached at page 36 of the report and advised that the Applicant was content for them to be attached to the Premises Licence because it was good practice to promote the Licensing Objectives. He emphasised that only three conditions, conditions 12, 15 and 18 would apply on the Saturday and that there would be no customers outside of the Premises after 23:00 hours on a Saturday which provided an element of protection for the residents.

4. Mr Kevin Jackaman, Licensing Officer, outlined the amended application to the Committee. He advised that representations had been received from the Environmental Health Service (EHS), Licensing Authority (LA), the Soho Society and 15 interested parties. He further advised that the Premises is located within the West End Ward and in the West End Cumulative Impact Area but not in the Special Consideration Zone. He confirmed that the additional submissions from the Applicant and the Interested Parties had been circulated.
5. Mr Anderson outlined the application to the Committee along with Mr Callum Thomas (the PLC of the Premises). He advised that the Premises wished to have later hours because it was losing customers to other Premises within the West End and that by opening slightly later, but within core hours, it could reduce the number of people wandering around the streets looking for other Premises.
6. Mr Anderson explained that there were over 60 seats on the ground floor where food was available with some background music and occasionally entertainment. He added that the Premises also used the basement area. He advised that their customers were usually slightly older and therefore left the pub early so by 22.30 hours the pub was not full as most people had started making their way home by then. He emphasised that the beer was good quality as Fullers was a premium operator and that dispersal of customers would be quick due to the location of the pub within the West End.
7. Mr Anderson referred to the external area which was a major concern for the residents' making representations against the application and considered that the photographs that they had submitted were old as the pub was no longer that busy. He advised however that in keeping with many pubs in the West End the Premises did not have its own outside area and therefore when the weather was nice customers took their drinks outside to drink and socialise.
8. He emphasised that this was a lawful activity as the Premises had off sales and was weather dependent. He considered that the peak trading times were usually between 17:00 hours and 20:00 hours on Thursdays and therefore the crowded pavement was not a permanent problem. He outlined how the barriers helped keep customers in a confined area and that Mr Thomas's staff regularly collected glasses, cleaned and managed the area. He considered that active enforcement was not necessarily due to the outside area becoming quiet after 20:00 hours and also because it was not good for customer relations.
9. Mr Anderson advised that the Premises had no ongoing enforcement issues in relation to noise nuisance and that it was a well-respected and managed pub. He emphasised that the Applicant was offering all 11 conditions to be attached to the Premises Licence to promote the Licensing Objectives with Conditions 12, 15 and 18 only applying on Saturday night.

10. In response to questions from the Committee, Mr Anderson advised that a previous application had been withdrawn because there had been lots of adverse evidence regarding the external area under the old management. He explained that they had made this application for commercial reasons. However, after taking into consideration the residential representations had decided to withdraw the majority of the application and concentrate on the day that would most benefit the business. He advised that Mr Thomas had been operating the Premises for the past seven months and since then customers had been retained on the pavement on the Premises side.
11. Mr Thomas advised that his direct email address was on the Premises website and that he had been the one to introduce the barrier system throughout the year outside of the pub. He outlined that his customer base was office workers during the week, regulars on a Friday night and shoppers on a Saturday. He confirmed that he was content for the Council's model telephone condition where the PLH's number is displayed for residents to use to be attached to the Premises Licence.
12. Mr Karyn Abbot, representing the Licensing Authority, LA, advised that a lot of mediation had taken place with conditions agreed between the Responsible Authorities. She advised that she was content with the amended application and the Licensing Authority considered that the additional hour would not cause an adverse effect within the West End Cumulative Impact Area.
13. Ms Sally Fabbriatore, representing the Environmental Health Service, EHS, advised that the EHS had maintained their representation due to concerns regarding Public Nuisance. She emphasised, however, that it was now important to focus on the amended application which was for sale of alcohol (on) the Premises for an extra hour on Saturday night only. She outlined three complaints had been received regarding the Premises: one in 2021, the second in August 2022 regarding an alarm which occurs from time to time from commercial businesses and the most recent complaint in April 2024 regarding doors being open and loud music emanating from the Premises. She outlined that the Applicant should be able to promote the licensing objectives with all the proposed and agreed conditions attached to the Premises Licence especially as the variation is only for the internal area of the Premises.
14. In response to questions from the Committee, Ms Fabbriatore advised that when the Environmental Health Officers turned up at the Premises in April they had found the Premises was compliant and no noise had been emanating from the Premises. She encouraged the residents to report any future noise nuisance to the Council, so that complaints could be entered onto their system and investigation would take place regarding the Premises' normal operation and the outside areas.
15. Mr Anderson responded and advised that in April the doors of the Premises had been left open. However, the Premises usually only played background music. He added that on occasion the Premises did have louder Regulated Entertainment played in the basement which could not be heard or cause

noise nuisance in the street. He emphasised that in practice the doors should remain closed except for access and egress and that one of the conditions the Applicant was offering in terms of Saturday trading was the doors would remain closed at all times so that would improve the current situation. Mr Anderson advised that the Applicant had taken on board the Committee's comments regarding displaying a direct telephone number.

16. Mr P.F, local resident, who lived across from the Premises advised that his concern was that the operation of the pub during core hours combined with the lack of enforcement by Westminster was leading to anti-social behaviour, noise nuisance and an increase in crime and disorder in Soho. He explained how residents were already suffering with broken glass, vomit and noise nuisance which meant that they could not open their windows because it would simply be too loud at peak times with the crowds of people drinking outside on the street. He advised that residents had stopped complaining because nothing ever seemed to get done and in addition residents were pragmatic and appreciated the limited resources of the Council and Police in Soho. He explained that granting the extension of hours now when the pub was not operating in a particularly good way would be a slap in the face to the residents. He added that crowds were a regular occurrence on the street and the pub had now installed seating which was very irresponsible and detrimental to the local neighbourhood. He added that the Premises often kept its doors open to ease patrons leaving the pub, encourage more patrons to enter inside for a drink and to cool the inside down as their air conditioning did not work particularly well.
17. Mr P.F advised that the residents welcomed any curtailment of outside drinking and the direct telephone number, however, he considered that if the telephone number were not being monitored by the Council, he could see little point in one being provided. He further explained that the phone number would not address the root cause of the issues in Soho and residents needed more than a phone number to improve their day-to-day relationship with the pub. He found it baffling that the Council would consider granting anything that contravenes the licensing objectives and creates an additional hotspot of crime and anti-social behaviour in what otherwise was normally a quiet residential street comprising of residents many of which lived in social housing and some vulnerable residents. He requested that the Council did not grant any form or part of the Applicant's application because any compromise would lead to the Applicant requesting increasing hours in the future.
18. In response to questions from the Committee, Mr P.F advised that he had complained to the Council and had made several representations in Licensing hearings and Reviews. He emphasised again that if the Committee granted the increase in hours for the Saturday the Applicant would return next year and request extensions for everyday of the week. He considered that it was a classic negotiation and stealth tactic to increase their hours. He confirmed that he had not tried to form a relationship with the pub which was why he had made the representation and put his objection on the record today at the hearing. He advised that residents had stopped complaining because they were simply tired, frustrated and aggravated in doing so, especially when nothing got done or changed. He considered that the Council did not

appreciate that constant complaining had a mental health toll on people and that residents had day jobs/their own lives to get on with. He outlined how residents had a right to quiet enjoyment of their neighbourhood and it was a universal human right to have a peaceful night's sleep. He emphasised that the pub got all the financial gain of being located in Soho and the residents received all the financial pain. He believed that there should be a healthy balance between the businesses and local residents in the West End area.

19. Mr Anderson advised that the Applicant would be unable to extend the full 12 additional conditions throughout the week due to the criminal element to having them on the Premises Licence. He outlined that the Applicant already monitored and controlled the outside area and that the way the conditions were worded were quite subjective and would be inviting possible criminal sanction if the Applicant were found in breach of them. He added that the Premises was not being reviewed and the Premises did not have an established problem with the outside area so the Applicant would prefer the residents to rely on his assurances instead of putting himself at risk of potential criminal sanction. He further added that in his experience there was a significant number of Council enforcement officers who were available to attend and deal with issues arising in Premises.
20. Mr Richard Brown, Licensing Advice Project on behalf of the Soho Society, advised that the Committee could not resolve the issues contained in the representations today. However extending the Premises hours would not be appropriate before the issues were first resolved. He emphasised that there had been 14 representations from individuals and 16 representations in total including the Soho Society and the Housing Association which in his experience was a lot because residents were reluctant to submit representations to reveal themselves and/or they felt their opinions would not make a difference to the outcome of the application. He advised that there had been no attempts of mediation with the Soho Society or any of the residents which was surprising as Westminster specifically requests that Applicants contact and build good relationships within their neighbourhood.
21. Mr Brown advised that the noise nuisance already in Soho would be exacerbated by an hour extra drinking on a Saturday and set out that residents had not previously complained to the Council partly because they knew the pub would close at 23:00 hours and there would then be peace and quiet in the street. He outlined how the extra hour on a Saturday would attract more people to the area late at night and secondly more people would be leaving and making noise later into the night. He referred to a condition that the Licensing Authority had proposed 'that there should be no new entry after 23:00 hours' and considered that it would be beneficial for the residents if this condition were accepted by the Applicant as it would prevent additional people being attracted to the Premises after 23:00 hours.
22. Mr Brown referred to the proposed conditions and advised that the majority if not all the conditions were simply 'good practice' management which the Applicant should be carrying out already. He added that it was not good practice to have some conditions that only applied on a specific evening, say

in this case on a Saturday, and that all conditions should apply all of the time. He considered that if the Committee were minded to grant the application the conditions attached to the Premises Licence should apply 24/7 which would give the residents some peace of mind. Mr Brown requested that the number of smokers outside of the Premises after 23:00 hours should also be conditioned on the Licence.

23. Mr Anderson reminded Mr Brown that this was not a Review hearing but merely an application for a small variation to the Premises Licence. He added that by 23:00 hours on a Saturday the Premises would only be half full and that the Applicant was content to have the Council's model smoking condition on the Licence.
24. Ms W.H, local resident, advised that she walked past the Premises three to four times a day/evening and the pavement was always crowded so it was impossible to walk down that side of the street. She outlined that her daily experience was exactly as shown in the photographic evidence submitted to the Committee and that the security men and/or door attendants made no attempt to keep a space clear for residents let alone people in wheelchairs. She advised that she welcomed the withdrawal of the extension of hours Monday to Friday and also the suggestion of a direct telephone number for residents to use if they had an issue because she did hear noise emulating from the Premises some way down the street.
25. Ms W.H endorsed Mr Brown and Mr P.F submission to the Committee that the extra hour on a Saturday would lead to more people remaining in the area and hence further anti-social behaviour with groups of people making noise for longer into the night. She referred to the large number of representations which indicated the strength of feeling about the current management. She emphasised her right to live in a peaceful environment and how the people in social housing were most affected as they could not take days off work to come to these hearings. She further emphasised that people were nervous about making representations for various different reasons especially when they lived in such close proximity to a Premises. She requested that the Committee refuse the application.
26. Mr J,W, representing the Soho Housing Association, advised that any extension of the existing Premises Licence would further impact residents and be detrimental to their amenity. He outlined how the additional hour on a Saturday would only exacerbate the noise and disturbance coming from inside and outside the Premises and how these incremental increases add up and cause ever increasing anti-social behaviour in the area. He advised that the residents liked living in a mixed community however unless they stood up in terms of protecting their surrounding environment the deterioration of Soho would continue. He explained that it was not just the dispersal of customers but the cleaning up afterwards into the early hours of the morning which affected the residents. He considered that residents were entitled to live in a peaceful and safe environment and that it would go some way to alleviate his concerns if the Applicant would agree that the proposed conditions would be imposed throughout the whole of the week.

27. Ms M.T, representing the Soho Society, endorsed the representations made by the other objectors at the hearing. She added that the extra hour on the Saturday would mean that customers would not be dispersing until after midnight which would affect residents sleep, especially in the summer months when windows were open. She emphasised the increase in anti-social behaviour with people vomiting in doorways. She requested that the Applicant agree to all the proposed conditions being imposed throughout the whole of the week.
28. Mr Burnett, Legal Advisor to the Committee, then went through the conditions with the Applicant and Responsible Authorities and agreed to the wording of conditions should the application be granted. The Applicant agreed to the addition of Model Conditions 24 and 42 being added as compliance with these conditions are already in place at the Premises.
29. During his summing up, Mr Brown advised that the impact assessment that had been published recently clearly indicated that it would be inconsistent to grant any further extensions to licensable hours with the West End CIA. He emphasised how incremental increases were affecting the residents in Soho and on balance what the Committee had heard from residents extending the hours even just on a Saturday would have a detrimental impact on the area.
30. During her summing up, Ms Sally Fabbricatore advised that anyone being disturbed by the Premises should call the Council so the enforcement team could investigate and take action. She added that all complaints were kept on the Council's system and if necessary be used as evidence for future applications.
31. During his summing up, Mr Anderson advised that the Applicant take steps to build up a good relationship with residents and invite them over to the Premises. He advised that the operation of the Premises was not all bad and emphasised that the Metropolitan Police Service had not made a representation against the application. He outlined that the use of the outside area was weather dependent and that the number of people usually trailed off after 21:00 hours. He added that the extension was really only for customers already on the Premises who could then have an extra 30 minutes drinking up time.
32. Mr Anderson advised that the pub was located in one of the busiest parts of Soho and therefore there would be no significant impact in terms of noise nuisance. He outlined the relatively small increase by way of variation and the lack of evidence indicating that the pub causes adverse issues in the area. He emphasised that the proposed conditions attached to the Premises Licence would promote the Licensing Objectives.

DECISION

33. The Sub-Committee has decided an application for 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 application.

34. The Committee have real concerns about the use and management of the Premises outside area which, on the evidence causes substantial nuisance to residents and affects the safety of the public using the public highway. This is the main concern of a number of the objectors to this application but the Committee notes that the use of outside areas is governed by a Premises Licence in part and also by a Pavement Licence.
35. Complaints about the use of the outside area should be dealt with by the Premises Licence Holder/Applicant and it is concerning that the residents do not have a relationship with the management of the Premises. A positive relationship between the Parties to promote the Licensing Objectives is encouraged by the Committee. Failing this, the Licensing Authority and EHS should be made aware of the issues. This could then go toward objecting to the renewal of a Pavement and Chairs Licence if there is one in place, or alternatively, it will be good evidence to support a Review of the Premises Licence.
36. The Committee notes that the Applicant has offered and accepted some conditions which deal with the management of the outside area. However, the Applicant, Fullers as "a premium operator" as described by Mr Andersons is expected to ensure their operation does not adversely affect the Licensing Objectives, irrespective of whether there are conditions on the Premises Licence or not.
37. In other circumstances, the Committee would have considered the serious issues relating to the outside area. However, it is accepted that this application solely relates to the extension of the hours for the sale of alcohol (on sales) on a Saturday and inside the Premises.
38. There is no extension sought for the use of the outside area and therefore the Committee's Decision is restricted to the subject matter of the variation and there are no basis for the Committee to conduct a general review of the Premises Licence.
39. The Committee note that the reduced Application is for an extra hour for the sale of alcohol and an extra 30 min for the closing time on Saturdays alone. This application falls within Westminster's Core Hours Policy. As such, despite being in the CIZ, there is no presumption to refuse the application.
40. The Committee notes that the Applicant has voluntarily proposed a number of conditions which not only promotes the Licensing Objectives but also manages the outside area and applies to all hours the Premises is open to the public, save for 3 conditions.
41. The evidence from the EHS is that during the last 2 years, there have been only 3 complaints and only one of those relates to inside the Premise, namely music escape. Conditions have been agreed which will resolve this issue.

42. The Committee's expert on crime and disorder, the Metropolitan Police Services, did not object to the original application which was for an extension of hours to core hours throughout the week. The application has now been substantially reduced retaining the addition of numerous conditions which are appropriate and proportionate. These are likely to protect residents in the area, promote the Licensing Objectives and focus the Applicants' need to properly manage the Premises, knowing that failure to do this is likely to result in a Review of the Premises Licence.

43. Therefore, having carefully considered the Licensing Act 2003, the Guidance issued under sec 182 of the Act, Westminster's Statement of Licensing Policy, the committee papers, additional papers, and the submissions made by all of the parties orally, the Committee has **DECIDED** after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. To **GRANT** permission:

i. **To VARY the terminal hour for the sale by Retail of Alcohol (on sales only)**

On Saturdays only, from 23:00 to midnight.

ii. **To VARY the hours the Premises is open to the Public:**

On Saturdays only from 23:30 to 00:00

All other existing terms, days, times and licensable activities to remain, in so far as they are not amended by this application.

2. **Relevant Mandatory Conditions to apply.**

3. **Deletion of existing Condition 9.**

4. **Retention of all other existing conditions.**

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

11. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.

12. On Saturdays, the premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

13. The number of persons in the basement at any one time (excluding staff) shall not exceed (80).

14. There shall be no sales of hot food or hot drink for consumption off the premises after 23:00hrs.

15. On Saturdays, after 23:00hrs all external doors and windows are to be kept closed other than for immediate access and egress of persons.

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

17. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.

18. Drinks shall not be taken outside of the premises beyond 23:00 hrs on Saturdays.

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

20. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council of 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.

21. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.

- (a) All entry and exit points shall be covered enabling frontal identification of every person entering in any light condition.
- (b) 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.
- (c) All recordings shall be stored for a minimum period of 31 days with date and time stamping.

(d) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

22. Patrons permitted to temporarily leave and then re-enter the premises after 23.00 hours, e.g. to smoke or make a phone call, shall be limited to 12 persons at any one time.

These persons shall be directed to the area on Great Pulteney Street near the entrance leading down the stairs to the basement.

23. Any furniture in the outside area shall be rendered unusable by 23.00 hours.

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 at the close of business.

25. 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:

The Committee reminds residents that should any element of the premises operation under this Premises Licence cause them concerns, then they should complain to the manager at the premises. The residents are also at liberty to complain to the Environmental Health and Licensing Officers to ensure a permanent record is maintained.

Should the issues persist, the residents also have the option of instigating a Review under section 51 of the Act which is a relatively straightforward process and assistance/advice can be given by Westminster's Licensing Officers or alternatively, Mr Brown.

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

**The Licensing Sub-Committee
11 July 2024**

3. FORSTERS LLP, 22 BAKER STREET, W1U 3BW

WCC LICENSING SUB-COMMITTEE NO. 3
("The Committee")

Thursday 11 July 2024

Membership: Councillor Robert Eagleton (Chair), Md Shamsed Chowdhury
and Councillor Louise Hyams

Officer Support: Legal Adviser: Steve Burnett
Committee Officer: Sarah Craddock
Policy Officer: Daisy Gadd
Presenting Officer: Kevin Jackaman

Other Parties: David Whitehead DSW Group on behalf of the Applicant

Application for a New Premises Licence in respect of Forsters LLP, 22 Baker Street, London W1U 3BW - 24/02684/LIPN

FULL DECISION

Premises

Forsters LLP,
22 Baker Street,
London
W1U 3BW

Applicant (PLH)

Forsters LLP

Ward

Marylebone

Cumulative Impact

N/A

Special Consideration Zone

N/A

There is a resident count of 69

Summary of Application

This is an application for a new premises licence under the Licensing Act 2003 ("The Act") and therefore no premises licence history exists.

The premises are the new London offices of an international law firm which has moved from Mayfair.

The premises is located at the junction of Baker Street and George Street and consists of 7 levels. A premises licence is required for fine dining, client entertaining, legal conferences, meetings, in-house events and training events.

These will take place in parts of the lower ground floor, 1st floor and 3rd floor. There is no permanent bar and any requirement for alcohol must be pre-booked.

The general public will not be permitted access to the premises for licensable activities.

The Application is to Permit:

Sale by Retail of Alcohol (Both)

Monday to Saturday 12:00 to 22:00

Hours Premises Are Open to the Public

Monday to Sunday 00:01 to 24:00

Representations Received

- Kudzy Mondhlani – Environmental Health Services (EHS) – **Withdrawn 9 July**
- 2 Objections from Interested Parties

Issues raised by Objectors.

The Environmental Health Services states that the premises would have the likely effect of causing an increase in public nuisance in the area and may impact of public safety.

The residents states:

- 1) There are concerns about an outside eating/entertainment terrace on the 3rd Floor in close proximity to residents.
- 2) There is no reference to how noise will be controlled.
- 3) The terrace overlooks children's bedrooms.
- 4) There has been no engagement with residents.
- 5) There are concerns about taxi access.

Policy Considerations

HRS1 states:

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

The Core Hours for Pubs/bars are:

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.

PB1 A, C and D and para F103 applies.

SUBMISSIONS AND REASONS

1. The Presenting Officer, Kevin Jackaman, Senior Licensing Officer, introduced the application. He confirmed that only one residential objection remains outstanding, and that objector was not in attendance.
3. Mr Whitehead on behalf of the Applicant confirmed to the Committee that the Applicant was located in Mayfair and had previously provided alcohol to clients and at event on a free basis. At the new Premises, they would like to option of selling alcohol on a restricted basis, subject to agreed conditions.
4. It was emphasised that the relevant authorities were all now satisfied with the application and consequently, there are no outstanding objections from them.
5. In response to questions from the Committee, Mr Whitehead confirmed the Premises required 24 hr access as this is an International law firm with international clients in different time zones and the alcohol will be stored in a kitchen store. Off sales is required to provide gifts to clients, lawyers and at conferences. He also stated that alcohol will be stored on the premises.
6. Mr Whitehead confirmed acceptance of the conditions and an amendment of condition 11.

DECISION

Having carefully considered the Licensing Act 2003, the Guidance issued under sec 182 of the Act, Westminster's Statement of Licensing Policy, the committee papers, additional papers and the submissions made by all of the parties orally, 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: -

7. To **GRANT** permission:

To Permit:

Sale by Retail of Alcohol (Both)

Monday to Saturday 12:00 to 22:00

Hours Premises Are Open to the Public

Monday to Sunday 00:01 to 24:00

2. Relevant Mandatory Conditions to apply.
3. To add conditions proposed to form part of the operating schedule:

Conditions consistent with the operating schedule

1. The supply of alcohol at the premises shall only be to permanent or temporary members of staff and their bona fide guests, or as part of pre booked private events. A register of external guests attending the event shall be kept for a minimum period of 31 days at the premises. This shall be made available for inspection with the absolute minimum of delay by police or an authorised officer of the Council throughout the entire 31-day period.
2. The provision of licensable activities shall be ancillary to the use of the premises as offices.
3. All persons engaged at the premises with responsibility for the sale or supply of alcohol shall receive adequate training in their responsibilities and training records shall be retained for no less than 6 months.
4. Non-intoxicating beverages including water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
5. CCTV system requirements including retention of recordings and viewing on request:
 - 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. Viewings of recordings shall be made available to Police or an authorised officer of the licensing authority as soon as practicable, no later than 48 hours.

6. 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 in accordance with GDPR/DPA as appropriate.

7. 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 refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

8. The Designated Premises Supervisor shall ensure that a written notice of authority is kept at the premises for all staff who sell alcohol on their behalf. This notice shall be made available for inspection upon request of the police or an authorised officer of the licensing authority.

9. The premises licence holder shall ensure catering manager and assistant catering manager successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day they start their employment.

10. The premises licence holder shall ensure that a competent person inspects licensed areas each day and takes appropriate remedial action where necessary, to ensure the safety of all persons on the premises, the absence of hazards and the integrity of fire prevention, fire detection and other safety equipment.

11. A risk assessment, completed by a competent person, shall be completed for events where licensable activities are taking place and this shall be kept updated, at the Premises and available for inspection by the relevant authorities on their request.

12. Alcohol sold for consumption outside of the demise of the premises licence holder shall be in sealed containers and not consumed on the premises.

13. At least one person shall be present at the close of functions or events to encourage people to leave the building with the minimum of noise.

14. All deliveries and refuse collection shall take place in the loading bay only.

15. 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 such acceptable identification as may be advised by the Home Office, police, or the licensing authority from time to time. Ages of employees may also be confirmed by the human resources department.

16. There shall be no adult entertainment, services, or activities at the premises.

17. Notices shall be prominently displayed at the exits to Baker Street, and George Street requesting patrons to respect the needs of local residents and businesses and leave the area quietly whenever an event is to conclude after 21:00.

18. 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 alcohol with them.

19. No noise generated on the premises under the control of the Premises Licence Holder, shall emanate from the premises nor shall vibration be transmitted through the structure of that premises which gives rise to a nuisance.

20. There shall be no advertisement of the licensed facilities outside of the premises.

21. 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.

22. There shall be no use of the terrace after 21:00

This is the Full Decision reached by the Licensing Sub-Committee

**Licensing Sub-Committee
11 July 2024**

The Meeting ended at 1.45 pm