

Licensing Sub-Committee Report

Item No:	
Date:	26 September 2019
Licensing Ref No:	19/09141/LIPN - New Premises Licence
Title of Report:	Daisy Green, 1 Canalside Walk London W2 1DG
Report of:	Director of Public Protection and Licensing
Wards involved:	Hyde Park
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Michelle Steward Senior Licensing Officer
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1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	25 July 2019		
Applicant:	Daisy Green Food Limited		
Premises:	Daisy Green, 1 Canalside Walk London W2 1DG		
Premises address:	1 Canalside Walk London W2 1DG	Ward:	Hyde Park
		Cumulative Impact Area:	None
Premises description:	This is a new premises licence application for a café style bar with external seating area.		
Premises licence history:	As this is a new premises licence application and therefore no history exists for this premises.		
Applicant submissions:	There are no submissions from the applicant.		

1-B Proposed licensable activities and hours							
Late Night Refreshment:				Indoors, outdoors or both			Indoors Only
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	23:00	23:00	23:00	23:00	23:00	23:00	
End:	23:30	23:30	23:30	23:30	00:00	00:00	
Seasonal variations/ Non-standard timings:		New Year's Eve from end of permitted hours to the start of permitted hours on New Year's Day. On Sundays prior to Bank Holidays 23:00 to 00:00					

Sale by retail of alcohol				On or off sales or both:			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	12:00
End:	23:30	23:30	23:30	23:30	00:00	00:00	22:30
Seasonal variations/ Non-standard timings:		New Year's Eve from end of permitted hours to the start of permitted hours on New Year's Day. On Sundays prior to Bank Holidays 23:00 to 00:00					

legitimate rights of business and the equally legitimate and important rights of residents.

Introduction

With that in mind, this application raises a significant number of issues which lead us to conclude that, if granted as applied for, it will constitute an unacceptable risk to the licensing objectives. We would ask that if the licensing authority is minded to grant the application, it should be with amendments and additional conditions.

Our representation is made on the basis that the likely impact of the application, if granted, would be to harm the licensing objective of prevention of public nuisance.

The application

We note that the application seeks a new premises licence for a new development which we understand is close to completion. The building is a multi-storey mixed use development.

The applicant has also made an application for a new premises licence for the rooftop of 2 Canalside Walk.

We believe that the applicant also has the benefit of two premises licences in the very near vicinity.

The premises is described as 'café/bar with external seating'. The licensable activities sought are:

- 1) To sell alcohol for consumption on and off the premises from 10am to 11.30pm Mon-Thurs; 10am to midnight Fri-Sat; 10am to 10.30pm Sun (midnight on Sun before a bank holiday).
- 2) To provide late night refreshment to the same times as above.
- 3) Premises open to the public from 7.30am to the times specified above.

Whilst some conditions have been proposed, they fall some way short of the safeguards we would want in order to be content with the application.

Reasons for representation

We have the following concerns:

1. The immediate vicinity of the application site has had many new premises licences granted in recent years. We are concerned that a 'cumulative impact' of these premises is beginning to manifest.
2. The hours for licensable activities and opening are likely to impact adversely on the licensing objectives.
3. It seems from the conditions that the proposed style of operation is as a vertical drinking bar with no requirement to be seated.
4. Substantial food need only be 'available'.
5. Servicing not between 11pm and 7am. We feel that these times are too early/late.
6. There is no capacity given but we count 42 chairs outside and about 177 inside across the ground floor and mezzanine. The capacity would obviously be higher if customers are also standing.

7. No 'restaurant' condition is proposed across any or all of the premises. We feel this raises the 'risk profile' of the premises in terms of the impact on the licensing objectives.
8. No 'seated' condition is proposed across any or all of the premises. Vertical drinking is known to increase risk to the licensing objectives.
9. No 'waiter/ess service' condition is proposed across any or all of the premises.
10. No 'No noise shall emanate...' condition is proposed.
11. There is no condition stopping drinks being taken outside.
12. There is no condition specifying at what time outside tables and chairs would be rendered unusable/taken in.
13. The times proposed for off sales extend well beyond 'core hours'.

We would also suggest that a telephone number is available for residents.

For these reasons, we object to this licence being granted as presented.

Conclusion

We note that the premises licence for 'Beany Green', which we believe is operated by the applicant, has a much earlier terminal hour and is subject to many if not all of the conditions to which we refer above.

We are aware that applications are often amended to take into account concerns raised by responsible authorities or other persons. Please let us know if any amendments are made to this application so that we can consider if they resolve our concerns and, if appropriate, liaise with local residents.

Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Received:	21 August 2019

The South East Bayswater Residents' Association (SEBRA) wishes to lodge an objection to this Premises Licence application on grounds of potential noise & nuisance to adjoining properties and the surrounding area, school and potential for crime and disorder issues.

We understand that last day for objections is tomorrow so we set out below concerns we have.

We are particularly concerned that premises should operate within WCC Core Hours for both 'on sales' and 'off sales' (or less if condition on hours set by WCC planning department) and sale of alcohol should be to persons seated, with waiter/waitress service and be ancillary to taking substantial meal.

We have not checked if sale of draft beer and lager is proposed.

On 'off sales' we would want condition of no sale of beer or cider over 5.5% APV

Also can we please be advised if premises operated by application nearby on canal if have had any noise complaints.

- o The applicant is Daisy Green, who already have a premises at Sheldon Square, and the two boats opposite the Hammersmith and City line entrance.
- o The premises is described as "café/bar with external seating.
- o Alcohol on and off premises, late night refreshment - both to core hours for on sales, beyond core for off sales. Opening 7.30am to core hours.
- o Conditions - substantial food 'available'.
- o Waste/deliveries not between 11pm and 7am.
- o
- o No capacity given but I count 42 chairs outside and about 177 inside across ground floor and mezzanine. Would obviously be higher capacity is standing.
- o There are clearly important omissions from the conditions:
- o No 'restaurant' condition across any or all of the premises.
- o No 'seated' condition across any or all of the premises.
- o No 'waiter/ess service' condition across any or all of the premises.
- o No 'No noise shall emanate...' condition.
- o No condition stopping drinks being taken outside.
- o No phone number available.
- o No condition rendering tables and chairs unusable at []pm.
- o No condition stopping off sales at 11pm (or earlier).

As always we are more than happy to meet up with applicant and.or their agent to discuss our concerns.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy HRS1 applies	<p>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.</p> <p><u>For premises for the supply of alcohol for consumption on the premises:</u> Monday to Thursday: 10:00 to 23:30 Friday and Saturday: 10:00 to midnight Sundays immediately prior to Bank Holidays: Midday to midnight Other Sundays: Midday to 22:30</p> <p><u>For premises for the supply of alcohol for consumption off the premises:</u> Monday to Saturday: 08:00 to 23:00 Sundays: 10:00 to 22:30</p> <p><u>For premises for the provision of other licensable activities:</u> Monday to Thursday: 09:00 to 23.30 Friday and Saturday: 09:00 to midnight Sundays immediately prior to Bank Holidays: 09:00 to midnight Other Sundays: 09:00 to 22:30</p>
Policy PB1 applies:	Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.

4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

4. Appendices

Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

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If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

Background Documents – Local Government (Access to Information) Act 1972

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
4	Environmental Health Service Representation	22 August 2019
5	Metropolitan Police Service Representation	7 August 2019
6	Public Representation 1	22 August 2019
7	Public Representation 2	21 August 2019

Applicant Supporting Documents

Appendix 2

None

Premises History

Appendix 3

There is no licence or appeal history for the premises.

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or

less in a manner which carries a significant risk of undermining a licensing objective;

- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions consistent with the operating schedule

9. 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.
10. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the 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. Save for any external area shown hatched blue on the plan, all sales of alcohol for consumption off the premises shall be in sealed containers only.
13. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
14. 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.
15. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
16. 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.
17. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (07.00) on the following day.
18. No deliveries to the premises shall take place between (23.00) and (07.00) on the following day.
19. 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.
20. 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.
21. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue

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

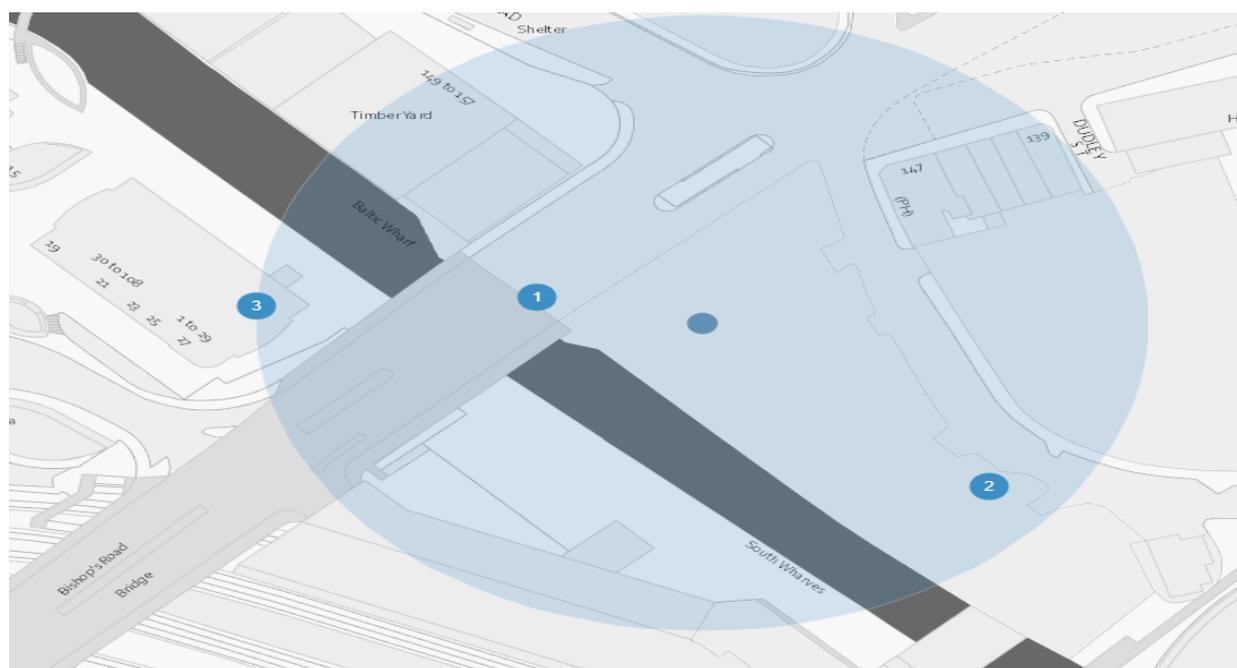
22. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.

Conditions proposed by the Environmental Health

None

Conditions proposed by the Police

None



Resident Count: 0

Premises within 75 metres of Daisy Green 1 Canalside Walk, London, W2 1DG				
Licence Number	Trading Name	Address	Premises Type	Time Period
19/00371/LIPN	Not Recorded	STREET RECORD Canalside Walk City Of Westminster London	Not Recorded	Monday to Saturday; 11:00 - 23:00 Sunday; 11:00 - 22:00
11/02593/LIPDPS	ETC Venues	Ground Floor To Third Floor 57 North Wharf Road London W2 1LA	Office	Monday to Saturday; 07:00 - 23:30 Sunday; 07:00 - 22:30
16/01994/LIPVM	Smiths Bar And Grill	25 Sheldon Square London W2 6EY	Restaurant	Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:30 Sunday; 10:00 - 23:00 Sundays before Bank Holidays; 10:00 - 00:30