

Blame Gloria, Ground Floor & Basement, 20 Bedford Street, London WC2E 9HP
Jimi Loves Gloria, 7 Greek Street, London W1D 4DF –
Applications for New Premises Licences
Hearing Thursday, 10th September 2020 @ 10.00 a.m.
Evidence bundle provided by the Applicant

Background

This bundle relates to two applications which will be considered separately, but at the same Committee meeting with the same Applicant and similar issues, particularly the Policy.

The premises already have premises licences which allow the sale of alcohol and other activities to core hours.

The applications for the new licences are for licensable activities to end at 2.00 a.m. on Monday to Sunday with 30 minutes closing time.

The applications are time limited and will expire automatically at midnight on 31st December 2021; it is not possible to renew or extend the life of the new premises licence if granted.

The reasons for the applications relate to the current health crisis and its impact on the West End in particular and on the two bars, Blame Gloria and Jimi Loves Gloria.

The Applicant is aware that the premises are in the West End Stress Area, but considers that in the current circumstances there will not be an adverse impact by granting this licence and that there are circumstances relating to both applications which are exceptional.

There are no current or historic noise issues relating to the premises, Blame Gloria is in the basement (occupancy reduced from 150 to 120) and Jimi Loves Gloria is small (occupancy reduced from 80 to 29), no Police representation and no individual representation against either application.

The Covid Effect and the West End in Autumn 2020

All licensed premises closed for a minimum period of three months.

During this time no revenue (other than limited off sales for some premises) was received, but liabilities to suppliers and landlords remained.

The Government assisted particularly with the Furlough Scheme, which reduced the cost burden.

The impact of the “lock down” was sudden with little time to prepare; popular and vibrant bars became empty spaces almost overnight.

Some slides are attached which we have prepared to support the application.

Adventure Bars – Background

Adventure operate 10 successful cocktail bars in Central London.

They are experienced in operating bars in areas of Cumulative Impact with two in Westminster City Council's West End Stress Area (Covent Garden and Leicester Square).

At the beginning of 2020 Adventure Bar re-opened as The Lost Alhambra (the former London Late Lounge) with a terminal hour for licensable activities until 3.00 a.m. and an occupancy of 235.

This premises had been particularly poorly run and had been reviewed following serious incidents of crime and disorder; Adventure purchased the premises and invested considerably in a refurbishment to the satisfaction of Police and Environmental Health.

They have successfully from scratch funded, designed and created two new bars in Waterloo at Mercury House, Waterloo Road.

Adventure are serious, successful and accomplished operators who do not compromise in terms of quality and offer professional and effective management and thorough staff training.

The current situation and the Policy

The West End of September 2020 is not the West End of 2005 or the West End when the Stress Area/Cumulative Impact Policy was subsequently reviewed.

It is common ground and recognised nationally that the following applies:-

- Footfall in the West End is down considerably.
- There are no tourists and many businesses are at 20% occupation only.
- Nightclubs and theatres are still closed (the former reducing the likelihood of visitors staying in the area late). (Policy 1.1 and 2.4.1 – 39 theatres and 136 nightclubs in the Stress Area are closed).
- All operators, certainly inside, where open are operating to a reduced capacity to comply with health and safety regulations and guidance.
- Some premises have not re-opened and may not do so.
- Other premises, even with the reduced capacity, are not operating every day of the week or to the extent of the hours permitted on their premises licences.

Recently the following facts and comments have appeared in the national and/or trade press:-

1. According to the Centre for Economics & Business Research around £2.3 billion spending has been lost or displaced from shops, pubs and restaurants near London's employment hubs.
2. Around £178m a month spending compared with pre-virus levels have been lost because of the reduction in people working in Central London.
3. Figures from analyst Forwardkeys reveal that in September flight bookings abroad are down almost 90%.
4. More than 90 hospitality business leaders operating in London have written to the Prime Minister and the Mayor of London warning that unless there is a co-ordinated campaign to encourage tourists and office workers back to London "the Capital's hospitality and tourism sectors are at real risk of failure."
5. Business Live has warned that 3 out of 5 bars, pubs and music venues still face closure (the type of premises which are affected the hardest).

The Policy

Licensing Policy Vision Statement

“We want to make sure that Westminster continues to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit”.

These applications will promote this Vision Statement.

Adventure have submitted a time limited application which is personal to it as the licence holder and cannot be transferred to another operator. (This is not the same as a “trial process” referred to in 2.1.8 of the Policy).

Adventure respects the policy; it has not applied to vary its licences to increase its hours of operation previously because it has accepted that no exceptional circumstances have applied.

It is likely that the premises will continue to trade at reduced capacity for some time. Its premises are trading differently with more bookings, less casual trade, customers being seated and therefore remaining in the premises longer and with less vibrancy, vertical drinking and entertainment available.

Adventure has not been able to take advantage of the national or local measures which have been introduced to help the hospitality industry, except it has used off sales at Jimi Loves Gloria on Greek Street, where it has taken advantage of the road closure, but this is time limited.

The only extension of its business model which is possible to adapt to the current crisis and stimulate customer demand is to trade later.

Reasons for this to be an exceptional application

The Applicant contends the following:-

1. The reason for the policy was to prevent further saturation of the area by licensed businesses and consequent impact on crime and disorder and public nuisance to local residents. (Policy 2.4 and 2.5 apply).
2. This was the position in 2005, but the area is not the same for the reasons outlined above, many premises remain closed and those that are operating are at reduced capacity as already outlined and certainly fewer trading until 2.00 a.m. or later.

3. It is particularly difficult for bars which are an important part of the overall economic and cultural mix because they cannot rely on food (for example the Eat Out to Help Out Campaign) and often, particularly if in basements, do not have access to any outside area.
4. There is clearly and evidently significantly less capacity in licensed premises than were operating in February 2020.
5. Effectively the “lock down” and its continued impact have reduced the levels of stress by probably 50% (closed premises and reduced occupancy). If this was the situation when the policy was originally considered, then almost certainly there will be no grounds to impose it.
6. This application is time limited and will therefore expire in 15 months if granted and cannot be a permanent change to the number of late night bars in the Stress Area; it will fall away and the previous licence will continue, thus re-dressing the Cumulative Impact balance when hopefully there is more growth and the area is more vibrant and closer to full recovery. The period of trading for the later hours is likely to be therefore when the area as a whole is at a reduced capacity and will not add to the Cumulative Impact as it may have done before lock down and the closure and limited opening of so many premises.
7. The Policy bites if there is a new premises licence or variation in the Stress Area and the Applicant submits that this must mean a permanent change to the licence rather than the temporary change proposed here.
8. The Applicant contends that the Committee must consider the circumstances of the application and the Stress Area as it currently is and is likely to be in the foreseeable future.
9. Public law and common law principles which apply to licensing policies can be stated as follows (Paterson’s Licensing Act 2019, page 58):
 - (1) A Policy should normally be applied subject to the requirements to consider each case on its own merit.
 - (2) Where appropriate exceptions should be made to the Policy.
 - (3) In considering whether to make an exception the Tribunal should consider what the aims of the Policy are and whether those aims would still be met if the application is granted.

If applying these criteria justifies the making of an exception ... “then that should not be defeated by a floodgates argument. To allow that would be to deny the Applicant the right to have its case heard on its own merits.”

10. The Applicant has a proven track record and there are no issues of crime and disorder, public nuisance or noise complaints to the Responsible Authorities relating to these premises.

The Policy and Exceptional Circumstances

Policy 2.4.3 states:-

“It is not possible to give a full list of examples of when the Council may treat an application as an exception. However, in considering whether a particular case is exceptional, the Licensing Authority will consider the reasons underlying the Cumulative Impact Area Special Policies on Cumulative Impact.”

Policy 2.4.5 states:-

“The Licensing Authority’s Policies, in relation to Cumulative Impact Areas, are directed at the global and cumulative effects of licences on the area as a whole. Therefore a case is most unlikely to be considered exceptional unless it is directed at the underlying reason for having the Policy. Exceptions to the Cumulative Impact Area Policies to refuse certain types of applications must be for genuinely exceptional reasons.”

Exceptions

1. The Committee must consider these applications in the light of the current trading circumstances of licensed businesses in the Stress Area, “on its merits”.
2. The reasons underlying the Stress Area Policy have effectively been temporarily disqualified because of closures and the reduction in capacity (see 2.4.3 and 2.4.5 above).
3. These applications are temporary to partly “fill the gap” until the saturation point returns.

4. The applications are time limited and are not a permanent change to the Stress Area which is implied in 2.4.2 and where applications are referred to. A variation to the existing licences could only effectively be a permanent change.
5. The applications are not capable of transfer to another operator (Policy 2.4.4 highlights the risk of a transfer of a licence in the Stress Area to an inferior operator).
6. Both of the current premises are likely to operate to a reduced capacity for some time to come.
7. Policy 2.4.30 highlights the additional risk if there is a Review of significant interference with the licence because of the presence of the premises in the Stress Area.