

APPENDIX 2

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.4

("The Committee")

Thursday 25 February 2021

Membership: Councillor Karen Scarborough (Chairman), Councillor Heather Acton and Councillor Rita Begum

Officer Support: Legal Advisor: Vivien Walker
Policy Officer: Aaron Hardy
Committee Officers: Sarah Craddock
Presenting Officer: Jessica Donovan

APPLICATION FOR A VARIATION OF A PREMISES LICENCE – DINNER JACKETS, UNIT 18 AND UNIT 19 JUBILEE HALL, JUBILEE MARKET, THE PIAZZA, COVENT GARDEN, WC2E 8BE – 20/11204/LIPV

FULL DECISION

Premises

Dinner Jackets, Unit 18 and Unit 19 Jubilee Hall, Jubilee Market, The Piazza, Covent Garden, WC2E 8BE

Applicant

Mr Nicholas Henry

Cumulative Impact Area?

West End

Ward

St James's

Proposed Licensable Activities and Hours

The application was for a variation of a premises licence as follows –

This variation seeks to permit the sale of alcohol for consumption off the premises between the hours of 11:00 to 21:00 Monday to Sunday 365 days a year, and 366 in a leap year.

The sale of alcohol is not to be restricted to mulled wine, the applicant is seeking to sell a small range of beers wines and spirits for consumption off the premises.

Representations Received

- Metropolitan Police Service (PC Brian Hunter) (withdrawn)
- Environmental Health Service (Maxwell Koduah) (withdrawn)
- Licensing Authority (Kevin Jackaman)

Summary of Objections

- The Licensing Authority expressed concern that the Premises would not promote the four licensing objectives, noting the Premises is within the West End CIA

Summary of Application

This was an application for a Variation of Premises Licence under the Licensing Act 2003 ("The Act"). The premises operate as a market stall in the Jubilee Market Hall, serving hot food, snacks and refreshments. The premises are in St. James's Ward and are within the West End Cumulative Impact Area. The premises have had the benefit of a licence (10/049774/LIPN) since August 2010.

Policy Position

Under Policy CIP1, "It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast food premises, and premises offering facilities for music and dancing; other than applications to vary hours within the Core Hours under Policy HRS1. Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies and must demonstrate that they will not add to cumulative impact in the cumulative impact areas".

Under Policy OS1 Applications inside the West End Cumulative Impact Zone will generally be granted subject to: 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1; 2. The hours for licensable activities are within the council's Core Hours Policy HRS1; 3. The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone; 4. The application and operation of the venue meeting the definition for a premises that provides off sales of alcohol as per Clause C.

SUBMISSIONS AND REASONS

Ms Donovan, Senior Licensing Officer, summarised the application set out in the report before the Sub-Committee. She explained that the application was for a variation in the Premises licence seeking to permit the sale of alcohol for consumption off the Premises between the hours of 11.00 to 21:00 Monday to Sunday. She advised that both Environmental Health and the Police had withdrawn their representations however the Licensing Authority had maintained their representation against the application. She further advised that additional submissions had been received from the applicant which had been circulated to all the relevant parties before the Sub-Committee hearing.

Mr Stewart Gibson acting on behalf of the Applicant, of SG Licensing, advised that the Premises had benefited from a Premises licence since 2010 and was currently licensed to sell mulled wine only between 15 November to 15 February between the hours of 11:00 to 19:00. The Sub-Committee noted that the premise was a market stall serving hot food, snacks and refreshments.

Mr Gibson explained that this application requested the removal of the restrictive condition of retailing mulled wine only as well as seeking the extension of sale of alcohol by retail consumption (off the premise) between the hours of 11.00am and 21:00 hours Monday to Sunday. This would allow the applicant to sell a small range of beers, wines and spirits for consumption off the Premises with the purchase of takeaway food which would enable the applicant to increase the transactional spend of its regular customers in order to remain in business during these difficult times.

Mr Gibson advised that discussions had taken place with Environmental Health and that conditions 17-19 on page 30 of the report were not the conditions agreed with Environmental Health. He further advised that conditions had been agreed with the Police who had subsequently withdrawn their representation against the application.

Mr Gibson commented that the Licensing Authority had maintained their representation due to their concern regarding street and underage drinking. Mr Gibson highlighted that street drinkers would not be drawn to the market stall as alcohol could only be purchased with takeaway food and no alcohol of 5.5% ABV would be sold at the Premises. He also emphasised that alcohol could only be obtained on request and therefore the Premises holders would have complete discretion on the sale of alcoholic drinks.

Mr Gibson concluded that the proposed Premises licence falls well within the Council's recently adopted Statement of Licensing Policy (SoL) and the provision was that the Sub-Committee would consider applications from Premises within the CIA that were open until 21:00 hours. He emphasised again that alcohol could only be served with the purchase of takeaway food.

In response to Members' questions, Mr Gibson and Mr Charlie Henry provided the following information.

- (a) Mr Charlie Henry advised that he had obtained his own personal Premises licence holder certificate and confirmed that he was happy to send all his employees on the course. He further confirmed the CCTV arrangements installed and surrounding the market stall.
- (b) Mr Gibson advised that conditions 17 and 18 on page 30 of the report had already been agreed with Environmental Health and that he would prefer that condition 19 'A personal licence holder to be on duty at all times alcohol is sold' was not placed on the Premises licence as he considered it was not necessary due to the small nature and operation of the market stall.
- (c) Mr Gibson advised that mulled wine would continue to be sold between the months of November and February, there were no tables or chairs located near the market stall, so all purchases were for takeaway only and there were adequate rubbish bins located in the surrounding area.

Conclusion

Having read the report by the Director of Public Protection and Licensing that was before it; the written submissions of the applicant and those parties objecting to the application; and, having heard presentations and representations by, and/or on behalf of, those parties present at the proceedings, as well as the responses by those parties to questions put to them by Members of the Sub-Committee, the Sub-Committee was satisfied that, in accordance with the Home Office Guidance and on the evidence before it, it was reasonable, appropriate and proportionate, in all the circumstances, to **APPROVE** the application.

In reaching its decision, the Sub-Committee took into consideration that the conditions had been agreed with all the responsible authorities, that the Premises were well run, there was no history of noise complaints and that the applicant, of his own initiative, and without there being any condition to this effect, cleans around the area of the Premises. The Sub-Committee were also

of the opinion that the small nature and operation of the market stall would not add to the cumulative impact in the West End area and in addition the conditions imposed on the Premises licence were appropriate and would ensure that the licensing objectives were promoted.

Having carefully considered the committee papers and the submissions made by all the parties, both orally and in writing, **the Sub-Committee has decided**, after taking into account all the circumstances of this application and the promotion of the licensing objectives to **grant** the application with the following permissions:

1. To grant permission for the sale of alcohol for consumption off the premises between the hours of 11:00 to 21:00 Monday to Sunday 365 days per year, and 366 days in a leap year.
2. To grant permission for the Hours Premises are open to the Public
Monday to Sunday: 10:00 to 21:00.
3. To grant permission for the removal of condition 5 from the operating schedule, to the effect to remove “the supply of alcohol shall only be permitted from 15th November until 15th February each year”.
4. To grant permission for the removal of condition 6 of the operating schedule, to the effect to remove “the supply of alcohol shall be restricted to mulled wine only”.
5. To grant permission for the removal of condition 7 of the operating schedule, to the effect to remove “all sales of alcohol shall be for immediate consumption and supplied in plastic containers only”.
6. To add conditions in the terms specified below.
7. That the varied licence is subject to any relevant mandatory conditions.
8. That the existing conditions on the licence shall apply in all respects except in so far as they are varied by this Decision.
9. That the varied licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

CONDITIONS IMPOSED BY THE COMMITTEE AFTER A HEARING

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 are 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.

10. A staff member from the premises who is conversant with the operation of the
11. CCTV system shall always be on the premises when the premises are 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. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or 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 incident 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.
13. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport, or proof of age card with the PASS Hologram.
14. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a takeaway meal.
15. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked storeroom or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
16. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
17. Save for mulled wine supplied between 15th November and 15th February each year, the sale of alcohol shall be in sealed containers only, and shall not be consumed on the premises.
18. Alcohol shall only be sold for consumption off the premises as ancillary to food. No alcohol to be sold for off sales without food.
19. No alcohol shall be on open sale. All alcohol to be stored behind the counter, and only sold on request for a named item by the customer.
20. 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.

If problems are experienced, then an application for a Review of the Premises licence can be made.

INFORMATIVE

The Premises Licence Holder shall ensure that all staff are trained regarding the Premises obligations under the Licensing Act 2003 ("the Act"), namely, offences under the Act, underage sales, sales of alcohol to drunks and a comprehensive knowledge of Challenge 25 proof of age scheme, 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.

This is the Full Decision reached by the Licensing Sub-Committee. This Decision takes immediate effect.

**The Licensing Sub-Committee
25 February 2021**