



City of Westminster

APPLICATION FOR REVIEW

Please forward one copy of your completed application and any supporting documentation to:

Licensing Service
Westminster City Council
Westminster City Hall
4th Floor
64 Victoria Street
London
SW1E 6QP

AND

You must give one copy of your application and any supporting documentation to the Holder of the Premises Licence and each of the following responsible authorities on the same day that the application is served on the Licensing Service:

- 1. The Chief Officer of Police**
Westminster Police Liaison Team
4th Floor, Westminster City Hall
64 Victoria Street, London, SW1E 6QP
- 2. Fire Safety Regulation:**
South West Area 4
169 Union Street London SE1 0LL
- 3. Premises Management (Environmental Health; Health & Safety; Weights and Measures)**
Westminster City Council
Environmental Health Consultation Team
4th Floor, Westminster City Hall
64 Victoria Street, London, SW1E 6QP

Continued.....

4. Development Planning Services

Westminster City Council
64 Victoria Street
London
SW1E 6QP

5. Area Child Protection Committee

Head of Commissioning – Child Protection & Quality, Social and Community
Services – Children and Families
4 Frampton Street
NW8 8LF

6. Public Health

Estates Lead
NHS Central London Clinical Commissioning Group
15 Marylebone Road
London
NW1 5JD

For boats only:

The Navigation Authority (for vessels not permanently moored)

Tidal Thames

The Harbour Master

The Port of London Authority, 7 Harp Lane, London EC3R 6LB

Non Tidal Thames

The Environment Agency Recreation and Navigation, Thames Region, Kings Meadow
House, Kings Meadow Road, Reading, RG1 8DQ

Canals

The Leisure Manager

British Waterways Board

1 Sheldon Square, Paddington Central, London W2 6TT

And

The Surveyor General

The Maritime & Coastguard Agency, Orpington Marine Office, Central Court, 1 Knoll
Rise

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

We Clifton Hill Residents Group ("CHRG")

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description The Clifton 96 Clifton Hill	
Post town London	Post code (if known) NW8 0JT

Name of premises licence holder or club holding club premises certificate (if known) Robson Brothers Limited
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Number of premises licence or club premises certificate (if known) 16/12331/LIPVM Original reference: 16/01702/LIPN
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Part 2 - Applicant details

I am

Please tick ✓ yes

an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr

Mrs

Miss

Ms

Other title

(for example, Rev)

Surname

First names

Please tick ✓ yes

I am 18 years old or over

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Clifton Hill Residents Group ("CHRG")
c/o 91 Wimpole Street
London
W1G 0EF

Telephone number (if any)

E-mail address (optional)

cliftonpubreview@gmail.com (preferred method of contact from licensing authority)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

Please tick one or more boxes ✓

- 1) the prevention of crime and disorder ✓
- 2) public safety
- 3) the prevention of public nuisance ✓
- 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 2)

Prevention of public nuisance

- Customers permitted to drink and smoke outside the premises building are not managed sufficiently to ensure that this does not cause a noise nuisance to local residents, particularly on all evenings, and also in the afternoons on Friday, Saturday and Sunday.
- Customers are permitted to drink in a small side road and on the pavement, outside the boundary of the licensed premises, increasing noise and other nuisance.
- Dispersal of customers leaving in the evenings and late at night is not managed sufficiently to ensure that residents are not disturbed. A preponderance of 'Ubers' and taxis adds to noise.
- There is noise leakage from the conservatory at the rear of the premises.
- Early morning deliveries to the premises.
- Customers take drinks outside after the hour specified on the licence, increasing noise and other nuisance.

Prevention of crime and disorder

- Breaches of licence conditions have been noted, some of which are specifically intended to prevent the issues set out above.

Since The Clifton reopened in May 2017, residents who live in the vicinity of the premises have experienced a variety of nuisance linked directly to the operation of the premises. Numerous complaints have been made to the City Council. This has been ongoing throughout spring and summer 2017. We have sought to address these concerns with the owners and staff, and with Council officers. We have had many meetings with the owners both before and since the premises opened in an attempt to resolve matters.

We are not opposed to a pub at this location. However, the operation of the premises over the spring and summer of 2017 has clearly demonstrated that the operation of the premises under the current licence does not promote the licensing objectives.

We feel that the licence should be amended to ensure as far as possible that the licensing objectives are promoted in the light of our experience of the pub operating.

Please provide as much information as possible to support the application (please read guidance note 3)

Introduction

The Clifton Hill Residents Group ("CHRG") comprises a number of households on Clifton Hill and Clifton Hill Studios. The CHRG was formed in early 2016 to facilitate a coordinated response from residents of Clifton Hill to the application for a new premises licence made by Robson Brothers Limited.

The premises is located on Clifton Hill, about 60 metres from the junction with Greville Road. We have attached at appendix 1 a map of the immediate vicinity. The locality is highly residential. Clifton Hill itself is a narrow road densely lined on both sides by households. Indeed, many families and young children live close to the premises. It is very quiet in the evenings.

This means that disproportionate noise, which can occur at any time from the afternoon to the late evening particularly in the mid / late evening when children are trying to sleep and adults are trying to relax, causes disturbance to the otherwise low ambient noise levels.

Our properties are situated on both sides of Clifton Hill, overlooking or in the vicinity of the front of the premises.

Certain households have provided a statement in support of the application. These can be found at appendix 2.

We have produced at Appendix 3 a number of photos and videos taken as evidence.

The purpose of the review is to amend the premises licence to ensure that the operation of the premises promotes the licensing objectives. We would like to emphasise at the outset that we are not seeking to have the premises licence revoked or suspended. We have a cordial relationship with the owners, and they are aware that this review is being brought.

We have set out at the end of this document some measures which we respectfully ask the licensing authority to take. We feel that these measures are fair, appropriate, necessary and proportionate and we would invite the licence holder to agree to them.

Overview

There has been a pub on this site for many years. It was previously called the Clifton Hotel, but closed in 2013. It was listed as an Asset of Community Value ("ACV") in 2015.

Following the listing as an ACV, we expected that the premises would reopen at some stage. In March 2016 we became aware of the plans by Ben and Ed Robson to reopen the premises as a gastropub. We were aware that the venture was likely to be supported by many, but as residents living in the close vicinity of the pub we were likely to be affected by any noise nuisance issues which may arise. We were keen for the owners to fully appreciate, and hopefully assuage, our concerns relating to the proposed re-opening.

We therefore formed an ad hoc group, the CHRG. We engaged fully with the applicants prior to the licence application being submitted, so that they were aware of our concerns.

The previous incarnations of the pub were as a relatively quiet place and we didn't really notice the noise, only on the few evenings of the year when customers would stand outside and talk, the talking getting louder as they consumed more alcohol, for example if they had just come from Lords cricket ground. Then several years ago when outdoor heaters became freely available, there would be people outside the pub, sitting in the front garden, and we had to listen to loud talking which became louder when the pub was fuller. Also, since smoking was banned inside, many people gather to chat and smoke in the Beer Garden at the front of the pub in the evenings.

Residents living close to the premises were therefore concerned about a premises licence being

noise from or generated as a result of customers outside the premises, whether drinking, smoking or dispersing. We attribute this in part to a failure to comply with the relevant conditions.

We have had many meetings with the owners both before and after the premises opened. We have also liaised with City Council officers and the Noise Team. Regrettably, although the licence holder has made some effort, there remain many areas that cause us concern.

Current Premises Licence

The current premises licence is 16/12331/LIPVM.

Conditions 10, 11, 13, 14, 16, 22, 24, 25, 26, 28, 29, 30, 32, 33, and 34 are relevant to the issues we raised when the application was made and/or issues we have experienced since the premises opened.

We fear that these conditions have not been adhered to fully. Some are breached on a near daily basis (e.g. timings of very early morning (prior to 8am) deliveries, although these have now reduced but still occur).

The licensing objectives

The issues fall under the licensing objectives of 'prevention of public nuisance' and 'prevention of crime and disorder'. We each give our individual perspectives in our witness statements, but have set out the following as a general summary.

Prevention of public nuisance

1. Noise arising from customers drinking outside the premises building
2. Noise arising from customers smoking outside the premises building

These two issues are obviously closely related.

It was our understanding from the application for a new licence that an area referred to at the hearing as the 'Beer Garden' would be used for outside drinking. This area is at the front of the premises, abutting Clifton Hill, and overlooked by a number of households.

We had understood from the layout of the area outside the premises building shown on the plans that it would be laid out to tables and chairs, with a designated number of covers of 24, with little space or opportunity for vertical drinking.

We were concerned about the scope for outside drinking. We acknowledged that customers would of course wish to drink and smoke in this area, but asked for a time restriction of 9pm be imposed on this area.

In fact, events have proven that this would in any event be too late and we now ask for an earlier terminal hour for the 'Beer Garden'.

We felt somewhat reassured at the time by the self-limiting nature of numbers who could drink in the 'Beer Garden' as 24 covers were marked on the plan. In fact, experience has shown that there can be up to 60+ customers outside.

In addition, the 'Beer Garden' is not the only area which is utilised for outside drinking and smoking. The side road immediately to the west of the pub, the rear courtyard and Clifton Hill itself are used by customers at times.

We understand that customers, including those from the wider local area, will wish to drink outside on a sunny afternoon and evening. We do not oppose this. However, we strongly feel that outside drinking should not cause a noise nuisance. This is more likely to happen:

- i) The larger the number of people outside

- ii) The later they are permitted to drink and/or smoke outside
- iii) If conditions are not adhered to
- iv) If there is not a designated SIA person to proactively manage the areas outside the premises building and manage dispersal during opening hours.

The following licence conditions are relevant:

10, 11, 13, 14, 24, 25, 26, 28, 29, 30, 34.

We have provided at Appendix 4 expert Noise Reports from KP Acoustics which we believe supports our assertions.

The above is a summary of the issues. Please refer to the individual statements at appendix 2 for further details and specific examples.

3. Noise from poorly managed dispersal of customers during and late in the evening.

This is another issue which we feel would improve enormously if the licence holder would implement some changes to the way the premises is managed.

When customers leave the premises, there is frequently noise nuisance while they say goodbyes, phone for and wait for taxis, slam doors etc. This may not appear unusually noisy to the customers or to staff, who are attuned to higher noise levels as they are either working or enjoying themselves. Added to this, the hard surfaces inside the pub reflect noise. The point which we have tried to get across to the owners is that to residents who are in their homes and relaxing or trying to sleep, the noise is disturbing. Bursts of noise, even if not prolonged, are a nuisance to residents who live close to the pub.

There seems to be little or no proactive and effective mitigation of this by management procedures. We feel that having an SIA person outside in the Beer Garden to manage the area proactively – for instance reminding customers that it is a residential area, greeting customers when they arrive, ensuring a quiet dispersal, reminding customers leaving on foot to keep noise down etc – would be far more beneficial than the ineffective notices currently provided. In the knowledge that a licence review was being prepared, only within the last few weeks has a part time man appeared outside the premises but seemingly doing very little to alleviate the issues.

The popularity of Uber taxis has been a particular problem. We are slightly frustrated that other common-sense suggestions we have made – for example, staff asking customers if they require a taxi and asking them to wait inside the premises building – do not seem to have been taken up.

The above is a summary of the issues. Please refer to the individual statements at appendix 2 for further details and specific examples.

4. Noise emanation from inside the premises building

The conservatory to the rear of the premises appears to be unfit for purpose. There is noise leakage from the conservatory which is a nuisance to those living facing the rear.

There is also noise emanation from doors and windows of the premises building. The pub is noisy inside due to all the surfaces having a hard finish.

The above is a summary of the issues. Please refer to the individual statements at appendix 2 for further details and specific examples.

5. Noisy deliveries in the early hours; noisy rubbish collections.

The latter is an occasional issue, but the former has been a regular and frequent problem.

Many – hundreds - of deliveries have taken place in the early hours of the morning at 4am-8am, which have woken residents. Residents have copious evidence of this, and we have provided a sample of this.

There is a condition on the premises licence that deliveries may only take place after 8am. This has not been adhered to, and it has caused a frequent nuisance.

As with the issue on noise, it seems that the owners do not appreciate how disturbing this can be for residents.

Latterly and belatedly, following a meeting on 10 September 2017, the owners seem to have now appreciated the problem and the early morning deliveries have now decreased, but they have not completely stopped.

The above is a summary of the issues. Please refer to the individual statements at appendix 2 for further details and specific examples.

Prevention of crime and disorder

As noted above, it seems to us that a number of licence conditions have been breached, some on a regular basis, although some have now been rectified.

For completeness, we have prepared a document at appendix 8 setting out the relevant conditions.

Efforts made to resolve the issues

We have not undertaken this licence review lightly.

At our instigation, meetings and phone calls have taken place between CHRG and the owners, and individual residents and the owners.

We have attached a chronology at Appendix 6 detailing some of these meetings.

We have even suggested many solutions for the owners to put in place. Some agreements have been reached, but not fully implemented or implemented belatedly, or just agreed to and then ignored.

We have liaised with officers from Westminster City Council, who advised us of the right to initiate the licence review process.

The Decision Notice dated 21 April 2016 records that 'it was down to management of the [outside] area by staff because there were appropriate numbers to be able to do so.' We do not feel that there are appropriate numbers to effectively manage the outside area, including dispersal, at present.

Westminster City Council's Statement of Licensing Policy 2016

The City Council's Policy regarding public nuisance (PN1) anticipates the potential for problems from outside drinking. The considerations (p.19) state that 'Regard will be had to disturbance of people whether at home, at work, staying in, or visiting the vicinity. However, stricter conditions will be imposed on premises licences in areas that have denser residential accommodation or have residential accommodation close to them.' There are 6 considerations a-g in respect of 'Eating, drinking or smoking outside premises' (p.20). Among them are 'Whether the premises are under or near to residential accommodation', 'The hours for the sale of alcohol in open containers or food for consumption outside the premises' and 'Whether there is a need for door supervisors to prevent or to control customers congregating in outdoor areas to smoke, consume food or drink...between certain hours or at all times.'

The Policy therefore recognises the potential for these types of issues to arise.

Conclusion

Para 11.2 of the Guidance issued under s182 Licensing Act 2003 states that 'At any stage, following the grant of a premises licence or club premises certificate...any other person...may ask the licensing authority to review the premises licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives'. In fact, we have sought to engage with both Council officers and the pub directly prior to doing this.

We are aware that the premises is popular – indeed, that is part of the reason why the management of the premises needs to be more proactive and why the conditions are insufficient. We have sought to propose a solution which enables the pub to remain popular but reduces the risk of the residents who live close by being affected by noise and other nuisance.

We respectfully ask that the Licensing Sub-Committee imposes such conditions as it considers to be appropriate and proportionate, to promote the licensing objectives. We suggest the following proposals as a basis for discussion. We feel that conditions of this nature are necessary, appropriate and proportionate because:

- i) The problems have existed since the pub re-opened under new management;
- ii) We have attempted to resolve the problems informally;
- iii) The licence holder has not been willing to implement the bulk of our suggestions voluntarily;
- iv) Any measures that the licence holder has put in place are either ineffective or not maintained;
- v) There is no likelihood of matters materially improving without changes to the licence.

Measures we would like the licensing authority and the licence holder to consider include:

- Stopping use of the Beer Garden at an earlier terminal hour – 8pm; Limiting the numbers of customers permitted in the Beer Garden; and/or requiring alcohol to be consumed in the Beer Garden only by persons who are seated;
- Requiring the presence of a trained SIA person whose sole role is to manage the areas outside the premises building, including ensuring that customers using the Beer Garden do not cause a nuisance and ensuring that customers leave the premises as quietly as possible; and ensuring that customers do not extend beyond the licensed area;
- Preventing customers from drinking or smoking outside the licensed area i.e. selling, serving and consuming of food, alcohol and soft drink" will be limited ONLY to within the red line marked on the plan; ensuring smokers remain within the designated smoking area;
- Stopping customers sitting on the low walls around the Beer Garden – installing low metal fencing.
- Carry out noise attenuation works to the conservatory at the rear of the premises to prevent noise breakout.

Any other such measures as the Sub-Committee decides are appropriate and proportionate following consideration of this application, submissions from the licence holder, and any representations from responsible authorities and other persons.

Have you made an application for review relating to the premises before		No
If yes please state the date of that application	Day	Month Year

If you have made representations before relating to the premises please state what they were and when you made them

The CHRG as a body has not made relevant representations. However, the following participants in the CHRG have done so in respect of application ref: 16/01702/LIPN:

On 9 March 2016, Simon Blackford made a relevant representation objecting to the application as presented.

On 22 February 2016, John Harrison made a relevant representation objecting to the application as presented.

On 8 March 2016, Simon Aron made a relevant representation objecting to the application as presented.

On 25 February 2016, HMB Fisher made a relevant representation objecting to the application as presented.

On 7 March 2016, Rachele Harrison made a relevant representation objecting to the application as presented.

On 10 March 2016, Karen Szerkowski made a relevant representation objecting to the application as presented.

On 10 March 2016, William Jaspert made a relevant representation objecting to the application as presented.

Please tick ✓ yes

I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓

I understand that if I do not comply with the above requirements my application will be rejected ✓

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature John Hamsy

Date 10 October 2017

Capacity For and on behalf of the Applicant

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

See previous contact details given for Applicant

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

