



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 2nd July, 2020**, This will be a virtual meeting.

Members Present: Councillors Tim Mitchell (Chairman), Margot Bright and Aziz Toki

1 THE WEDDING GALLERY, 1 MARYLEBONE ROAD, LONDON, NW1 4AQ

WCC LICENSING SUB-COMMITTEE NO. 2

Thursday 2nd July 2020

Membership: Councillor Tim Mitchell (Chairman), Councillor Margot Bright and Councillor Toki Aziz.

Officer Support: Legal Officer: Barry Panto
 Policy Officer: Aaron Hardy
 Committee Officer: Artemis Kassi
 Presenting Officer: Kevin Jackaman

Application for Variation of a Premises Licence [20/03852/LIPV]

Full Decision

Premises

The Wedding Gallery
1 Marylebone Road
London
NW1 4AQ

Applicant

Hammer Holdings Limited

Represented by James Anderson of Poppleston Allen Solicitors
and George Hammer – Managing Director of the Applicant Company

Cumulative Impact Area?

No

Ward

Marylebone High Street.

Summary of Application

This application is for the basement and mezzanine floors and two external areas to the right and front of the building which trades as the “The Wedding Gallery”. The basement and mezzanine floors are situated below the former Holy Trinity Church, which is operated by One Marylebone and had been converted to a licenced and successful event space over 12 years ago. One Marylebone have a separate premises licence which covers the ground and first floors.

The Applicant was seeking to vary the premises licence for the Wedding Gallery by amending the terminal hour for the sale of alcohol and the hours of opening to core hours. This would extend the hours for the sale of alcohol by 2 hrs and 30 mins on Monday to Thursday; 3 hrs on a Friday and Saturday; and 1 hour and 30 mins on a Sunday. The maximum capacity of the Wedding Gallery was 200 and there could be no self-service of alcohol. The application was for a variation of hours only, and the conditions currently on the premises licence would remain. On that basis the Applicant did not propose to add any further conditions.

Existing and Proposed licensable activities and hours (basement, mezzanine and external space)

Retail Sale of Alcohol [On sales only]

EXISTING HOURS

Monday to Thursday 12.00 to 21.00
Friday and Saturday 12.00 to 21.00
Sunday 12.00 to 21.00

NOW SEEKING:

Monday to Thursday 12.00 to 23.30
Friday and Saturday 12.00 to Midnight
Sunday 12.00 to 22.30

Hours premises are open to the public

EXISTING HOURS

Monday to Thursday 10.00 to 21.00
Friday and Saturday 10.00 to 21.00
Sunday 10.00 to 21.00

NOW SEEKING:

Monday to Thursday 10.00 to 23.30
Friday and Saturday 10.00 to Midnight
Sunday 10.00 to 22.30

Representations Received

- Environmental Health (Dave Nevitt)
- Mr Craig Nethercott – a local resident objecting to the application, who was unable to attend the Hearing.

Summary of issues raised by the residential objector

- The extension of the hours beyond 21.00 would lead to increased nuisance which the licensing conditions and restricted times to date have sought to manage.
- Increased opening hours, including in the garden, would have a negative impact on the living environment of the area. The location was already well served by licensed public premises which surrounded the Applicant's premises.

Policy Position

There is no policy to refuse this application (as the Premises was not situated in a Cumulative Impact Area). The application must, therefore, be determined on merit. Licensable activities would be licensed until core hours. (Policies HRS1 and PB1 apply.)

DECISION

Mr Anderson presented the application on behalf of Hammer Holdings Limited and stated that the former Church had become a unique and successful one-stop wedding premises; with weddings taking place in the converted ground floor, and the basement gallery focussing on high quality wedding goods and clothing. The Sub-Committee noted that the basement gallery was currently licensed until 21.00, with a small bar situated on the mezzanine floor. Mr Anderson explained that the Applicant was an experienced operator and was applying for core hours as an opportunity to further develop the business which, within the context of the Premises, could operate without causing disturbance and would promote the licencing objectives. The outside

area was designed to be an English country garden setting with seats and waiter service and was an important aspect of the Premises in view of the current restrictions arising from Covid-19. The Applicant had acknowledged the objection received from the local resident and had written inviting him to a meeting so the concerns could be discussed. At the date of the Hearing, no response to the invitation had so far been received.

In terms of impact and public nuisance, Mr Anderson highlighted that the application was within core hours, and that the setting was not in a residential area. Provision for door staff had also already been made, by Condition 15 of the existing premises licence for the gallery (19/15200/LIPCHT).

Mr Nevitt addressed the Sub-Committee and confirmed that although their representation had been maintained in response to the submission from a local resident, the Environmental Health Service had in principle no significant concerns about the application which was in core hours. Mr Nevitt stated that the two licences in operation at the former Church were very different; with the ground floor offering an open space for larger events with a higher maximum capacity. The ground floor was also licensed for alcohol and regulated entertainment and had staged events into late hours through Temporary Event Notices. The Sub-Committee noted that although complaints had been received during the last year following some noise escape, this had been addressed without further issue following a site meeting with the operator and an acoustic consultant. Mr Nevitt had also previously spoken to the Applicant about the supervision of the outside area and considered it to be well managed.

Mr Nevitt confirmed that he did not hold any concerns over the proposed additional use of the outside area, as the application was within core hours and the premises nearby were commercial. He also noted that the application had not sought to vary the maximum capacity of 200 that had been set in the existing premises license, which he considered an appropriate figure.

Although the residential objector had not attended the hearing; it was noted that he lived in Bolsover Street which was on the other side of the Marylebone Road.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, and after taking into account all of the individual circumstances of this case, the Licensing Sub-Committee decided to grant the application.

The Sub-Committee accepted that the variation in hours that were being sought were within policy; and acknowledged the points made by the objector and the Environmental Health Service. The Sub-Committee also noted the distinction between the licences for the two premises at the former Church; and acknowledged that the previous noise nuisance had been associated with the ground floor of the building rather than the Wedding Gallery itself. It was also acknowledged that the noise nuisance issues had been resolved to the satisfaction of the Environmental Health Service which had not received any further complaints.

The Sub-Committee was of the view that granting the application was appropriate and would promote the licensing objectives.

The application is granted subject to the following conditions in addition to the Mandatory conditions applicable to this type of application:

Conditions consistent with the Operating Schedule

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. 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 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.
13. Patrons permitted to leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
14. There shall be no self-service of alcohol.
15. If the outside space ("the space") is used for licensable activities by more than 50 people then a minimum of 1 SIA door supervisors will be on duty until the space is closed increasing by a further 1 SIA door supervisor when there are 100 people in the space and to a minimum of 3 when there are 150 or more people in the space.
16. The maximum number of people which could be used in the outside space would be 200 which is the overall maximum for the premises including the two internal floors.
17. 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.

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. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
20. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.

September 2020

**2 BASEMENT AND GROUND FLOOR, 40 GREAT WINDMILL STREET,
LONDON, W1D 7LY**

WCC LICENSING SUB-COMMITTEE NO. 2

Thursday 2nd July 2020

Membership: Councillor Tim Mitchell (Chairman), Councillor Margot Bright and Councillor Toki Aziz.

Officer Support: Legal Officer: Barry Panto
Policy Officer: Aaron Hardy
Committee Officer: Artemis Kassi
Presenting Officer: Kevin Jackaman

Application for Variation of a Premises Licence [20/03711/LIPV]

Full Decision

Premises

Olives N' Meze
40 Great Windmill Street
London
W1D 7LY

Applicant

Istanbul Street Food Limited:
represented by Thomas O'Maoileoin, Thomas & Thomas Solicitors.

Cumulative Impact Area?

West End

Ward

West End

Summary of Application

This application was for the variation of the premises licence for the basement and ground floor of 40 Great Windmill Street, which trades as “Olives N’ Meze”. The application sought to extend the terminal hour for the sale of alcohol, late night refreshment and closing hour of the premises to 02:00 Monday to Sunday. However, following consultation, the Applicant had amended the closing hour and terminal hour for late night refreshment to 01.00 Friday and Saturday, limited to seated customers and waiter/ waitress service. The Applicant had also withdrawn the application for the increase in hours for the sale of alcohol from the application. The kitchen and back of house are situated in the basement, and the Premises are licensed to operate as a restaurant with a maximum capacity of 15 on the ground floor, subject to a condition requiring the consumption of alcohol to be ancillary to the consumption of substantial food. The licence also provides that off-sales have to be ancillary to a takeaway meal, with no off-sales of alcohol or food and drink being permitted after 23.00.

The applicant had proposed two additional conditions, set out as conditions 29 and 30 below and, in the course of the hearing, agreed to a further condition set out as condition 31 below.

Proposed and current licensable activities and hours (basement and ground floor) (as amended)

Late Night Refreshment [Indoors and Outdoors]

Proposed Variation

Monday to Thursday 23.00 to 23.30 (as existing)
Friday and Saturday 23.00 to 01.00 on the following day
Sunday – Not applicable

No seasonal variations/non-standard timings proposed.

Compared to existing licence 19/16017/LIPN

Monday to Thursday : 23.00 to 23:30
Friday to Saturday : 23.00 to Midnight
Sunday : N/A

No seasonal variations/non-standard timings.

Hours premises are open to the public

Proposed Variation

Monday to Thursday 08.00 to Midnight (as existing)
Friday and Saturday 08.00 to 01.00 on the following day
Sunday 09.00 to 23.00 (as existing)

No seasonal variations/non-standard timings proposed.

Compared to existing licence 19/16017/LIPN

Monday to Thursday : 08.00 to Midnight
Friday to Saturday : 08.00 to 00.30
Sunday : 09.00 to 23.00

No seasonal variations/non-standard timings.

Additional Conditions Proposed

Condition 29

All windows and external doors shall be kept closed after 21:00 hours, or at any time regulated entertainment takes place, except for the immediate access and egress of persons.

Condition 30

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.

Representations Received

- Licensing Authority - represented by Karyn Abbott.
- The Soho Society - represented by Richard Brown (Citizens' Advice Bureau) and Tim Lord.
- Representations made by Environmental Health had been withdrawn following agreement to amendments by the Applicant.

Summary of issues raised by objectors (relating to the amended terminal hour for late night refreshment and the opening hour)

- The extension of hours for late night refreshment and the opening hour would fail to promote the licensing objectives of the prevention of crime and disorder, prevention of public nuisance and public safety in the Cumulative Impact Area.

- The Premises will be attractive to people who have been drinking at bars and nightclubs which goes directly against the policies for Cumulative Impact Areas.
- The current license was only granted in January 2020, and the Applicant has failed to provide any information on the application or the rationale of seeking this extension in such a short space of time.
- Residents will be disturbed by customers leaving the premises at a later hour, which will add to public nuisance and anti-social behaviour and have a detrimental impact on residential amenity.
- The Soho Society have indicated that this is the latest in a series of applications for significantly extended hours in Soho and are concerned this trend will continue as the result of the effect of COVID on the hospitality industry. Whilst they acknowledge the difficulties for restaurants, bars, cinemas and theatres, they point out that the Statement of Licensing Policy 2016 remains the same, and they also maintain their position that there needs to be a balance between the late-night economy and residential amenity. They state that they consider this balance has for some time been in favour of late-night premises which in turn has led to a deterioration and reduction in residential amenity. The view of the Soho Society is that the way for Soho to thrive post COVID is for rents and rates to fall rather than by extending licences.

Policy Position

The Premises was located within the West End Cumulative Impact Area and as such various policy points had to be considered, namely CIP1, HRS1 and RNT2. The Applicant had to demonstrate how the Premises would not add to cumulative impact in the West End Cumulative Impact Area.

DECISION

Mr O'Maoileoin presented the application on behalf of Istanbul Street Food Limited, and highlighted the substantial amendments that had been made to the application to address the concerns raised by Environmental Health and local residents. In particular, the request to extend the hours for the sale of alcohol had now been withdrawn. The Applicant had also proposed two further conditions (Model Conditions 14 and 24) which related to the closing of doors and windows at 21.00; and the provision of a contact telephone number for local residents. Mr O'Maoileoin confirmed that a risk assessment for the Premises had been prepared, to identify what measures could be taken to ensure social distancing in response to Covid-19.

Mr O'Maoileoin also referred to the suggestion that the application could be granted for a trial period. He asserted that Westminster Council itself did not support such an approach in its own policy.

Mr O'Maoileoin suggested that the response of the Metropolitan Police and Environmental Health was one of the best indicators of whether a premises was going to cause concern for crime and disorder and public nuisance. Mr O'Maoileoin

confirmed that no representations had been made by the Police, and that the representations made by Environmental Health had been withdrawn following amendments being agreed.

Ms Abbott addressed the Sub-Committee, and confirmed that the Licensing Authority had maintained their representation due to the potential cumulative impact and the application still being beyond core hours.

Mr Brown addressed the Sub-Committee on behalf of the Soho Society, and commented that while the amendments made to the application were welcome, the representations that had been made remained relevant as the hours being sought were still 01.00 Friday and Saturday. Although the Soho Society recognised the pressures on business and residents that had been caused by the Covid-19 epidemic, the licensing policies still applied. Mr Brown noted that the Premises were situated within a busy part of the West End Cumulative Impact Area, and a balance was needed between the late night economy and residential amenity. Mr Brown acknowledged that the impact of the forthcoming Business & Planning Bill was unknown and could affect the hours in which alcohol could be sold, and submitted that the Applicant would still need to demonstrate that the application would not add to cumulative impact.

Mr Lord also commented on behalf of the Soho Society, and highlighted the impact of late night noise and drinking on residents which made it more difficult to maintain a residential community. The Soho Society had noted that the number of licenced premises continued to increase, with 75 currently operating in the Soho Area until 02.30, and had supported the bars and restaurants who had observed core hours. The Soho Society were concerned that granting extensions beyond core hours in response to the current Covid-19 uncertainty could further undermine Soho as a community.

The Sub-Committee sought clarification as to how the hours for off sales could be affected by the Business & Planning Bill. Mr Panto advised that although off sales were restricted by current conditions, the new legislation could have an impact by permitting off sales to match on sales. It later became apparent that the actual legislation restricted off-sales granted pursuant to that legislation to no later than 23.00 hours.

The Sub-Committee also sought clarification of the nature of the operation and the food offered, and on restricting the consumption of alcohol on Friday and Saturday evenings. Mr O'Maoileoin confirmed that the restaurant offered a Mediterranean style menu with an emphasis on vegetarian and vegan dishes; and also confirmed that the Applicant would agree to the licence being subject to a further condition providing that the consumption of alcohol on the premises must cease at midnight on Friday and Saturday nights.

Mr O'Maoileoin informed the Sub-Committee that the Applicant operated another restaurant in Clapham High Street that had the benefit of later hours; and that submitting an application to extend permitted hours for the restaurant in Windmill Street soon after the granting of the original premises licence had always been intended as part of the business model. In closing, he also made the point that many

residents lived in Great Windmill Street and none of them had made a representation against the application.

The Committee decided that the Applicant had provided valid reasons as to why the granting of the application would not add to cumulative impact in the Cumulative Impact Area and would thus promote the licensing objectives. There was no policy to refuse the application and the additional hours now sought were in the context of the premises operating as a fully conditioned restaurant which would also mean that it could not operate as a fast food premises at any time. Of particular importance was the concession made by the applicants during the hearing that the consumption of alcohol would cease at midnight.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, and after taking into account all of the individual circumstances of this case, the Licensing Sub-Committee decided to grant the application.

In reaching their decision, the Sub-Committee had noted that no representations had been received from the Metropolitan Police objecting to the application; and that the representations made by the Environmental Health Service had been withdrawn following the Applicant agreeing to further conditions. The Sub-Committee had also acknowledged the measures taken by the Applicant to address the concerns of local residents, by amending the closing hour and terminal hour for late night refreshment to 01.00 Friday and Saturday; and by withdrawing the application for the increase in hours for the sale of alcohol from the application.

The Licensing Sub-Committee fully appreciated the concerns of the Soho Society about the ever-increasing hours being granted for licensable activities in the Soho area, but did feel that the granting of the application, as amended, was a proportionate response in all the circumstances that would promote the licensing objectives,

The application is granted subject to the following conditions in addition to the Mandatory conditions applicable to this type of application:

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. 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.
13. 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.
14. The number of seated persons (excluding staff) shall not exceed 15 persons on the ground floor of the premises.
15. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
16. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
17. 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.
18. 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.
19. 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
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
20. 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.
21. 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.

22. Before the premises are open to the public, the plans deposited with the application (or subsequently substituted plans where there have been changes to layout) will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed.
23. The premises shall only operate as a restaurant
 - (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - (iv) which do not provide any take away service of food or drink after 23.00, and
 - (v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

24. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
25. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
26. 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.
27. There shall be no self-service of alcohol.
28. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
29. All windows and external doors shall be kept closed after 21:00 hours, or at any time regulated entertainment takes place, except for the immediate access and egress of persons.

30. 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.
31. The consumption of alcohol on the premises must cease at midnight on Friday and Saturday nights.

September 2020

3 RIDING HOUSE CAFE, GREAT TITCHFIELD STREET, LONDON, W1W 7PQ

WCC LICENSING SUB-COMMITTEE NO. 2

Thursday 2nd July 2020

Membership: Councillor Tim Mitchell (Chairman), Councillor Margot Bright and Councillor Toki Aziz.

Officer Support: Legal Officer: Barry Panto
 Policy Officer: Aaron Hardy
 Committee Officer: Artemis Kassi
 Presenting Officer: Kevin Jackaman

Application for Variation of a Premises Licence [20/03530/LIPV]

Full Decision

Riding House Cafe
43 Great Titchfield Street
London
W1K 4BB

Applicant

Village London Central Limited
represented by Neil Buckingham – Operations Manager.

Cumulative Impact Area?

No

Ward

West End

Summary of Application

This application was for the variation of an existing Premises Licence (20/04329/LIPCH). The Premises currently operate as a restaurant, and the application sought to amend the opening hours and hours for the sale of alcohol to be able to sell alcohol from 09.00 throughout the week. This was one hour earlier than already permitted on Monday to Saturday, but three hours earlier on a Sunday. The application also sought to extend the commencement hour on Sundays before a Bank Holiday; and to amend condition 12 to reflect the extended hours. The earlier opening hours of 07.30 (08.30 on week-ends) proposed for the Premises was significant, especially on a Sunday, but it was noted that there would be no sale of alcohol until 09.00.

The current Premises Licence provided that after 23.00, the sale of alcohol must be ancillary to a full table meal or substantial bar snack; or to persons who have already dined at the Premises.

The Sub-Committee noted that the following further condition had been agreed with Environmental Health which would also prevent the drink led opportunity that currently existed between 10.00 and noon on Monday to Saturday:

Condition 35

Between 09.00 and noon the supply of alcohol at the Premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.

Proposed and current licensable activities and hours (basement and ground floor) (as amended)

Proposed Variation

Sale by Retail of Alcohol [On and Off sales]

Monday to Thursday :09.00 to Midnight
Friday and Saturday :09.00 to 01.00 on the following day
Sunday :09.00 to 23.30
Sundays before Bank Holidays: 09.00 to Midnight

Compared to existing licence 20/04329/LIPCH

Monday to Thursday :10.00 to Midnight
Friday and Saturday :10.00 to 01.00 on the following day
Sunday : 12.00 to 23.30
Sundays before Bank Holidays: 12.00 to Midnight.

Hours premises are open to the public

Proposed Variation

Monday to Thursday :07.30 to Midnight
Friday :07.30 to 01.00 on the following day
Saturday :08.30 to 01.00 on the following day
Sunday :08.30 to 23.30
Sundays before Bank Holidays :08.30 to Midnight

Compared to existing licence 20/04329/LIPCH

Monday to Thursday : 09.30 to Midnight
Friday : 09.30 to 01.00 on the following day
Saturday : 09.30 to 01.00 on the following day
Sunday : 12.00 to 23.00
Sundays before Bank Holidays: 12.00 to Midnight.

Proposed and Current Conditions

Proposed Variation to Condition 12

Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) On Monday to Thursday 09:00 to midnight;
- (b) On Friday to Saturday 09:00 to 01:00
- (c) On Sunday 09:00 to 23:30
- (d) On Sunday before Bank Holiday 09:00 to midnight
- (e) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Current Condition 12

Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) On Monday to Thursday 10:00 to midnight;
- (b) On Friday to Saturday 10:00 to 01:00
- (c) On Sunday Midday to 23:30
- (d) On Sunday before Bank Holiday midday to midnight
- (e) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Representations Received

- Environmental Health Service - represented by Anil Drayan
- Councillor Pancho Lewis – not in attendance
- Linus Rees on behalf of the Fitzrovia Neighbourhood Association – not in attendance
- Mr Raphael Chipperfield – Flat 4, 43-51 Great Titchfield Street – not in attendance
- Ms Sharon Palazzo – 89 Great Portland Street (speaking on behalf of 50+ residents)
- Mr Frank Thaxton - Flat 4, 89 Great Portland Street – not in attendance

Richard Brown (Citizens' Advice Bureau) was representing the Fitzrovia Neighbourhood Association, Councillor Lewis and the local residents who had objected.

Representations made by the Metropolitan Police Service had been withdrawn following agreement to conditions by the Applicant.

Summary of issues raised by objectors

- The proposed extension in hours for the sale of alcohol 'On' and 'Off' the Premises may lead to a further increase in noise and public nuisance in the area.
- Granting the application would set a precedent for other premises in the area.
- One resident who lives above the premises (Mr Chipperfield) asserts that the restaurant already creates a lot of noise and disturbance for people that live in the surrounding area. He states that they do very little to try and mitigate this disturbance. In the morning the bins are cleared very early and the noise of breaking glass and shouting is so bad that it's caused some residents to leave the building.
- Another resident feels it is totally unreasonable to open, and to sell alcohol, so early in the day, especially at weekends. The cafe operates in a residential area he thinks that an increase in the opening hours in the morning is likely to cause residents major noise and disturbance from deliveries, the general operation of the cafe, and the behaviour of customers when they leave the premises.

Policy Position

Applications for hours within core hours will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy. Applications for hours outside core hours will be considered on their merits, subject to other relevant policies. (Policies HRS1 and RNT1 apply.)

DECISION

Mr Buckingham presented the application on behalf of Village London Central Limited, and explained that the earlier hours for opening and for the sale of alcohol were being sought to enable beverages to be sold within the extended times to customers who were dining. The Sub-Committee noted that a condition had been agreed with the Environmental Health Service which provided that the supply of alcohol at the Premises between 09.00 and noon shall only be to a seated person taking a table meal.

Mr Buckingham confirmed that the application did not intend to promote an early morning 'bottomless brunch' menu, and that a bar service would not be offered at this time. Mr Buckingham stated that the Applicant was not expecting an increase in custom from the variation, and would not be promoting it if granted, but wanted to offer a full range of products to guests who used the Café in the morning. Other conditions had been agreed to ensure people leaving did not congregate outside of the Premises; and to provide that a Challenge 25 scheme and CCTV system were maintained.

Mr Buckingham stated that the Applicant had held the premises licence for 9 years without any major issues arising, and highlighted that the Police had withdrawn their representation following the agreement to conditions. The Premises operated primarily as a restaurant rather than a bar, with a subdued atmosphere that would not cause nuisance to neighbours. The Applicant did not believe that this would be affected by the extended hours.

The Applicant acknowledged that the early morning waste collection from the Premises had caused disturbance to local residents, and undertook to address this if possible, but also pointed out that they were bound by the times set by the Council for the collection of waste.

The Sub-Committee sought clarification of the percentage of trade for selling alcohol rather than food and alcohol together, and the Applicant confirmed that this was currently between 10% and 20%.

Mr Drayan addressed the Sub-Committee on behalf of the Environmental Health Service, and confirmed that the Applicant had agreed an additional condition that would restrict the sale of alcohol between 09.00 and noon to being ancillary to a table meal. Mr Drayan had no significant problem with the application following the agreement of conditions; and did not believe that the extended hours would add to nuisance in the area, which was usually very busy though less so on Sunday.

Environmental Health had discussed options to reduce noise from waste collection with the Applicant but acknowledged that options were limited during the current limitations associated with Covid -19. The Council's waste collection times were between 07.00 and 08.00 in the morning and 19.00 and 20.00 in the evening. As waste collections were not being carried out late at night or early in the morning, Mr Drayan suggested that staff needed to be trained on how to deal with waste during the day. He also indicated that there had been discussions about investing in a glass crusher in the future. He finally confirmed that he had checked the premises history

and there were no issues raised about the operation of the premises in the last couple of years.

The Sub-Committee noted that the terms of the current licence would enable the Premises to operate as a pub during the day and would have allowed them to operate as a pub or bar during the extended hours sought as part of this application had they not agreed condition 35 as set out below.

Mr Brown addressed the Sub-Committee on behalf of the Fitzrovia Neighbourhood Association, a Ward Councillor, and local resident objectors who were unable to attend the Hearing. Mr Brown explained that local residents had worked with local businesses to maintain a balance, but were now concerned about the number of applications in the vicinity, which they feared could have a cumulative effect that would change the nature of the area. The Premises were located within a residential area that could be busy during the weekday rush hour, but quieter on Saturday and Sunday.

Mr Brown suggested that the application was in three parts. The first part related to the earlier opening and essentially, despite the representations that had been made, there was not a major objection to that, though they would prefer later opening on a Sunday. The second part related to the potential for an increase in off-sales. To the extent that the off-sales are not for immediate consumption there is not a huge concern provided that is within core hours. The third element was the clear intention to increase on-sales of alcohol. That could easily change the nature or character of the area. Mr Brown also commented that the position on possible off-sales from the Premises would be influenced by the forthcoming Business & Planning Bill, and suggested that the Sub-Committee should consider the commencement time at the weekend and particularly on Sunday, if permission for on sales was granted. In that regard, he suggested that the commencement time for on-sales should be restricted at week-ends.

The Sub-Committee also heard from Sharon Palazzo, who had submitted detailed representations on behalf of the leasehold management company for 89 Great Portland Street. Ms Palazzo stated that the area was very quiet at weekends, and described how the properties in 89 Great Portland Street were susceptible to noise. The flats are single glazed and two-thirds of them are single aspect which means that they have to open windows. Ms Palazzo was also concerned over the potential noise and disruption if the application were to be granted and the Premises management then changed.

The Sub-Committee asked whether there were any tables and chairs outside of the Premises or large areas where people could gather to cause disturbance. Mr Drayan confirmed that the operator of the Premises had recently been granted planning permission to have tables and chairs; and had also submitted an application for a table and chairs licence which had been held in abeyance during the Covid-19 restrictions. In view of the history of the Premises and operator, Environmental Health had not objected to the table and chairs licence from 08.00 to 21.30 Monday to Thursday; and from 09.00 Saturday and Sunday. The Sub-Committee noted that table and chairs licences were for a limited term and needed to be renewed every six months; and that planning permission was annual and reviewed on re-application.

Ms Palazzo was concerned that residents had not been notified of these applications. However, the members of the Sub-Committee also noted that off-sales were restricted to sales in sealed containers which meant that no alcohol could be consumed from any external tables and chairs. It was also noted that there was an existing condition on the Premises Licence requiring all tables and chairs to be removed by 21.00 hours.

Mr Panto noted that the application for the hours the Premises were open stated 08.30 to midnight and asked whether this was an error, as the current licence already provided for the Premises to close and sale of alcohol to end at 01.00. The Applicant confirmed that although the earlier time had been intended as the Premises was closing at midnight due to the lack of business, he would be willing to revert to the later time of 01.00. The Sub-Committee noted that changing the closing time to midnight could lead to a conflict with the later time permitted for the sale of alcohol. Although Mr Drayan confirmed that Environmental Health would not object to a change to the later hour, Ms Palazzo stated that the local residents had based their comments on the times given in the application, so would object to anything after midnight.

The Sub-Committee recognised that there was a conflict with regard to the terminal hour set out in the application form on a Saturday night, but were also satisfied with the explanation that had been given by Mr Buckingham. It was very clear that the application was seeking to carry on licensable activities until 1 am on the day following Saturday, so the applicant would need to remain open during those hours. It was also recognised that the applicant could already open until 01.00 on a Saturday night under the existing licence. In those circumstances, the objectors had not been prejudiced by the "error" in the application form.

The Sub-Committee sought clarification of the arrangements for tables and chairs outside of the Premises, and asked whether the Applicant would agree a further condition regarding the offer of 'bottomless brunches'. With regard to "bottomless brunches", Mr Buckingham confirmed that he would be prepared to accept such a condition. Mr Drayan made a comment in response, expressing concern about the imposition of such a condition as there was an issue as to exactly what that meant and that could give rise to difficulties with enforcement. He also expressed his own opinion that he did not think that there was likely to be a problem in that regard from these premises during the morning.

Following agreement of additional conditions, and in view of the times being sought by the variation, Mr Drayan confirmed that Environmental Health did not believe that the application would undermine licensing objectives, and similarly considered that the nature of the operation should not cause undue nuisance, even on a Sunday morning.

Mr Brown did express the view that a condition preventing "bottomless brunches" would be welcome as he thought that the concept was well understood. Ms Palazzo suggested that the food being served for breakfast was relatively light, and was not a good mix with alcohol in the morning. Ms Palazzo also agreed the proposal for a further condition regarding the offer of 'bottomless brunches', should the application be granted.

In his closing remarks, Mr Buckingham confirmed that 8 two-top tables were being set up beneath the overhang in Great Titchfield Street, together with planters. The tables and chairs were in use from 08.00 until 21.00 when they were vacated, and then taken in at 21.30. The Applicant agreed to consider any conditions regarding discounted alcohol promotions or bottomless brunches. However, he did not think that the style of operation of the premises was likely to have been the cause of any disturbance that might have been experienced by the local residents.

Mr Buckingham also confirmed that he would be very willing to enter into dialogues with local residents. The Café had been operating for 10 years, and he considered that the harmony of the area was very important.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, and after taking into account all of the individual circumstances of this case, the Sub-Committee decided to grant the application for the variation of the existing the opening hours and hours for the sale of alcohol, subject to a later commencement time for the sale of alcohol on Sunday and on Sundays before Bank Holidays. The Sub-Committee also approved the amendment of Condition 12.

The members of the Sub-Committee noted that the residents no longer had an issue with the extended opening hours but did have an issue with the earlier sale of alcohol. The members were of the view that the premises had been operating for many years without any specific complaints being made, though it was noted that one resident, who did not attend the hearing, had raised concerns about noise and disturbance in his representation. It was not considered that selling alcohol for one additional hour in the morning was a problem but there was a concern about selling alcohol for an additional three hours on a Sunday morning. The members decided that it would be appropriate to allow the applicant to sell alcohol from 10.00 on a Sunday morning on the basis that if that did cause any unacceptable noise or disturbance to the residents, they would have the opportunity to seek to review the licence. However, it would always be hoped that, in the first instance, there would be dialogue with the licence holder who had indicated that it was important for him to have a harmonious relationship with residents living in the neighbourhood.

An important factor in reaching the decision was the new condition (35 below) that states that between 9 am and noon the supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal. That will actually prevent the drink led opportunity that currently exists between 10.00 and noon on Monday to Saturday and thus provide an improvement on the arrangements that currently exist.

The complaint by the resident living above the premises seemed to be primarily about the waste collection arrangements that Mr Drayan had referred to. Mr Drayan had referred the possible investment in a glass crushing device and had suggested that staff might need additional training in how to deal with waste. The Sub-Committee decided not to impose any further conditions with regard to waste but wanted it to be noted that it was important for the applicant to engage with the resident concerned and to take appropriate measures to resolve any disturbance that was being caused to him arising from the operation of the licensed premises.

The Sub-Committee was of the view that granting the application subject to a number of further conditions consistent with the operating schedule was appropriate and would promote the licensing objectives.

In reaching their decision, the Sub-Committee had noted that the representation received from the Metropolitan Police objecting to the application had been withdrawn following the Applicant agreeing to further conditions. Following the agreement of conditions proposed by the responsible authorities and objectors, and in view of the times the variation was being sought, the Sub-Committee were satisfied that the application would not undermine the licensing objectives.

The Sub-Committee noted the discussion that had taken place at the Hearing regarding a condition to prevent what were described as 'bottomless brunches', but decided not to impose a condition to that effect but to instead note within this decision that the Applicant made it very clear that he would not provide bottomless brunches. The Sub-Committee regarded that similarly to the unlimited provision of alcohol for the same price. The Sub-Committee would obviously expect the licence holder to manage the Premises on a responsible basis. Any evidence that bottomless brunches were being provided, and that such provision was undermining any of the licensing objectives, might well form the basis for a review of the Premises Licence.

The application is granted for the following activities and hours:

Retail Sale of Alcohol [On and Off sales]

Monday to Thursday 09.00 to Midnight
Friday and Saturday 09.00 to 01.00 on the following day
Sunday 10.00 to 23.30
Sundays before a Bank Holiday 10.00 to Midnight

Hours premises are open to the public

Monday to Thursday 07.30 to Midnight
Friday 07.30 to 01.00 on the following day
Saturday 08.30 to 01.00 on the following day
Sunday 08.30 to 23.30
Sundays before a Bank Holiday 08.30 to Midnight

The application is granted subject to the following conditions in addition to the Mandatory conditions applicable to this type of application:

Conditions reproducing the effect of conditions subject to which relevant existing licences have effect.

Conditions for Sale of Alcohol

10. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.

Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified enactment

Conditions related to Late Night Refreshment

11. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 New Year's Day.

Conditions consistent with the operating Schedule

12. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) On Monday to Thursday 09:00 to midnight;
- (b) On Friday to Saturday 09:00 to 01:00
- (c) On Sunday 10:00 to 23:30
- (d) On Sunday before Bank Holiday 10:00 to 00:00
- (e) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

NOTE - The above restrictions do not prohibit:

- (a) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (c) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (e) the taking of alcohol from the premises by a person residing there;
- (f) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;

- (g) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

- 13. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which give rise to a nuisance.
- 14. There shall be no speakers situated or amplification of music or sound within the entrance lobby on the ground floor.
- 15. The highway and public spaces in the vicinity of the premises shall be kept free of litter from the premises at all materials times to the satisfaction of the Council.
- 16. All litter and sweepings shall be collected and stored in accordance with the approved refuse storage arrangements.
- 17. Notices shall be prominently displayed at the ground floors exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.
- 18. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
- 19. 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.
- 20. 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.
- 21. There shall be a personal licence holder on duty at the premises at all times when the premises are open and authorising the sale of alcohol.

22. After 23:00 hours, alcoholic beverages must only be served in the ground floor dining room or in the basement private dining room as ancillary to a substantial bar snack or full table meal or to patrons waiting to dine or having dined.
23. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
24. No deliveries shall be taken at or dispatched from the site outside the hours of 09:00 and 18:00 Mondays to Saturdays and not at any time on Sundays of Bank or Public Holidays.
25. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal after 23:00.
26. All tables and chairs outside the premises shall be removed by 21:00.
27. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
28. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 10 persons at any one time.
29. 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.
30. 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.
31. The number of persons accommodated at any one time (excluding staff) shall not exceed:
 - Basement Dining Room 18 persons
 - Ground Floor 190.
32. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
33. 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.
34. 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
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
35. Between 9am and noon the supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
36. The licence holder shall ensure that patrons leaving do not congregate outside the premises and are advised to leave the area quietly.

September 2020