



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Wednesday, 27<sup>th</sup> January 2021**, This will be a virtual meeting.

**Members Present:** Councillors Jim Glen (Chairman), Barbara Arzymanow and Aicha Less

**Officer Support:** Legal Advisor: Horatio Chance  
Policy Officer: Aaron Hardy  
Committee Officers: Cameron MacLean  
Presenting Officer: Jessica Donovan

#### 1. MEMBERSHIP

- 1.1. There were no changes to the Membership of the Sub Committee.
- 1.2. For the purposes of this meeting, the Chairman proposed that Councillor Barbara Arzymanow be appointed Substitute Chairman. Councillor Arzymanow accepted the appointment.

#### 2. DECLARATIONS OF INTEREST

- 1.1. There were no Declarations of Interest.

#### 1. PREMIER INN (DEVELOPMENT SITE AT PADDINGTON EXCHANGE), NORTH WHARF RD, LONDON W2 1LF

**Present:** Mr Tim Shield, John Gaunt & Partners, Licensing Solicitors (representing the applicant); Niall Hyslop, Whitbread Group Plc (for the applicant); Richard Brown, Citizens Advice Westminster that (representing residents); and John Zamit, SEBRA (Southeast Bayswater Residents' Association).

**Representations:** Representations had been received from the Environmental Health Service (EHS); Metropolitan Police Service (MPS)<sup>1</sup>; John Zamit, SEBRA; and Elizabeth Virgo, The Paddington Waterways & Maida Vale Society.

**Applicant:** Whitbread Group Plc

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<sup>1</sup> Subsequently withdrawn after agreement between the MPS and the applicant regarding proposed conditions.

**Ward:** Hyde Park  
**CIA<sup>2</sup>:** Not applicable

### **Summary of Application**

The application was for a new premises licence.

### **INTRODUCTION**

The Chairman welcomed everyone to the meeting and introduced the Members of the Sub Committee and the Council Officers who would be supporting the Sub Committee. The Chairman explained the procedure that would be followed at the meeting before inviting the Presenting Officer, Ms Jessica Donovan, to present the report.

### **PRESENTATIONS AND SUBMISSIONS**

#### **Ms Jessica Donovan, Senior Licensing Officer**

Ms Donovan summarised the application as set out in the report before the Sub Committee, noting that representations had been received from The Metropolitan Police Service (MPS);<sup>3</sup> the Environmental Health Service; a local resident; and the Chairman of the Mayfair Residents' Group.

#### **Mr Tim Shield, John Gaunt & Thomas Partners, Licensing Solicitors**

Mr Shield stated that he would be presenting the application on behalf of Whitbread Group Plc and that he was accompanied by Mr Niall Hyslop, New Openings Manager for Whitbread Group Plc, who would be able to advise the Sub Committee on the detail of the application, if necessary.

Mr Shield referred the Sub Committee to his submission which was set out on Page 5 of the Additional Information Pack. He stated that Whitbread Group Plc was a well-known company which operated Premier Inns across the UK<sup>4</sup> and had done so for many years without any issues arising in relation to the licensing objectives. The present application was for the sale of alcohol within core hours to non-residents, and 24-hours a day to residents

Mr Shield referred the Sub Committee to the plans of the premises set out in Pages 18 & 19 of the Agenda Pack, and the areas which it was proposed would be licensed as demarcated by the red outline in the Plan. He noted at the premises was primarily a hotel with a restaurant and bar. The bar would be open to non-residents, but access to the bar would be restricted after 11 PM and would require using a secure key card, or entry on demand.

Referring to the Plan on Page 13 of the Additional Information Pack, Mr Shield stated that this was indicative of the layout of the bedrooms of which there would be approximately 290 over the 19 floors of the development. Mr Shield then referred the Sub Committee to the indicative menu on Page 19 of the

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<sup>2</sup> Cumulative Impact Area

<sup>3</sup> Subsequently withdrawn after agreement with the applicant on conditions which it was proposed should be attached to the licence should the application be granted.

<sup>4</sup> Mr Shield provided the Sub Committee with details on the number of premises and premises licenses operated by Whitbread Group Plc, including premises within Westminster City Council, some within cumulative impact areas.

Additional Information Pack, along with several photographs that were indicative of the layout of the bar, restaurant, and reception area in a typical Premier Inn.

Regarding the Licensing Objectives, in particular, the Prevention of Public Nuisance, Mr Shield stated that this was of paramount importance to Whitbread Group Plc. He noted that that the company was very experienced in managing its relationships with its neighbours, and that the presence of Premier Inn improved an area. The company also operated a "Good Night Guarantee" whereby residents would be offered a full refund if they were disturbed during the night by noise from either within or outside the premises. In addition, as the hotel was brand-new, it was built to the highest standards to prevent noise nuisance.

Regarding the representations, Mr Shield noted that agreement had been reached with the EHS and MPS on proposed conditions. Therefore, there remained only two outstanding representations from Residents' Associations.

Regarding the reference to conditions in the submission by Mr Brown on behalf of the Residents' Associations (Page 29 of the Additional Information Pack), and the conditions highlighted in red on Page 31 of the Agenda Pack, which had been agreed in relation to the recent Stay City Aparthotel premises licence application, Mr Shield stated that the present application was very different from that of the Stay City Aparthotel. However, the applicant did not object, in principle, to these conditions, with one exception viz.

*48. The sale of alcohol for consumption on the premises shall only be to a person seated within the licensed area hatched green on the ground floor of the premises and shall be by waiter or waitress service only. The maximum number of such persons shall be [].*

He stated that this condition did not apply to any other Premier Inn premises operated by Whitbread Group Plc.

In conclusion, Mr Shield stated that he believed that the applicant had made a good offer with regard to the conditions that the applicant was willing to accept.

In response to several questions, Mr Shield, and Mr Hyslop provided the following information.

- (a) It was not proposed that there be any licensable activity outside the premises and, therefore, it would be possible to amend the application in relation to Late Night Refreshment (LNR) to refer to "Indoors Only".
- (b) Regarding the application in respect of Films as a licensable activity, the main reason for including this in the application was to allow films to be shown in guests' bedrooms. Mr Hyslop noted that, other than a television in the bar area which usually featured BBC rolling news programmes, there were no other screens for showing films. Furthermore, there was no intention to show films on a regular basis.
- (c) As there was no demised area outside premises that the hotel could operate as a smoking area, a litter bin and ashtray would be provided as near to the front door as possible and the area would be managed by the hotel's night team.

(d) [At the conclusion of Mr Drayan's submission (see *infra*), the applicant provided the following information in response to a question by the Chairman].

It was proposed that, before 11 PM, Off Sales would be permitted to Members of the Public, as well as hotel residents. However, after 11 PM, Off Sales would be restricted to hotel residents only. This was because the guest bedrooms were not included within the hotel's licensable areas. By allowing Off Sales to non-residents up to 11 PM, this would allow non-residents who had purchased alcohol as part of their meal to take any remaining alcohol with them in a sealed container when they left the hotel.

### **Mr Anil Drayan, Environmental Health Service (EHS)**

Mr Drayan confirmed that, as far as EHS and the MPS were concerned, he was not aware of any concerns regarding the operation of Premier Inns in Westminster. However, the EHS had requested additional conditions as set out on Page 36 of the Additional Information Pack and that these had been agreed with the applicant. Therefore, the EHS had no objections to the application.

Regarding the capacity of the premises, Mr Drayan stated that the applicant had advised him that the maximum capacity of the ground floor and basement area would be 235. Therefore, he proposed that, when the EHS carried out its site inspection in accordance with the proposed "Works" condition,<sup>5</sup> an appropriate assessment would be made to determine if the premises could accommodate this number of persons. In response to a question by the Chairman, Mr Drayan stated that this would be an "umbrella" number.

### **Mr Richard Brown, Citizens Advice Westminster (on behalf of SEBRA & Paddington Waterways and Maida Vale Society)**

Referring to the Stay City Aparthotel application that had previously been considered by the Sub Committee, Mr Brown noted that the operating schedule, conditions, and the representations made in respect of that application were very similar to the present application. He stated that the key issues for the objectors were how the public licenced areas were to operate. In particular, the objectors were concerned that the applicant was not willing to agree to the proposed Condition 48 (*supra*), which did not require that the sale of alcohol be ancillary to a meal. By not including this condition, the publicly licensed areas, which were considerably larger than the public licensed areas in the Stay City Aparthotel application, could operate as a large bar.

Referring to his submission on page 29 *et seq.* of the Additional Information Pack, Mr Brown noted that the conditions that he was proposing were substantially the same as those proposed and accepted in the Stay City Aparthotel application.

Referring to the conditions set out at Paragraph 4.6 on Page 31 of his submission, Mr Brown made the following observations.

1. The applicant objected to the following proposed conditions:

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<sup>5</sup> Model Condition 81: 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.

*“The sale of alcohol for consumption on the premises shall only be to a person seated within the licensed area hatched green on the ground floor of the premises and shall be by waiter or waitress service only. The maximum number of such persons shall be [...]”*

*“At all times customers will be shown to the table and the supply of alcohol will be by waiter/waitress service only to customers.”*

2. The applicant had made no reference to the bona fide guest requirement of the following proposed condition:

*“Non-residents can only remain in the licensed area during the permitted hours for the sale of alcohol. For the avoidance of doubt, residents and up to 4 bona fide guests for each resident can potentially remain in the licensed area at any time of the day.”*

3. The proposed smoking condition be amended to read:

*“Persons permitted to temporarily leave then re-enter the premises to smoke shall be restricted to a designated smoking area to be determined by the premises licence holder [insert: and the Environmental Health Service].”*

4. The following proposed conditions regarding waste services were the same as those agreed for the Stay City Aparthotel:

*“No waste and recyclable materials, including bottles, shall be moved, removed from, or placed in outside areas between 20:00 hours and 08:00 hours on the following day.”*

*“That collections of waste recycling materials (including bottles) from the premises shall take place between 20:00 hours and 08:00 hours on the following day.”*

Referring to the applicant's correspondence on Page 41 of the Additional Information Pack, Mr Brown stated that, with regard to proposed Condition 3 –

*“Other than to hotel bedrooms there shall be no sales of alcohol for consumption off the premises after 23:00 hours.”;*

it was his understanding that, after 23:00 hours, residents and their bona fide guests could be sold alcohol if they were in a guest room and he asked that this be clarified.

Referring to proposed Condition 8 –

*“No deliveries to the premises shall take place between 23:00 hours and 07:00 hours on the following day.”;*

it was the residents' proposal that the hours should be 21:00 hours to 07:00 hours, in line with the City Stay Aparthotel.

A In addition, Mr Brown proposed that Model Conditions (MCs) 12 & 57<sup>6</sup> should be included in the conditions.<sup>7</sup>

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<sup>6</sup> MC 12: No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises or vibration be transmitted through the structure of the premises which gives rise to a nuisance.

MC 57: Patrons permitted to temporarily leave then re-enter the premises, e.g., to smoke, shall not be permitted to take drinks or glass containers with them.

He noted that the theme running through the conditions proposed by residents was a concern about dispersal of patrons from the premises into a residential area. As each application had to be considered on its merits, residents were of the opinion that such a condition was appropriate for these premises.

Presentation by Mr John Zamit, SEBRA (Southeast Bayswater Residents' Association)

Mr Zamit stated that residents would have welcomed the opportunity to have had a discussion with the applicant about the operation of the premises and were disappointed that this had not happened.

Mr Zamit then made following points.

1. **Smoking Area:** as it was believed that it was a residential development that was taking place opposite the premises, residents would like the designated smoking area to be agreed with the Environmental Health Service.
2. **Off Sales:** this should be restricted to partially consumed containers of alcohol served with a meal which were resealed for customers to take with them.
3. **Capacity:** the capacity for each licence area should be specified rather than setting a limit on the total capacity for all licensed areas.
4. **Ground & Basement Floor:** residents would like to know how it was proposed to lay out these areas and how they would operate.
5. **Refuse Collections:** Paddington comprised mixed residential and commercial properties with a concentration of residential properties in some parts. Residents, therefore, were concerned that they should not be disturbed by the sounds of refuse collections.
6. **Dispersal:** residents were concerned about the possibility of patrons leaving the hotel at night, heading to Merchant Square, and getting lost because the gates at Merchant Square were locked at night. In addition, there should be a condition that non-residents be required to leave the premises in accordance with core hours.

The Chairman invited Mr Shield and Mr Hyslop to respond to the various points raised by Mr Zamit. In response, Mr Shield provided the following information.

1. **Layout:** referring to the plans of the basement area, Mr Shield stated that the plans were indicative of how the basement area would be laid out with a bar servery and a substantial number of tables and chairs.

[Mr Hyslop subsequently confirmed that the ground floor area was largely devoted to use as a business lounge with Wi-Fi and power points for guests to use. The basement restaurant would be a premium steak restaurant and that the table and chair plans were indicative of the layout of the restaurant].

2. **Proposed Condition:** Basement Area -

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<sup>7</sup> It was noted that MC12 had been included in an amended form as Condition 28: Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties." (Agenda Pack, Appendix 4, Page 30).

*“The layout of the licensed area as shown on the approved plan at basement level shall be substantially laid out with tables and chairs as indicated on the approved licensing drawing.”*

3. **Ground Floor:** referring to the photographs in the Additional Information Pack, it was proposed that the ground floor would comprise the reception area, including a self-service check-in area, lobby and business lounge. There would be no bar servery on the ground floor and guests would have to go to the basement bar if they wished to order a drink which they could then bring back up to the ground floor area.
4. **Capacity:** this had been agreed with the Environmental Health Service (EHS) and it was the applicant’s preference to set an overall number on the capacity of the premises rather than impose limits for each licensed area.
5. **Smoking Area:** the applicant would be willing to agree the location of an external smoking area with the EHS.
6. **Off Sales:** the primary reason for seeking Off Sales was to allow diners to take partially consumed and resealed bottles of alcohol with them at the conclusion of their meal.

Regarding Off Sales, Mr Brown suggested that a revised form of Model Condition 66 might be sufficient to address objector’ concerns. To this end he proposed wording along the lines of –

*“There shall be no Off Sales except to residents in their hotel rooms or part consumed and resealed bottles of wine.”*

## **ADJOURNMENT**

At this stage in the proceedings, the Chairman agreed a proposal that there be a short adjournment to allow Mr Hyslop and Mr Shield to discuss the conditions proposed by the residents with a view to determining which of these conditions could be agreed.

## **Meeting Reconvened at 11:20 AM**

At the Chairman’s invitation, Mr Shield informed the Sub Committee of his conversation with Mr Hyslop (on behalf of the applicant) regarding the proposed conditions.

1. **Off Sales:** as follows -
  - (a) Residents: Off Sales to residents would be restricted to the sale of alcohol to residents for consumption in their hotel guest room; and
  - (b) Non-residents: propose the following condition –

*“Sales of alcohol for consumption off the premises by non-residents to cease at 23:00 hours and shall be in sealed or resealed containers.”*
2. **Hours for Recycling & Waste Collection:** the applicant would be willing to agree to there being no recycling or waste collections between 21:00 hours and 07:00 hours.
3. **Smoking Area:** the applicant was willing to agree a designated smoking area in consultation with, and with the agreement of, EHS. The smoking area would be supervised by hotel staff.

4. **Layout of the Basement Area:** propose the following condition (see above):

*“The layout of the licensed area shown on the approved plans at basement level shall be substantially laid out for tables and chairs as indicated on the approved licensing drawing.”*

5. **Occupancy [capacity]:** as the ground floor would be the main reception area with people passing through, the applicant would prefer to have a condition, agreed with EHS, limiting the overall capacity of the premises rather than limiting the capacity of the different licensed areas.

In response, Mr Brown and Mr Zamit, at the invitation of the Chairman, commented as follows.

1. If the Sub Committee was not in agreement with the proposed condition requiring the sale of alcohol be by waiter/waitress service to persons who were seated, the suggested wording regarding the layout of tables and chairs was acceptable to residents.
2. The objectors had submitted different hours specifically for waste collection as opposed to recycling operations.
3. There be a condition that the smoking area be kept clean and tidy.

Horatio Chance, Legal Adviser, sought clarification on including the following Model Conditions –

MC12: No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises or vibration be transmitted through the structure of the premises which gives rise to a nuisance.

MC17: All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.

MC67: Patrons permitted to temporarily leave then re-enter the premises to smoke shall be restricted to a designated smoking area defined as [specify location].

The Chairman proposed that the Sub Committee would tailor any Model Conditions, accordingly.

## **SUMMING UP**

At this stage of the proceedings, the Chairman invited the various parties who had made representations to sum up their representations, if they so wished.

### **Mr Drayan, Environmental Health Service**

Mr Drayan made the following points in his summing up.

1. **Smoking Area:** the EHS would be willing to agree a suitable location for a smoking area outside the premises.
2. **Proposed Condition That Sales of Alcohol Be Restricted to Waiter/Waitress Service to Persons Who Were Seated:** the EHS had considered this condition and had concluded that imposing such a condition would be to micromanage an operator who had given no cause for concern.



3. **Capacity:** as the ground floor and basement area operated as one space, the EHS would prefer to determine an overall suitable capacity for both licensed areas as a whole.
4. **Layout of the Basement Area:** to ensure that the basement area did not operate as a vertical drinking bar, the Sub Committee could impose a condition requiring that there be a minimum number of tables and chairs laid out in this area.

**Mr Brown, Citizens Advice Westminster (on behalf of SEBRA & Paddington Waterways and Maida Vale Society)**

Mr Brown made the following points.

1. The Residents' Associations would prefer to see a condition requiring sales of alcohol to be by waiter/waitress service to persons who were seated.
2. Regarding MC57, which regulated smoking outside the premises, the Residents' Associations requested confirmation that smokers would not be permitted to take drinks or glass containers when going outside to smoke.
3. That MC41, which stated –

*“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.”;*

or a similar provision, be included in the list of conditions.

**Mr Zamit on behalf of SEBRA**

Mr Zamit summarised the points he had previously made, noting that residents would expect there to be a notice on the premises requesting guests, when leaving the premises, to do so quietly so as not to disturb residents. He stated that he was satisfied with the arrangements proposed by the EHS in agreeing a number of conditions with the applicant.

**Mr Shield on Behalf of the Applicant**

In response to a question by the Chairman, Mr Shield confirmed that the applicant had not sought to include bona fide guests within any condition relating to Off Sales and the consumption of alcohol by residents in their hotel room(s).

Noting that each application had to be considered on its merits and that a premises licence attached to the premises and not to the operator, Mr Shields stated that the Whitbread Group Limited had given a 30-year commitment to the operation of these premises. Accordingly, the additional conditions offered, which the applicant believed were appropriate, should provide residents with sufficient comfort.

Noting that Christmas and the Coronavirus Regulations had intervened during the application process, Mr Shields stated that, when applying for a premises licence, he preferred to get the agreement of the Environmental Health Services (EHS) and the Metropolitan Police Service (MPS) on proposed conditions before seeking the views of residents. He stated that, on this occasion, agreement had only been reached with the EHS and MPS in the last

few weeks and that it was not the case that the applicant was not taking into consideration the views of residents.

Regarding conditions, Mr Shields noted that the applicant had agreed to more than had been requested by the EHS and MPS. He stated that the Stay City Aparthotel application was for a different type of premises with its own requirements by way of conditions. As each application had to be considered on its merits, he proposed that the conditions agreed by the applicant were appropriate for this application and these premises.

Mr Shields stated that he was willing to confirm the layout plans, as discussed. He stated that, if it assisted, the applicant would be willing to accept a condition covering the ground floor and basement area to the effect that –

*“Substantial food and non-intoxicating drinks be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.”*

Regarding Off Sales, he did not think that any of the Model Conditions relating to Off sales would be appropriate and that any MC wording would require tweaking to include residents and non-residents.

Mr Shield stated that the condition proposed by residents requiring the sale of alcohol to be restricted to waiter/waitress service only to patrons who were seated was not necessary or appropriate for these premises. Furthermore, the Law, Guidance, and Case Law supporting this position.

In conclusion, Mr Shields stated that the applicant was a good operator who had good relations with its neighbours. The applicant wanted these premises to be a success with the premises fitting into the neighbourhood.

## **ADJOURNMENT**

At this stage in the proceedings, the Chairman adjourned the meeting to allow Members to retire to consider their decision. He stated that the Sub Committee would not announce its decision today but that a summary of the decision would be sent to the various parties within five working days.

The Chairman then closed the live part of the virtual meeting.

## **DECISION**

It was the Sub Committee’s decision to **approve** the application, as set out in the Summary Decision attached to these minutes as an appendix.

## **REASONS FOR THE DECISION**

Having read the report by the Director of Public Protection and Licensing that was before it; the written submissions of the applicant and residents objecting to the application; and, having heard a presentation on behalf of the applicant and the applicant’s responses to several questions, the Sub Committee was satisfied that it was appropriate and proportionate to **APPROVE** the application.

In reaching its decision to approve the application, the Sub Committee took the following matters into consideration.

1. As every application for a premises licence had to be considered on its merits, it was not appropriate to draw comparisons with the recent premises licence application in respect of Stay City Aparthotel.
2. The applicant had addressed many of the concerns of residents by agreeing to several of the conditions proposed by Mr Richard Brown, Citizens Advice Westminster, on behalf of the Southeast Bayswater Residents' Association (SEBRA), and Mr Jon Zamit of SEBRA.
3. Where the applicant had not been prepared to accept conditions proposed by residents, the Sub Committee was satisfied with the opinion of the Environmental Health Service (EHS), which had considered the proposed conditions when preparing its submissions for the Sub Committee, that to impose the conditions would be oppressive and they were not necessary.  
Specifically, the conditions that the EHS did not deem to be appropriate for those relating to –
  - (a) a requirement that alcohol be served by waiter/waitress service to customers who were seated; and
  - (b) that the capacity of each licensable area on the ground floor and the basement floor be specified, rather than setting an overall capacity level for all licensed areas.
4. The Sub Committee was also satisfied that, when the EHS carried out its site inspection in accordance with the proposed "Works" condition,<sup>8</sup> an appropriate assessment would be made to determine if the premises could accommodate this number of persons proposed by the applicant.
5. The Sub Committee was further satisfied that, where it had not been possible to reach agreement on conditions proposed by residents, the applicant had been prepared to compromise and had offered terms and conditions that went part way to meeting the conditions proposed by residents.

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<sup>8</sup> Model Condition 81: 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.

## FULL DECISION

## WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 3

("The Committee")

Thursday, 27 January 2021

**Membership:** Councillor Jim Glen (Chairman), Councillor Barbara Arzymanow and Councillor Aicha Less

**Officer Support:** Legal Advisor: Horatio Chance  
 Policy Officer: Aaron Hardy  
 Committee Officers: Cameron MacLean  
 Presenting Officer: Jessica Donovan

**APPLICATION FOR A NEW PREMISES LICENCE – PREMIER INN (DEVELOPMENT SITE AT PADDINGTON EXCHANGE), NORTH WHARF ROAD, LONDON W2 1LF [20/10150/LIPN]**

## FULL DECISION

**Premises**

Premier Inn (development site at Paddington Exchange), North Wharf Rd, London W2 1LF

**Applicant**

Whitbread Group Plc

**Cumulative Impact Area?**

N/A

**Ward**

Hyde Park

**Proposed Licensable Activities and Hours**Films (Indoors)

Monday to Thursday: 10:00 hours to 23:30 hours  
 Friday to Saturday: 10:00 hours to 00:00 hours  
 Sunday: 12:00 hours to 22:30 hours

Seasonal variations/non-standard timings –

- To extend the licensing hours to New Year's Eve 10:00 hours to New Year's Day 00.30 (being 2<sup>nd</sup> January).

Late Night Refreshment (Indoors and Outdoors)

Monday to Thursday: 23:00 hours to 23:30 hours  
 Friday to Saturday: 23:00 hours to 00:00 hours  
 Sunday: N/A

Seasonal variations/non-standard timings –

- To extend the licensing hours to New Year's Eve 10:00 hours to New Year's Day 00.30 hours (being 2nd January).

#### Sale by Retail of Alcohol (On and Off-sales)

*Residents*

Monday to Sunday: 00:00 hours to 00:00 hours

#### Sale by Retail of Alcohol (On and Off-sales)

*Non-Residents*

Monday to Thursday: 10:00 hours to 23:30 hours

Friday to Saturday: 10:00 hours to 00:00 hours

Sunday: 12:00 hours to 22:30 hours

Seasonal variations/non-standard timings –

- To extend the licensing hours to New Year's Eve 10:00 hours to New Year's Day 00.30 hours (being 2<sup>nd</sup> January).

#### Hours Premises Are Open to the Public

*Residents*

Monday to Sunday: 00:00 hours to 00:00 hours [the Premises trades as a hotel]

#### Hours Premises Are Open to the Public

*Non-Residents*

Monday to Thursday: 06:00 – 00:00

Friday to Saturday: 06:00 – 00:30

Sunday: 06:00 – 23:00

Seasonal variations/non-standard timings –

- To extend the licensing hours to New Year's Eve 10:00 hours to New Year's Day 00.30 hours (being 2nd January).

#### **Representations Received**

- Environmental Health Service (Anil Drayan)
- Metropolitan Police Service (PC Reaz Guerra) (withdrawn)
- South East Bayswater Residents' Association (John Zamit)
- Paddington Waterways & Maida Vale Society (Elizabeth Virgo)

#### **Summary of Objections**

- Environmental Health noted that the hours requested for the supply of alcohol (both on and off-sales), late-night refreshment and provision of film 'indoors' may all lead to an increase in public nuisance in the area;
- Metropolitan Police stated that there was insufficient detail within the operating schedule to promote the Licensing Objectives;

- SEBRA expressed concerns that nuisance could be caused to residents, and others living in the vicinity, by noise and disturbance by patrons arriving or leaving the large bar and restaurant in the hotel. SEBRA also expressed concerns on a number of other potential issues with the application;
- PWMVA's representation was made on the basis that the likely impact of the application, if granted, would be to harm the licensing objective of prevention of public nuisance

### **Summary of Application**

The application was for a new premises licence to operate as a Premier Inn Hotel with associated food, beverage and accommodation. The majority of licensed facilities will take place in the basement area. There will be a reception area and entrance at ground floor level and in addition there will be bedrooms on floors from Ground 0 to 19. Premier Inn is a well-known and leading Hotel Brand within the UK owned by Whitbread Group Plc. A number are successfully operating within the Westminster City Council Licensing Area both Premier Inn and Hub By Premier Inn. The Premises is not located in any area of Cumulative Impact.

### **Policy Position**

Under Policy HRS1, applications within the core hours will generally be granted subject to not being contrary to other policies in the SLP and applications for hours outside of the core hours will be considered on their own merits, subject to other relevant policies and with particular regard to matters set out in Policy HRS1.

Under Policy HOT1(a), applications outside the West End Cumulative Impact Zone will generally be granted subject to matters set out in Policy HOT1(a).

## **SUBMISSIONS AND REASONS**

Ms Donovan, Senior Licensing Officer, summarised the application as set out in the report before the Sub Committee, noting that representations had been received from the Metropolitan Police Service (MPS); the Environmental Health Service; a local resident; and the Chairman of the Mayfair Residents' Group.

Mr Tim Shield acting on behalf of the applicant, of John Gaunt & Thomas Partners, stated that he would be presenting the application on behalf of Whitbread Group Plc and that he was accompanied by Mr Niall Hyslop, New Openings Manager for Whitbread Group Plc, who would be able to advise the Sub Committee on the detail of the application, if necessary.

Mr Shield referred the Sub Committee to his submission which was set out on Page 5 of the Additional Information Pack. He stated that Whitbread Group Plc was a well-known company which operated Premier Inns across the UK and had done so for many years without any issues arising in relation to the licensing objectives. The present application was for the sale of alcohol within core hours to non-residents, and 24-hours a day to residents.

Mr Shield referred the Sub-Committee to the plans of the Premises set out in Pages 18 & 19 of the Agenda Pack, and the areas which it was proposed would be licensed as demarcated by the red outline in the Plan. He noted the Premises was primarily a hotel with a restaurant and bar. The bar would be open to non-residents, but access to the bar would be restricted after 23:00 hours and would require using a secure key card, or entry on demand.

Referring to the Plan on Page 13 of the Additional Information Pack, Mr Shield stated that this was indicative of the layout of the bedrooms of which there would be approximately 290 over the 19 floors of the development. Mr Shield then referred the Sub-Committee to the indicative menu on Page 19 of the Additional Information Pack, along with several photographs that were indicative of the layout of the bar, restaurant and reception area in a typical Premier Inn.

Regarding the Licensing Objectives, in particular, the Prevention of Public Nuisance, Mr Shield stated that this was of paramount importance to Whitbread Group Plc. He noted that the company was very experienced in managing its relationships with its neighbours, and that the presence of Premier Inn improved an area. The company also operated a "Good Night Guarantee" whereby residents would be offered a full refund if they were disturbed during the night by noise from either within or outside the Premises. In addition, as the hotel was brand-new, it was built to the highest standards to prevent noise nuisance.

Regarding the representations, Mr Shield noted that agreement had been reached with the EHS and MPS on proposed conditions. Therefore, there remained only two outstanding representations from Residents' Associations.

Regarding the reference to conditions in the submission by Mr Brown on behalf of the Residents' Associations (Page 29 of the Additional Information Pack), and the conditions highlighted in red on Page 31 of the Agenda Pack, which had been agreed in relation to the recent Stay City Aparthotel Premises licence application, Mr Shield stated that the present application was very different from that of the Stay City Aparthotel. However, the applicant did not object, in principle, to these conditions, with one exception viz.

*48. The sale of alcohol for consumption on the Premises shall only be to a person seated within the licensed area hatched green on the ground floor of the Premises and shall be by waiter or waitress service only. The maximum number of such persons shall be [].*

He stated that this condition did not apply to any other Premier Inn Premises operated by Whitbread Group Plc.

In conclusion, Mr Shield stated that he believed that the applicant had made a good offer regarding the conditions that the applicant was willing to accept.

In response to several questions, Mr Shield, and Mr Hyslop provided the following information.

- (a) It was not proposed that there be any licensable activity outside the Premises and, therefore, it would be possible to amend the application in relation to Late Night Refreshment (LNR) to refer to "Indoors Only".
- (b) Regarding the application in respect of Films as a licensable activity, the main reason for including this in the application was to allow films to be shown in guests' bedrooms. Mr Hyslop noted that, other than a television in the bar area which usually featured BBC rolling news programmes, there were no other screens for showing films. Furthermore, there was no intention to show films on a regular basis.
- (c) As there was no demised area outside Premises that the hotel could operate as a smoking area, a litter bin and ashtray would be provided as near to the front door as possible and the area would be managed by the hotel's night team.

(d) [At the conclusion of Mr Drayan's submission (see *infra*), the applicant provided the following information in response to a question by the Chairman].

It was proposed that, before 23:00, Off Sales would be permitted to Members of the Public, as well as hotel residents. However, after 23:00, Off Sales would be restricted to hotel residents only. This was because the guest bedrooms were not included within the hotel's licensable areas. By allowing Off Sales to non-residents up to 23:00, this would allow non-residents who had purchased alcohol as part of their meal to take any remaining alcohol with them in a sealed container when they left the hotel.

Mr Drayan, acting on behalf of Environmental Health, confirmed that, as far as EHS and the MPS were concerned, he was not aware of any concerns regarding the operation of Premier Inns in Westminster. However, the EHS had requested additional conditions as set out on Page 36 of the Additional Information Pack and that these had been agreed with the applicant. Therefore, the EHS had no objections to the application.

Regarding the capacity of the Premises, Mr Drayan stated that the applicant had advised him that the maximum capacity of the ground floor and basement area would be 235. Therefore, he proposed that, when the EHS carried out its site inspection in accordance with the proposed "Works" condition, an appropriate assessment would be made to determine if the Premises could accommodate this number of persons. In response to a question by the Chairman, Mr Drayan stated that this would be an "umbrella" number.

Mr Richard Brown acting on behalf of SEBRA and Paddington Waterways and Maida Vale Society, of Citizens Advice Westminster, began by referring to the Stay City Aparthotel application that had previously been considered by the Sub Committee. Mr Brown noted that the operating schedule, conditions, and the representations made in respect of that application were very similar to the present application. He stated that the key issues for the objectors were how the public licenced areas were to operate. In particular, the objectors were concerned that the applicant was not willing to agree to the proposed Condition 48 (*supra*), which did not require that the sale of alcohol be ancillary to a table meal. By not including this condition, the publicly licensed areas, which were considerably larger than the public licensed areas in the Stay City Aparthotel application, could operate as a large bar.

Referring to his submission on page 29 *et seq* of the Additional Information Pack, Mr Brown noted that the conditions that he was proposing were substantially the same as those proposed and accepted in the Stay City Aparthotel application.

Referring to the conditions set out at Paragraph 4.6 on Page 31 of his submission, Mr Brown made the following observations.

1. The applicant objected to the following proposed conditions: *"The sale of alcohol for consumption on the Premises shall only be to a person seated within the licensed area hatched green on the ground floor of the Premises and shall be by waiter or waitress service only. The maximum number of such persons shall be [...]" "At all times customers will be shown to the table and the supply of alcohol will be by waiter/waitress service only to customers."*
2. The applicant had made no reference to the bona fide guest requirement of the following proposed condition: *"Non-residents can only remain in the licensed area during the permitted hours for the sale of alcohol. For the avoidance of doubt,*



*residents and up to 4 bona fide guests for each resident can potentially remain in the licensed area at any time of the day.”*

3. The proposed smoking condition be amended to read: *“Persons permitted to temporarily leave then re-enter the Premises to smoke shall be restricted to a designated smoking area to be determined by the Premises licence holder [insert: and the Environmental Health Service].”*
4. The following proposed conditions regarding waste services were the same as those agreed for the Stay City Aparthotel: *“No waste and recyclable materials, including bottles, shall be moved, removed from, or placed in outside areas between 20:00 hours and 08:00 hours on the following day.” “That collections of waste recycling materials (including bottles) from the Premises shall take place between 20:00 hours and 08:00 hours on the following day.”*

Referring to the applicant's correspondence on Page 41 of the Additional Information Pack, Mr Brown stated that, regarding proposed Condition 3 –

*“Other than to hotel bedrooms there shall be no sales of alcohol for consumption off the Premises after 23:00 hours.”;*

it was his understanding that, after 23:00 hours, residents and their bona fide guests could be sold alcohol if they were in a guest room and he asked that this be clarified.

Referring to proposed Condition 8 –

*“No deliveries to the Premises shall take place between 23:00 hours and 07:00 hours on the following day.”;*

it was the residents' proposal that the hours should be 21:00 hours to 07:00 hours, in line with the City Stay Aparthotel.

In addition, Mr Brown proposed that Model Conditions (MCs) 12 & 57 should be included in the conditions.

He noted that the theme running through the conditions proposed by residents was a concern about dispersal of patrons from the Premises into a residential area. As each application had to be considered on its merits, residents believed such a condition was appropriate for these Premises.

Mr Zamit, speaking on behalf of SEBRA, stated that residents would have welcomed the opportunity to have had a discussion with the applicant about the operation of the Premises and

were disappointed that this had not happened.

Mr Zamit then made the following points.

1. **Smoking Area:** as it was believed that it was a residential development that was taking place opposite the Premises, residents would like the designated smoking area to be agreed with the Environmental Health Service.
2. **Off Sales:** this should be restricted to partially consumed containers of alcohol served with a meal which were resealed for customers to take with them.
3. **Capacity:** the capacity for each licence area should be specified rather than setting a limit on the total capacity for all licensed areas.
4. **Ground & Basement Floor:** residents would like to know how it was proposed to lay out these areas and how they would operate.

5. **Refuse Collections:** Paddington comprised mixed residential and commercial properties with a concentration of residential properties in some parts. Residents, therefore, were concerned that they should not be disturbed by the sounds of refuse collections.
6. **Dispersal:** residents were concerned about the possibility of patrons leaving the hotel at night, heading to Merchant Square, and getting lost because the gates at Merchant Square were locked at night. In addition, there should be a condition that non-residents be required to leave the Premises in accordance with core hours.

The Chairman invited Mr Shield and Mr Hyslop to respond to the various points raised by Mr Zamit. In response, Mr Shield provided the following information.

1. **Layout:** referring to the plans of the basement area, Mr Shield stated that the plans were indicative of how the basement area would be laid out with a bar servery and a substantial number of tables and chairs.

[Mr Hyslop subsequently confirmed that the ground floor area was largely devoted to use as a business lounge with Wi-Fi and power points for guests to use. The basement restaurant would be a premium steak restaurant and that the table and chair plans were indicative of the layout of the restaurant].

2. **Proposed Condition:** Basement Area - *“The layout of the licensed area as shown on the approved plan at basement level shall be substantially laid out with tables and chairs as indicated on the approved licensing drawing.”*
3. **Ground Floor:** referring to the photographs in the Additional Information Pack, it was proposed that the ground floor would comprise the reception area, including a self-service check-in area, lobby and business lounge. There would be no bar servery on the ground floor and guests would have to go to the basement bar if they wished to order a drink which they could then bring back up to the ground floor area.
4. **Capacity:** this had been agreed with the Environmental Health Service (EHS) and it was the applicant’s preference to set an overall number on the capacity of the Premises rather than impose limits for each licensed area.
5. **Smoking Area:** the applicant would be willing to agree the location of an external smoking area with the EHS.
6. **Off Sales:** the primary reason for seeking Off Sales was to allow diners to take partially consumed and resealed bottles of alcohol with them at the conclusion of their meal.

Regarding Off Sales, Mr Brown suggested that a revised form of Model Condition 66 might be sufficient to address objector’ concerns. To this end he proposed wording along the lines of –

*“There shall be no Off Sales except to residents in their hotel rooms or part consumed and resealed bottles of wine.”*

## **Conclusion**

The Sub-Committee has a duty to consider each application on its individual merits. Accordingly, whilst the objectors had sought to draw comparisons with the conditions attached to the recently granted Stay City Aparthotel premises licence, the Sub-

Committee considered it inappropriate to draw comparisons with that licence. This application had to be determined on its own merits.

The Sub-Committee noted that objections had initially been made by the Metropolitan Police and Environmental Health as well as local residents' associations. However, the objections from the Responsible Authorities had been withdrawn following discussions with the applicant and the imposition of further conditions to address the Responsible Authorities' concerns. The Sub-Committee gave weight to the fact that the Applicant had addressed the Responsible Authorities' concerns with the imposition of conditions.

Policy HRS1 defines the core hours for hotels as Monday to Thursday: 9am to 11.30pm, Friday and Saturday: 9am to 12am, Sunday: 9am to 10.30pm, Sundays immediately prior to a bank holiday: 9am to 12am, For the sale of alcohol to guests for consumption in hotel/guest rooms only: Anytime up to 24 hours. The application was for the sale of alcohol within core hours to non-residents, and 24-hours a day to residents. Whilst largely within the core hours policy, the application was outside of the core hours policy in that hotel residents were not confined to hotel / guest rooms for the consumption of alcohol. The Sub-Committee noted that the bar was open to non-residents but access restricted after 23:00 and would require a secure key card / entry on demand. On this basis, the application had to be determined on its merits subject to other relevant policies.

The Sub-Committee noted that whilst the application included the playing of films indoors, films were only to be shown in guests bedroom and there would be no other screens for showing films in the premises beyond the television in the bar area. Similarly, off-sales were primarily designed so that customers could take bottles with them at the end of the meal. The Sub-Committee were grateful to the Applicant for providing a condition during the hearing that provided a limitation on off-sales. The Sub-Committee considered that this condition adequately addressed concerns raised during the course of the hearing whilst not being overly onerous on the applicant's business.

In this instance, the Sub-Committee concluded that the grant of a premises licence subject to the conditions offered would promote the licensing objectives. The Sub-Committee noted that the applicant was an experienced company with regards to managing the licensing objectives and in fact offered a "Good Night Guarantee" whereby hotel guests would be offered a refund if they were disturbed by noise. The Sub-Committee also noted that the premises was new and, as such, would be built with high standards of noise prevention.

The Sub-Committee were mindful of the representations made by SEBRA and PMWVS, noting the key issue was how the public areas would operate. The Sub-Committee were grateful to the applicant for seeking to agree a smoking area with Environmental Health, to ensure that nuisance was not caused to local residents.

In this instance, the Sub-Committee considered, noting the representations made by Environmental Health, that further conditions requested by the objectors (namely table service of alcohol and specified capacity) would be overly onerous and disproportionate. Similarly, the Sub-Committee was also satisfied that, when the EHS carried out its site inspection in accordance with the proposed "Works" condition, an appropriate assessment would be made to determine if the Premises could accommodate this number of persons proposed by the applicant. In reaching this decision, the Sub-Committee had regard to the representations made by the

Responsible Authorities, the positive track-record of the applicant and the other conditions offered by the applicant which the Sub-Committee considered were appropriate, proportionate and would promote the licensing objectives.

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 Films (Indoors)** Monday to Thursday 10:00 to 23:30 hours Friday to Saturday 10:00 to 00:00 hours Sunday 12:00 to 22:30. When hours for the sale of alcohol are extended these hours are also extended.
2. **To grant permission for Late Night Refreshment (Indoors)** Monday to Thursday 23:00 to 23:30 hours Friday to Saturday 23:00 to 00:00 hours Sunday Not Applicable. When hours for the sale of alcohol are extended these hours are also extended.
3. **To grant permission for the Sale by Retail of Alcohol On and Off the Premises** Monday to Thursday 10:00 to 23:30 hours Friday to Saturday 10:00 to 00:00 hours Sunday 12:00 to 22:30 hours. To extend the licensing hours on New Year's Eve: 10:00 to New Year's Day 00.30 (being 2nd January). The premises shall remain open to permit the sale of alcohol to hotel residents 24 hours a day.
4. **To grant permission for the Hours the Premises are Open to the Public** Monday to Thursday 06:00 to 00:00 hours Friday to Saturday 06:00 to 00:30 hours Sunday 06:00 to 23:00 hours. The premises shall remain open 24 hours a day for hotel residents. For non-residents, the premises will close 30 minutes after the end of the non-standard timings identified for the sale of alcohol
5. That the Licence is subject to any relevant mandatory conditions.
6. That the 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**

7. The use of door staff will be risk assessed on an ongoing basis by the licence holder or premises supervisor. Where engaged, door staff shall be licensed by the Security Industry Authority.
8. Staff will receive training on matters concerning underage sales, drugs policies and operating procedures to include safety, evacuation and use of emergency equipment as required.
9. There shall be a zero-tolerance policy in relation to drugs at the premises and there shall be regular checks by management to prevent the use of drugs by patrons. Drugs seized shall be stored securely and handed to the police.
10. The premises shall operate a proof of age scheme and will require photographic identification from any person who appears to be under the age of 21 years.
11. The management of the premises will liaise with police on issues of local concern or disorder.
12. The premises shall install and maintain a CCTV system as per the minimum requirements of 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 at 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 proper request of Police or authorised Officers during the preceding 31-day period.

13. 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.
14. Other than in hotel bedrooms 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.
15. No advertisements of any kind that advertise or promotes the establishment, its premises or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, upon any building, structure, works, street furniture, tree or any other property or be distributed to the public.
16. There shall be no drinks promotions at the premises which are inconsistent with the need to promote responsible drinking.
17. A record shall be kept detailing all refused sales of alcohol. The record shall include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the Police or an authorised officer of the City Council at all times when the premises are open to non-residents.
18. The licence holder shall comply with the reasonable requirements of the fire officer from time to time.
19. The premises will have adequate safety and fire-fighting equipment, and such equipment will be maintained in good operational order.
20. Spillages and breakages will be removed as soon as possible to reduce the risk to patrons and staff.
21. Toughened glasses will be used in the premises where appropriate.
22. Fire Exits and means of escape shall be kept clear and in good operational condition.
23. Prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.
24. Patrons will be encouraged by staff to leave quietly and respect the interests of the occupiers of any nearby noise sensitive premises, the licensee or a suitable staff member will monitor patrons leaving at the closing time.
25. 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.
26. Contact numbers for local taxi firm(s) shall be kept at the premises and made available to patrons requiring a taxi.

27. No films or videos of any description will be shown so that they can be viewed by persons under the age of any applicable BBFC/Local Authority certification.
28. Children under the age of 16 shall not be permitted to enter the premises after 21:00 unless dining with an adult or attending a pre booked function or resident in the hotel.
29. There shall be adequate controls in place including staff training to safeguard against the sale of alcohol to persons under 18 years.
30. The premises supervisor or appointed staff member shall ensure that when children are admitted to the premises their presence is not inconsistent with the style of operation of the premises at that time and the licensable activities that are being carried out.
31. Policies in relation to children shall be adequately communicated to patrons by staff or through appropriate signage.
32. 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) any faults in the CCTV
  - (f) any visit by a relevant authority or emergency service.
33. There shall be no sales of alcohol for consumption off the premises after (23.00) save for those paying residents in their hotel rooms and those customers after a meal wishing to take with them a sealed container only and this shall not be consumed on the premises.
34. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a hotel.
35. The certificates listed below shall be made available to an authorised officer upon request;
  - a. Any permanent or temporary emergency lighting battery or system
  - b. Any permanent or temporary electrical installation
  - c. Any permanent or temporary emergency warning system
  - d. Any ceiling inspection
36. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
37. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21.00 and 07.00 on the following day unless done during the Council's own collection times for the street as shown on the Council's website.
38. No deliveries to the premises shall take place between 21.00 and 07.00 on the

following day.

39. No licensable activities shall take place at the premises until the licensing authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority. If there are minor changes during the course of construction new plans shall be submitted to the licensing authority when requesting removal of this condition.
40. 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.
41. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke, shall not be permitted to take drinks or glass containers with them.
42. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to an area agreed with the Councils Environmental Health Officer and this area shall be kept clean and tidy at all times.
43. The capacity for the premises shall be agreed by the Councils Environmental Health Officer after a site visit once the layout has been determined, up to a maximum of 235 persons for the entire Premises, excluding staff. Once this capacity has been agreed the layout of the basement licensed area shall be substantially laid out with tables and chairs as indicated on the Premises Licence Plan.
44. There shall be no admittance or new entry to the premises after 23:00 hours If problems are experienced, then an application for a Review of the Premises licence can be made.

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

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

**The Licensing Sub-Committee  
27 January 2021**

## 2. PUPPET THEATRE BARGE, BLOMFIELD ROAD, LONDON W9 2PF

**Present:** Stan Middleton, General Manager, Puppet Theatre Barge & Rob Humphreys, Secretary of the Board of Trustees for Art of the Puppet Ltd (for the applicant); Richard Brown, Citizens Advice Westminster (representing residents); and Sonia Shah, Lucy Evans & Harriet Sergeant (residents)

**Representations:** Representations had been received from the Environmental Health Service (EHS); the Metropolitan Police Service (MPS);<sup>9</sup> and residents.

**Applicant:** Art of the Puppet Ltd

**Ward:** Little Venice

**CIA<sup>10</sup>:** Not applicable

### Summary of Application

The application was for a variation of a premises licence.

### INTRODUCTION

The Chairman welcomed everyone to the meeting and introduced the Members of the Sub Committee and the Council Officers who would be supporting the Sub Committee. He stated that Cllr Arzymanow, as a local resident, had declared an interest in this item and had recused herself from hearing the application. The Chairman then explained the procedure that would be followed at the meeting before inviting the Presenting Officer, Ms Jessica Donovan, to present the report.

### PRESENTATIONS AND SUBMISSIONS

#### Ms Jessica Donovan, Senior Licensing Officer

Ms Donovan summarised the application as set out in the report before the Sub Committee. She stated that the applicant would be represented by Mr Rob Middleton, General Manager, Puppet Theatre Barge, and Rob Humphreys, Secretary of the Board of Trustees for Art of the Puppet Ltd. She noted that, during the consultation period, the applicant had amended the application for the sale of alcohol on Sundays from 10:00 hours to 12:00 hours.

Ms Donovan reported that representations had been received from the Environmental Health Service (EHS) and local residents. Mr Richard Brown of Citizens Advice Westminster, Licensing Project, would be representing the Paddington Waterways & Maida Vale Society (PWMVS) and the Southeast Bayswater Residents' Association (SEBRA).

A further submission had been received from Mr Richard Brown and other interested parties and these are been included in the Additional Information Pack circulated to the various parties.

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<sup>9</sup> Subsequently withdrawn after agreement between the MPS and the applicant regarding proposed conditions.

<sup>10</sup> Cumulative Impact Area



In conclusion, as Donovan noted that the premises was located within the Little Venice Ward and was not within a cumulative impact area.

### **Mr Stan Middleton, General Manager, Puppet Theatre Barge**

Mr Middleton stated that he would start his presentation by providing some background information on the Theatre and what the Theatre hoped to achieve.

He stated that the Puppet Theatre Barge was a family run business which started in 1982 and operated from a converted Thames lighter (barge), which had been converted into a double-bridge string marionette theatre. The Theatre's Patron was Sir Michael Palin, KCMG CBE FRGS. Originally, the theatre was moored at Camden Lock but had relocated to Little Venice in 1988 where it was moored for most of the year apart from a few months in the summer when it visited Richmond-upon-Thames.

The Theatre specialised in long string of marionettes i.e., string puppets that had a tradition stretching back to the 17<sup>th</sup>-century; there being just one other theatre in the country which regularly presented performances using this art form. The Theatre had managed to keep going in the current economic climate after receiving a grant from central government's Cultural Recovery Fund. The purpose in applying for a variation to the premises licence was to safeguard the future of the theatre and its artistic work by increasing its revenue.

Mr Middleton stated that almost all the shows were for children and families and the theatre was open every weekend and every day during the school holidays. It was not proposed that there be any changes to the frequency of performances as a result of the present application. The Theatre also had a repertoire of plays for adults, including Shakespeare, Lorca and Coleridge, which were performed in the evening. In January of last year, the Theatre had put on three weeks of evening performances as part of the London International Mime Festival. At these events, the Theatre had operated a "bring-your-own" policy regarding alcohol and there had been no complaints about noise or any other complaint about these events.

The company was invested in the peace and tranquillity of the area and had contributed to its ambience by being a friendly, charming and cultural asset at the heart of the community. The company cared for its neighbours and did not want to upset anyone because, without the local community, the theatre would not exist.

Rather than inviting audiences to bring their own alcohol, the company wanted to be able to offer alcohol for sale in line with most other theatres. Mr Middleton noted that the barge was not within a cumulative impact area and that the application was for the sale of alcohol within core hours. As well as the sale of alcohol, the application included "Showing of Films" to add diversity to the theatre's repertoire; attract new audiences, and increase revenue. The intention was to show work by international puppeteers, that is, niche Puppetry and Art films by Independent filmmakers. The Theatre would not be showing commercial films which would not be viable because of the screening fees.

### **Licensing Objective: Protecting Children from Harm**

1. **Restrictions on the Sale of Alcohol:** Regarding residents' concerns about the application, Mr Middleton stated that the applicant was no different from

other theatre in that it put on performances for both adults and children. As was customary with other theatres, the applicant wished to offer alcohol for sale. He noted that a condition had been included in the application stating that the sale of alcohol would not be available for performances primarily intended for children under the age of 12.

#### **Licensing Objective: Prevention of Public Nuisance**

2. **Noise Nuisance:** Regarding concerns about noise and the possibility of people drinking and smoking on the towpath, suitably worded conditions had been included in the application prohibiting anyone from taking any drinks with them when leaving the barge to have a cigarette. The doors to the Theatre opened 30 minutes before a performance started. Therefore, there was no time for excessive drinking that could cause a nuisance. It was noted that people who visited the theatre were there for one reason i.e., to see a show or screening. Accordingly, the sale of alcohol would be restricted to persons attending a pre-booked/ticketed performance on the day of the performance.
3. **Smoking & Litter:** Regarding smoking, it had been the applicant's experience that smokers were generally responsible about disposing of their cigarette stubs. An ashtray was provided on the deck of the barge and that was where smokers stood when smoking. He stated that this had never raised any nuisance issues. Also, very little noise emanated from the premises and there had been no complaints about noise.
4. **Setting a Precedent for the Sale of Alcohol:** Regarding the application setting a precedent, Mr Middleton stated that it was not the applicant's intention to operate as a bar. As each application had to be considered on its merits with regard to promoting the licensing objectives, the applicant made no reliance on the existence of the nearby Bridge House Pub in support of the application.

#### **Licensing Objective: Prevention of Crime and Disorder**

5. **Antisocial Behaviour:** Regarding concerns that the dimly lit towpath may give rise to antisocial behaviour, Mr Middleton noted that the Theatre's audiences comprised theatre lovers and puppetry enthusiasts so that, when the Theatre put on evening performances, the presence of the audience made the dimly lit towpath safer and less intimidating and was a deterrent to antisocial behaviour. In addition, the Theatre's CCTV and security lighting contributed to the invention of crime and disorder.
6. **Criminal Behaviour:** Regarding concerns about public urination, the Theatre had a toilet which met the needs of the Theatre's audiences which generally comprised elderly persons or people on a family outing. Therefore, there was no comparison with people leaving a pub or bar after a night of drinking who might be tempted to urinate on the towpath or cause a nuisance in other ways.

#### **Licensing Objective: Prevention of Public Nuisance [see above]**

7. **Waste Collection:** The Theatre was a very small business. Deliveries were made to the applicant's East London Offices and stock was brought to the barge by the applicant. Similarly, staff disposed of the small amount of

waste that was generated using the bins provided outside the Bridge House Pub. It was not proposed that there be any change to the present arrangement which would be operated in accordance with proposed Condition 12, as set out in the application.

8. **Restrictions on Evening Performances:** the premises was a purpose-built marionette theatre which did not have the flexibility to be reconfigured for different types of events. Previously, the Theatre had hosted approximately 20 to 30 evening performances each year for adults who were allowed to bring their own alcohol, and this had never given cause for concern. Consequently, the applicant would not want to limit the number or time of evening performances as this may restrict the applicant's ability to participate in festivals where it may wish to put on more than one performance in a day.

The Chairman thanked Mr Middleton for his presentation. In response to a question by the Chairman, Mr Middleton stated that the audience numbers for film showings would be the same as that for puppet shows. The premises licence allowed an audience of up to 55 persons. However, when putting on adult performances, the applicant restricted the audience number to 40 for the comfort of the audience members.

#### **Mr David Nevitt, Environmental Health Service (EHS)**

The present application was for licensable activities to supplement the applicant's principal activity of putting on puppet performances. He stated that a number of conditions had been agreed with the applicant and the key condition was No. 14, which stated –

*“The sale or supply of alcohol shall at all times only be to persons attending a pre-booked ticketed film screening or performance of a play on that day.”*

He stated that this condition was in accordance with a condition applied to many Westminster theatres and cinemas. In addition, as Members could see from the Plans of the premises, the layout was such that most of the space was given over to the stage and the bench seating for the audience. Therefore, there was very little space that could be used as a place to gather for a prolonged drinking.

Mr Nevitt proposed that the conditions that had been agreed with the applicant met any concerns that he might have had, as well as addressing most of the concerns expressed by residents. He stated that, given the number of representations made by residents, the Environmental Health Service (EHS) had maintained its representation so that it may assist in addressing the concerns of residents.

In response to questions by the Chairman, Mr Nevitt stated that –

1. The on-board toilet would not be sufficient if the premises were a pub or bar where people were engaged in sustained drinking. However, given the limited capacity of the premises and the nature of the licensable activities, he was satisfied that the single toilet, given its size and location, was sufficient; and

2. The capacity of the premises, excluding staff, should not exceed 55 persons, and that number would be added to proposed condition No. 1611.

**Mr Richard Brown, Citizens Advice Westminster (on behalf of PWMVS and SEBRA)**

Mr Brown stated that the residents who had made representations all lived very nearby in what was a residential area and had he summarised their representations in his submission at Paragraph 3.2, on pages 45 & 46 of the Additional Information Pack. He stated that there was a lot of goodwill towards the Theatre by Westminster City Council, as well as residents and Ward Councillors.

Mr Brown stated that, of particular relevance to this application, was the distinction between how the premises intended to operate and what might be permitted by the license if it was granted on the proposed terms.

Referring to his summary of residents' objections, Mr Brown singled out the following matters which were of particular concern to residents.

The Toilet Provision on the Barge Was Not Sufficient

Without the proposed condition restricting the capacity of the Barge to 55, and the condition proposed by residents that would limit the number of performances for adult audiences, residents were concerned that one toilet would not be sufficient.

Therefore, if the Sub Committee was minded to grant the application, residents would request that these two conditions be added to the licence conditions. Mr Brown proposed that to impose these conditions would be reasonable and proportionate as they were in accordance with the information provided by the applicant to residents in the Applicant's letter at Page 75 of the Agenda Pack viz:

*"For more than 30 years we have hosted evening performances for adult audiences in Little Venice... We have always had a "bring your own alcohol" policy for these performances aimed at adults... Difference now would be that drinking will be controlled by the conditions and commitments of the licence.*

*We host an average of around 20 to 30 performances aimed at adults per year and we would like to assure you that this number would not change as it is difficult to attract an audience of adults to watch a puppet show, so regular events for adults are not financially viable (even with the addition of alcohol)."*

Proposed Restriction on the Hours That Alcohol Could Be Consumed

Referring to Paragraph 3.8 of his submission (under the subheading "Conditions" on page 47 of the Additional Information Pack), which said:

*"The applicant has also stated that the Barge does not open until 30 minutes prior to a performance. It would therefore seem to make sense to restrict the events to a more discreet portion of the day e.g., that the events take place between, say, 6 PM and 10 PM rather than all day."*

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<sup>11</sup> 16. The number of persons permitted on the premises at any one-time (excluding staff) shall not exceed (\*\*) persons. (To be specified by each at final inspection).

Mr Brown stated that this was in accordance with the applicant's day-to-day operation. He acknowledged that this would exclude the sale of alcohol during special events such as festivals, but that there was always the availability of Temporary Event Notices (TENs) for such occasions.

#### Waste Collections

The application proposed that waste collections should not take place after 10 PM. If the Sub Committee was minded to grant the application, this would increase the amount of glass waste on the premises, the disposal of which would be noisy. Therefore, residents asked that waste disposal/collections should not be allowed to take place as late as 10 PM.

#### Sonia Shah, Resident

Ms Shah stated that she was extra grateful for the additional information provided by The Puppet Barge Theatre which residents supported as a valuable part of the community.

She stated that her main concern was to see the ways in which the applicant intended to operate the premises codified in the premises licence as this would allay many of the concerns of residents and give some reassurance should the business ever be sold and a new operator take over the running of the premises.

Ms Shah said that her other concern was noise associated with deliveries and waste disposal. She said that the noise of waste disposal and collections, particularly of glass bottles, was loud and carried across the water. Therefore, she proposed that 10 PM was too late for these activities and it would address residents' concerns if waste disposal could be carried out during the day.

Regarding showing of films, Ms Shah asked if this might require soundproofing measures which might not otherwise be necessary for puppet performances.

#### Lucy Evans, Resident

Ms Evans stated that residents were very supportive of the Puppet Theatre Barge as it had been part of the lives of residents and their children for many years. She would like to see a limit imposed on the sale of alcohol before and after performances rather than granting a licence to sell alcohol from 10 AM to 10 PM.

Ms Evans went on to say that she believed that the applicant was anxious not to do anything that would disturb the environment but she was concerned that allowing the sale of alcohol during these hours could undermine wildlife and the peaceful environment. Therefore, she asked that the licence conditions be sufficiently prescriptive as to the number of performances allowed and the permitted hours for the sale of alcohol.

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Ms Sargent stated that she lived opposite the nearest exit from the canal from the Puppet Theatre Barge and that she was concerned about people leaving the Theatre at night as her bedroom window overlooked the canal. She was also concerned about the possibility of the business being sold and asked if it would be possible to exercise some control in that event.

Ms Sargent stated that, like the other residents, she fully supported the Puppet Theatre Barge and she did not want to do anything to stop the business. However, she would like to be reassured that there would be some means of reviewing the operation of the premises if, say, in a year's time, residents were having a terrible time. Ms Sargent went on to say that she very much hoped that this would not be the case and that, should the variation to the licence be granted, the operation of the premises would continue without concern.

The Chairman stated that, reading the papers and the representations, he was heartened to see that there was unanimous support on the part of residents for the Puppet Theatre Barge. He stated that the applicant was to be congratulated on getting on so well with their neighbours over the last 30 years in a very sensitive area.

By way of reassuring Ms Sargent, the Chairman stated that any concerns about the operation of the premises could be raised, in the first instance, with the Licensing Authority and the Environmental Health Service. If matters could not be resolved at that level, residents could seek a Review of the premises licence by the Council's Licensing Committee which had the power to revoke the premises licence, if necessary.

The Chairman asked if the applicant might address the points raised by residents. In particular, he would like the applicant to respond to the proposal that there should be a limit on the number of events permitted each a year, as that may give residents some reassurance that there would not be several events each week.

He also asked that the applicant address the issue of restricting the hours for the sale of alcohol. He noted that it may be possible to find a form of words for a condition which would restrict the sale of alcohol according to the scheduled times for performances and events e.g., half an hour before and after each performance or event.

In response, Mr Middleton stated that –

1. **Limiting the Number of Evening Performances:** the number of evening performances for adults had been limited to about 25 a year as that was as many performances that could be staged while remaining financially viable. To allow the business to grow and prosper without affecting residents, a limit of 50 performances a year would allow the applicant to put on one such performance each week.
2. **Waste Collection/Disposal:** there was very little waste produced by the premises. Consequently, the applicant would have no objection to any restrictions that the Sub Committee may wish to put on the collection and/or disposal of waste.

In response to a proposal by the Chairman, Mr Middleton stated that he would be willing to agree to a condition restricting waste collection/disposal from 10 AM to 8 PM.

3. **Restrictions on the Hours for the Sale of Alcohol:** the applicant would be willing to accept a condition restricting the sale of alcohol to half an hour before a performance, and no later than half an hour after a performance.

4. **Soundproofing for Showing Films:** the sound levels for film showings would be the same as those for puppet performances and, therefore, there was no requirement for additional soundproofing measures.

The Chairman stated that, he would ask Mr Brown, in his summing up, to address the issue of limiting the number of evening performances for adult audiences.

## **SUMMING UP**

The Chairman then invited the parties to sum up their presentations.

### **Mr Nevitt, Environmental Health Service (EHS)**

By way of summing up, Mr Nevitt provided the following information.

1. He did not believe that it was necessary for there to be any additional soundproofing measures in relation to showing films. Should noise nuisance become an issue for residents, there were enforcement powers that could address this concern.
2. The proposed conditions agreed with the applicant addressed the concerns raised by the Environmental Health Service (EHS), as well as many of the concerns raised by residents.
3. Any restriction on the number of performances should refer to evening performances as it was more likely that any concerns about noise and/or nuisance would arise as a result of evening performances.
4. If the applicant found that he wanted to put on more evening performances than were allowed by the terms of the licence, it was always open to the applicant to apply for a Temporary Event Notice (TEN).

The Chairman noted that the advantage of applying for a TEN was that it could cover 10 consecutive days which would allow the applicant to participate in week-long events such as festivals

### **Mr Brown, Citizens Advice Westminster (on behalf of residents)**

Mr Brown made the following points.

1. It was his understanding that, imposing a restriction on the number of performances was a restriction on the number of performances at which alcohol could be sold.
2. He was not certain that restricting the number of evening performances would address residents' concerns about maintaining the character of the Puppet Theatre Barge, particularly if an unlimited number of daytime events was permitted.
3. If the Sub Committee was minded to allow, say, up to 50 performances a year, and there was a condition restricting the sale of alcohol to a period of time before and after performances, that would address residents' concerns about alcohol being consumed over long periods of time.

4. The additional Condition 29<sup>12</sup> proposed by the Environmental Health Service and agreed by the applicant, set out on page 87 of the Agenda Pack: Appendix 5, could provide the basis for a suitable wording restricting the times when alcohol could be sold.

[Mr Brown then proposed a form of words for the Sub Committee to consider when it adjourned a to make its decision].

Sonia Shah, Resident

Ms Shah stated that she would be satisfied if the number of performances for an adult audience was restricted to 50 a year, including both daytime and evening performances.

Given the possibility that the business could be sold and that a new operator takes over the running of the premises, it was important that any restrictions on the operation of the premises were be clear in the conditions attached to the licence.

Lucy Evans, Resident

Ms Evan stated that she concurred with everything proposed by Mr Brown. In particular, she would want to see a condition that restricted the time that alcohol could be sold before and after a performance. She proposed that the imposition of such a condition would limit the potential for any disorder while assisting Mr Middleton with his business.

Harriet Sergeant, Resident

Ms Sargent stated that she was in agreement with the points made and that she was happy with what had been said.

**Mr Middleton on Behalf of the Applicant**

Mr Middleton stated that it had been a good discussion and it was good to hear the opinions of residents. He wished to reiterate the point that the company had been operating for many years and had retained a good relationship with the community.

Regarding the possibility that the business might be handed on to another operator, he stated that he did not think that the business would be viable unless it was a family business, noting that all three generations of the family poured a lot into the operation of the premises. He was satisfied that the proposed conditions would restrict any future owner/operator to managing the premises on the same terms as the applicant.

Regarding the proposed conditions restricting the number of performances and the times which alcohol could be sold, Mr Middleton said that the applicant would be willing to agree to conditions to that effect.

In conclusion, the Chairman stated that he wished to express his personal, as well as the Council's support for Arts organisations at this very difficult time, and that performances would, once again, be staged as soon as this was possible.

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<sup>12</sup> The sale or supply of alcohol shall at all times only be to persons attending a pre-booked ticketed film screening or performance of a play on that day.



## **ADJOURNMENT**

At this stage in the proceedings, the Chairman adjourned the meeting to allow Members to retire to consider their decision. He stated that the Sub Committee would not announce its decision today but that a summary of the decision would be sent to the various parties within five working days.

The Chairman then closed the live part of the virtual meeting.

## **DECISION**

It was the Sub Committee's decision to **Approve** the application, as set out in the Summary Decision attached to these minutes as an appendix.

## **REASONS FOR THE DECISION**

Having read the report by the Director of Public Protection and Licensing that was before it; the written submissions of the applicant, and residents objecting to the application; and, having heard a presentation on behalf of the applicant and the applicant's responses to several questions, the Sub Committee was satisfied that it was appropriate and proportionate to **Approve** the application.

In reaching its decision, the Sub Committee took the following matters into consideration.

1. The applicant already operated a "bring-your-own-bottle" policy in relation to the supply of alcohol for performances staged primarily for adult audiences, and had done so without incident. In addition, the applicant would not be offering alcohol for sale before or after performances aimed primarily at children under the age of 12;
2. The doors to the Theatre opened 30 minutes before each performance and the applicant had agreed to a condition that the sale of alcohol would not exceed 30 minutes before the start of a performance, or more than 30 minutes after the end of a performance, and that sales of alcohol would be restricted to persons who had bought a ticket or tickets for that performance.
3. It had been the applicant's experience that very few people attending a performance wished to smoke. However, for those smokers who did want to smoke, an ashtray was provided on the deck of the barge. Therefore, there was no need for smokers to go on to the towpath for a cigarette. In addition, there was a prohibition on anyone wishing to exit and re-enter the theatre from taking any drinks or glass containers with them thereby removing the temptation for smokers to linger while having a cigarette.
4. The Environmental Health Service (EHS) had confirmed that the toilet facilities were sufficient for the capacity of the premises and that the proposed conditions agreed with the applicant addressed the concerns the EHS had raised with the applicant as well as addressing the concerns of residents.
5. The applicant had, during the course of the presentation by Mr Middleton, demonstrated an understanding and knowledge of the licensing objectives and what was required of the applicant.

In conclusion, the Sub Committee was satisfied that the applied-for licensable activities would be ancillary to the main business of the applicant and the applicant's willingness to agree to proposed conditions was sufficient to ensure the promotion of the licensing objectives.

## FULL DECISION

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3**  
**("The Committee")**  
**Thursday, 27 January 2021**

**Membership:** Councillor Jim Glen (Chairman) and Councillor Aicha Less

**Officer Support:** Legal Advisor: Horatio Chance  
 Policy Officer: Aaron Hardy  
 Committee Officers: Cameron MacLean  
 Presenting Officer: Jessica Donovan

**APPLICATION FOR A VARIATION OF A PREMISES LICENCE – PUPPET  
 THEATRE BARGE, BLOMFIELD ROAD, LONDON W9 2PF – 20/09771/LIPV**

## FULL DECISION

**Premises**

Puppet Theatre Barge, Blomfield Road, London W9 2PF

**Applicant**

Art of the Puppet Limited

**Cumulative Impact Area?**

N/A

**Ward**

Little Venice

**Proposed Licensable Activities and Hours**

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

The applicant seeks to vary the existing premises licence to add the exhibition of films to the existing permitted regulated entertainment and the sale by retail of alcohol for consumption on the premises.

Exhibition of films

Monday to Sunday: 10:00 hours to 22:00 hours

Sale by Retail of Alcohol (on sales)

Monday to Saturday: 10:00 hours to 22:00 hours

Sunday: 12:00 hours to 22:00 hours

**Representations Received**

- Environmental Health (Dave Newitt)
- Metropolitan Police (PC Bryan Davis) (withdrawn)
- Mrs S Ling (local resident)

- Mr E Allchin (local resident)
- Mrs J Drew (local resident)
- Mrs C Chatway (local resident)
- Mr K Remme (local resident)
- Councillor Melvyn Caplan
- Mrs L Evans (local resident)
- Mrs Lizete Forrest (local resident)
- Ms D Tanaka (local resident)
- Miss J Magner (local resident)
- Mrs P Congreve (local resident)
- Paddington Waterways and Maida Vale Society
- H Sergeant (local resident)

### **Summary of Objections**

- Environmental Health were concerned that the proposals were likely to increase the risk of public nuisance and may impact on public safety. EHS noted that the application to add the exhibit of films was relatively uncontroversial;
- Local residents noted that the area was quiet and residential, that it was a children's venue that did not require an alcoholic licence, and had concerns about the adequacy of toilet and waste disposal facilities

### **Summary of Application**

The Committee has determined an application for a Variation of Premises Licence under the Licensing Act 2003 ("The Act"). Puppet Theatre Barge is a long-established and highly respected Puppet Theatre operating from a barge moored at Little Venice providing entertainment for children and adults. The applicant seeks to vary the existing premises licence to add the exhibition of films to the existing permitted regulated entertainment and the sale by retail of alcohol for consumption ON the Premises. The Premises have had the benefit of a premises licence since December 2005. Following consultation with the Metropolitan Police, the applicant amended the start time for the sale of alcohol on Sundays from 10:00 to 12:00 hours. The Premises is not located in any area of Cumulative Impact

### **Policy Position**

Under Policy HRS1, applications for hours within the core hours will generally be granted subject to not being contrary to other policies in the SLP. Applications for hours outside the core hours will be considered on their merits, subject to other policies in the SLP.

Under Policy CCSOS1, applications outside the West End Cumulative Zones will generally be granted subject to the matters set out in Policy CCSOS1(A).

## **DECISION AND REASONS**

Ms Donovan, Senior Licensing Officer, summarised the application as set out in the report before the Sub Committee. She stated that the applicant would be

represented by Mr Rob Middleton, General Manager, Puppet Theatre Barge, and Rob Humphreys, Secretary of the Board of Trustees for Art of the Puppet Ltd. She noted that, during the consultation period, the applicant had amended the application for the sale of alcohol on Sundays from 10:00 hours to 12:00 hours.

Ms Donovan reported that representations had been received from the Environmental Health Service (EHS) and residents. Mr Richard Brown of Citizens Advice Westminster, Licensing Project, would be representing the Paddington Waterways & Maida Vale Society (PWMVS) and the Southeast Bayswater Residents' Association (SEBRA).

A further submission had been received from Mr Richard Brown and other interested parties and these are been included in the Additional Information Pack circulated to the various parties.

In conclusion, Ms Donovan noted that the Premises was located within the Little Venice Ward and was not within a cumulative impact area.

Mr Stan Middleton, the General Manager of Puppet Theatre Barge, stated that he would start his presentation by providing some background information on the Theatre and what the Theatre hoped to achieve.

Mr Middleton stated that the Puppet Theatre Barge was a family run business which started in 1982 and operated from a converted Thames lighter (barge), which had been converted into a double-bridge string marionette theatre. The Theatre's Patron was Sir Michael Palin, KCMG CBE FRGS. Originally, the theatre was moored at Camden Lock but had relocated to Little Venice in 1988 where it was moored for most of the year apart from a few months in the summer when it visited Richmond-upon-Thames.

The Theatre specialised in long string of marionettes i.e., string puppets that had a tradition stretching back to the 17th-century; there being just one other theatre in the country which regularly presented performances using this art form. The Theatre had managed to keep going in the current economic climate after receiving a grant from central government's Cultural Recovery Fund. The purpose in applying for a variation to the Premises licence was to safeguard the future of the theatre and its artistic work by increasing its revenue.

Mr Middleton stated that almost all the shows were for children and families and the theatre was open every weekend and every day during the school holidays. It was not proposed that there be any changes to the frequency of performances as a result of the present application. The Theatre also had a repertoire of plays for adults, including Shakespeare, Lorca and Coleridge, which were performed in the evening. In January of last year, the Theatre had put on three weeks of evening performances as part of the London International Mime Festival. At these events, the Theatre had operated a "bring-your-own" policy regarding alcohol and there had been no complaints about noise or any other complaint about these events.

The company was invested in the peace and tranquillity of the area and had contributed to its ambience by being a friendly, charming and cultural asset at the heart of the community. The company cared for its neighbours and did not want to upset anyone because, without the local community, the theatre would not exist.

Rather than inviting audiences to bring their own alcohol, the company wanted to be able to offer alcohol for sale in line with most other theatres. Mr Middleton noted that the barge was not within a cumulative impact area and that the application was for

the sale of alcohol within core hours. As well as the sale of alcohol, the application included "Showing of Films" to add diversity to the theatre's repertoire; attract new audiences and increase revenue. The intention was to show work by international puppeteers, that is, niche Puppetry and Art films by Independent filmmakers. The Theatre would not be showing commercial films which would not be viable because of the screening fees.

#### **Licensing Objective: Protecting Children from Harm**

1. **Restrictions on the Sale of Alcohol:** Regarding residents' concerns about the application, Mr Middleton stated that the applicant was no different from other theatre in that it put on performances for both adults and children. As was customary with other theatres, the applicant wished to offer alcohol for sale. He noted that a condition had been included in the application stating that the sale of alcohol would not be available for performances primarily intended for children under the age of 12.

#### **Licensing Objective: Prevention of Public Nuisance**

2. **Noise Nuisance:** Regarding concerns about noise and the possibility of people drinking and smoking on the towpath, suitably worded conditions had been included in the application prohibiting anyone from taking any drinks with them when leaving the barge to have a cigarette. The doors to the Theatre opened 30 minutes before a performance started. Therefore, there was no time for excessive drinking that could cause a nuisance. It was noted that people who visited the theatre were there for one reason i.e., to see a show or screening. Accordingly, the sale of alcohol would be restricted to persons attending a pre-booked/ticketed performance on the day of the performance.
3. **Smoking & Litter:** Regarding smoking, it had been the applicant's experience that smokers were generally responsible about disposing of their cigarette stubs. An ashtray was provided on the deck of the barge and that was where smokers stood when smoking. He stated that this had never raised any nuisance issues. Also, very little noise emanated from the Premises and there had been no complaints about noise.
4. **Setting a Precedent for the Sale of Alcohol:** Regarding the application setting a precedent, Mr Middleton stated that it was not the applicant's intention to operate as a bar. As each application had to be considered on its merits regarding promoting the licensing objectives, the applicant made no reliance on the existence of the nearby Bridge House Pub in support of the application.

#### **Licensing Objective: Prevention of Crime and Disorder**

5. **Antisocial Behaviour:** Regarding concerns that the dimly lit towpath may give rise to antisocial behaviour, Mr Middleton noted that the Theatre's audiences comprised theatre lovers and puppetry enthusiasts so that, when the Theatre put on evening performances, the presence of the audience made the dimly lit towpath safer and less intimidating and was a deterrent to antisocial behaviour. In addition, the Theatre's CCTV and security lighting contributed to the prevention of crime and disorder.
6. **Criminal Behaviour:** Regarding concerns about public urination, the Theatre had a toilet which met the needs of the Theatre's audiences which generally comprised elderly persons or people on a family outing. Therefore, there was no

comparison with people leaving a pub or bar after a night of drinking who might be tempted to urinate on the towpath or cause a nuisance in other ways.

**Licensing Objective: Prevention of Public Nuisance [see above]**

7. **Waste Collection:** The Theatre was a very small business. Deliveries were made to the applicant's East London Offices and stock was brought to the barge by the applicant. Similarly, staff disposed of the small amount of waste that was generated using the bins provided outside the Bridge House Pub. It was not proposed that there be any change to the present arrangement which would be operated in accordance with proposed Condition 12, as set out in the application.
8. **Restrictions on Evening Performances:** the Premises was a purpose-built marionette theatre which did not have the flexibility to be reconfigured for different types of events. Previously, the Theatre had hosted approximately 20 to 30 evening performances each year for adults who could bring their own alcohol, and this had never given cause for concern. Consequently, the applicant would not want to limit the number or time of evening performances as this may restrict the applicant's ability to participate in festivals where it may wish to put on more than one performance in a day.

The Chairman thanked Mr Middleton for his presentation. In response to a question by the Chairman, Mr Middleton stated that the audience numbers for film showings would be the same as that for puppet shows. The Premises licence allowed an audience of up to 55 persons. However, when putting on adult performances, the applicant restricted the audience number to 40 for the comfort of the audience members.

Mr David Newitt, Environmental Health Service, noted that the present application was for licensable activities to supplement the applicant's principal activity of putting on puppet performances. He stated that several conditions had been agreed with the applicant and the key condition was No. 14, which stated –

*"The sale or supply of alcohol shall at all times only be to persons attending a pre-booked ticketed film screening or performance of a play on that day."*

He stated that this condition was in accordance with a condition applied to many Westminster theatres and cinemas. In addition, as Members could see from the Plans of the Premises, the layout was such that most of the space was given over to the stage and the bench seating for the audience. Therefore, there was very little space that could be used as a place to gather for a prolonged drinking.

Mr Nevitt proposed that the conditions that had been agreed with the applicant met any concerns that he might have had, as well as addressing most of the concerns expressed by residents. He stated that, given the number of representations made by residents, the Environmental Health Service (EHS) had maintained its representation so that it may assist in addressing the concerns of residents.

In response to questions by the Chairman, Mr Nevitt stated that –

1. The on-board toilet would not be enough if the Premises were a pub or bar where people were engaged in sustained drinking. However, given the limited capacity of the Premises and the nature of the licensable activities, he was satisfied that the single toilet, given its size and location, was enough; and
2. The capacity of the Premises, excluding staff, should not exceed 55 persons, and that number would be added to proposed condition No. 16.

Mr Richard Brown, of Citizens Advice Westminster on behalf of PWMVS and SEBRA, stated that the residents who had made representations all lived very nearby in what was a residential area and had he summarised their representations in his submission at Paragraph 3.2, on pages 45 & 46 of the Additional Information Pack. He stated that there was a lot of goodwill towards the Theatre by Westminster City Council, as well as residents and Ward Councillors.

Mr Brown stated that, of relevance to this application, was the distinction between how the Premises intended to operate and what might be permitted by the licence if it was granted on the proposed terms.

Referring to his summary of residents' objections, Mr Brown singled out the following matters which were of concern to residents.

### **The Toilet Provision on the Barge Was Not Sufficient**

Without the proposed condition restricting the capacity of the Barge to 55, and the condition proposed by residents that would limit the number of performances for adult audiences, residents were concerned that one toilet would not be enough.

Therefore, if the Sub Committee was minded to grant the application, residents would request that these two conditions be added to the licence conditions. Mr Brown proposed that to impose these conditions would be reasonable and proportionate as they were in accordance with the information provided by the applicant to residents in the Applicant's letter at Page 75 of the Agenda Pack viz:

*"For more than 30 years we have hosted evening performances for adult audiences in Little Venice... We have always had a "bring your own alcohol" policy for these performances aimed at adults... Difference now would be that drinking will be controlled by the conditions and commitments of the licence. We host an average of around 20 to 30 performances aimed at adults per year and we would like to assure you that this number would not change as it is difficult to attract an audience of adults to watch a puppet show, so regular events for adults are not financially viable (even with the addition of alcohol)."*

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Referring to Paragraph 3.8 of his submission (under the subheading "Conditions" on page 47 of the Additional Information Pack), which said:

*"The applicant has also stated that the Barge does not open until 30 minutes prior to a performance. It would therefore seem to make sense to restrict the events to a more discreet portion of the day e.g., that the events take place between, say, 6 PM and 10 PM rather than all day."*

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The application proposed that waste collections should not take place after 10 PM. If the Sub Committee was minded to grant the application, this would increase the amount of glass waste on the Premises, the disposal of which would be noisy. Therefore, residents asked that waste disposal/collections should not be allowed to take place as late as 10 PM.



### Sonia Shah, Resident

Ms Shah stated that she was extra grateful for the additional information provided by The Puppet Barge Theatre which residents supported as a valuable part of the community.

She stated that her main concern was to see the ways in which the applicant intended to operate the Premises codified in the Premises licence as this would allay many of the concerns of residents and give some reassurance should the business ever be sold and a new operator take over the running of the Premises.

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Ms Evans stated that residents were very supportive of the Puppet Theatre Barge as it had been part of the lives of residents and their children for many years. She would like to see a limit imposed on the sale of alcohol before and after performances rather than granting a licence to sell alcohol from 10 AM to 10 PM.

Ms Evans went on to say that she believed that the applicant was anxious not to do anything that would disturb the environment, but she was concerned that allowing the sale of alcohol during these hours could undermine wildlife and the peaceful environment. Therefore, she asked that the licence conditions be sufficiently prescriptive as to the number of performances allowed and the permitted hours for the sale of alcohol.

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Ms Sargent stated that she lived opposite the nearest exit from the canal from the Puppet Theatre Barge and that she was concerned about people leaving the Theatre at night as her bedroom window overlooked the canal. She was also concerned about the possibility of the business being sold and asked if it would be possible to exercise some control in that event.

Ms Sargent stated that, like the other residents, she fully supported the Puppet Theatre Barge and she did not want to do anything to stop the business. However, she would like to be reassured that there would be some means of reviewing the operation of the Premises if, say, in a year's time, residents were having a terrible time. Ms Sargent went on to say that she very much hoped that this would not be the case and that, should the variation to the licence be granted, the operation of the Premises would continue without concern.

The Chairman stated that, reading the papers and the representations, he was heartened to see that there was unanimous support on the part of residents for the Puppet Theatre Barge. He stated that the applicant was to be congratulated on getting on so well with their neighbours over the last 30 years in a very sensitive area.

By way of reassuring Ms Sargent, the Chairman stated that any concerns about the operation of the Premises could be raised, in the first instance, with the Licensing

Authority and the Environmental Health Service. If matters could not be resolved at that level, residents could seek a Review of the Premises licence by the Council's Licensing Committee which had the power to revoke the Premises licence, if necessary.

The Chairman asked if the applicant might address the points raised by residents. In particular, he would like the applicant to respond to the proposal that there should be a limit on the number of events permitted each a year, as that may give residents some reassurance that there would not be several events each week.

He also asked that the applicant address the issue of restricting the hours for the sale of alcohol. He noted that it may be possible to find a form of words for a condition which would restrict the sale of alcohol according to the scheduled times for performances and events e.g., half an hour before and after each performance or event.

In response, Mr Middleton stated that –

1. **Limiting the Number of Evening Performances:** the number of evening performances for adults had been limited to about 25 a year as that was as many performances that could be staged while remaining financially viable. To allow the business to grow and prosper without affecting residents, a limit of 50 performances a year would allow the applicant to put on one such performance each week.
2. **Waste Collection/Disposal:** there was very little waste produced by the Premises. Consequently, the applicant would have no objection to any restrictions that the Sub Committee may wish to put on the collection and/or disposal of waste.

In response to a proposal by the Chairman, Mr Middleton stated that he would be willing to agree to a condition restricting waste collection/disposal from 10 AM to 8 PM.

3. **Restrictions on the Hours for the Sale of Alcohol:** the applicant would be willing to accept a condition restricting the sale of alcohol to half an hour before a performance, and no later than half an hour after a performance.
4. **Soundproofing for Showing Films:** the sound levels for film showings would be the same as those for puppet performances and, therefore, there was no requirement for additional soundproofing measures.

The Chairman stated that, he would ask Mr Brown, in his summing up, to address the issue of limiting the number of evening performances for adult audiences.

## **Conclusion**

The variation sought by the Applicant to the existing premises licence was to add the exhibition of films to the existing permitted regulated entertainment and the sale by retail of alcohol for consumption on the premises. The Sub Committee noted that the addition of the exhibition of films was relatively uncontroversial, and the main concerns raised in relation to the application were with the proposed addition of on-sales of alcohol on the premises. The Sub Committee were mindful of the fact that, whilst many 'objections' had been made in relation to the application, there was unanimous support for the Puppet Theatre Barge on the part of residents.

The Sub Committee noted that whilst the premises licence did not currently allow for on-sales of alcohol, the applicant already operated a “bring-your-own-bottle” policy in relation to the supply of alcohol for performances staged primarily for adult audiences and had done so without incident. In addition, the applicant would not be offering alcohol for sale before or after performances aimed primarily at children under the age of 12. As a result of this the Sub Committee considered that on-sales would neither change the nature of the premises nor would it undermine the licensing objectives.

The Sub Committee noted that the doors to the Theatre opened 30 minutes before each performance and the applicant had agreed to a condition that the sale of alcohol would not exceed 30 minutes before the start of a performance, or more than 30 minutes after the end of a performance, and that sales of alcohol would be restricted to persons who had bought a ticket or tickets for that performance. The Sub Committee considered that this was a positive and proactive approach that would ensure that the licensing objectives were upheld whilst protecting the character of the area.

The Sub Committee were mindful of the fact that concerns had been raised in relation to smoking and the toilet facilities on the premises. With regards to smoking, the Sub Committee considered the applicant’s evidence that very few people attending a performance wished to smoke satisfactory. The Sub Committee further noted that the applicant stated that for those who did want to smoke an ashtray was provided on the deck of the barge which meant that there was no need for smokers to go on to the towpath for a cigarette. In addition, there was a prohibition on anyone wishing to exit and re-enter the theatre from taking any drinks or glass containers with them thereby removing the temptation for smokers to linger while having a cigarette. In relation to toilet facilities, the Sub Committee placed great weight on the view of EHS which had confirmed that the toilet facilities were enough for the capacity of the Premises and that the proposed conditions agreed with the applicant addressed the concerns the EHS had raised with the applicant as well as addressing the concerns of residents.

The Sub Committee considered that the applicant had, during the presentation by Mr Middleton, demonstrated an understanding and knowledge of the licensing objectives.

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 Films (Indoors)** Monday to Sunday 10:00 to 22:00 hours.
2. **To grant permission for the Sale by Retail of Alcohol On the Premises Only** Monday to Saturday 10:00 to 22:00 hours and Sunday 12:00 to 22:00 hours.
3. To add conditions in the terms specified below.
4. That the varied licence is subject to any relevant mandatory conditions.
5. That the existing conditions on the licence shall apply in all respects except in so far as they are varied by this Decision.

6. 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**

7. The licence holder shall ensure that Children are not authorised on the premises unless accompanied by an adult carer.
8. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 55 persons.
9. The Licensable activities authorised by this licence shall at all times be ancillary to the main use of the premises as a Puppet Theatre.
10. Alcohol shall not be available for sale or consumption when the Puppet Theatre is holding an event where the screening or performance is primarily intended for children under 12 years
11. Staff shall be trained on security issues including how to identify and refuse service to customers that are drunk or appear to be drunk.
12. A written notice of 'authority' record shall be maintained for all staff who sell alcohol.
13. There shall be comprehensive training for staff in the main requirements of the Licensing Act 2003, the specific measures and conditions in place to promote the Licensing Objectives and the staff roles and responsibilities. Such records shall be available for inspection by the responsible authorities.
14. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
15. The means of escape provided for the premises shall be maintained unobstructed and free of trip hazards.
16. Satisfactory arrangements will be put in place to supervise an orderly dispersal of visitors when leaving the property to ensure the minimum of noise and disturbance to local residents and businesses.
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 barge which gives rise to a nuisance.
18. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (20.00) hours and (10.00) hours on the following day.
19. The premises will be promoted as family friendly and suitable for all ages. Should children be in attendance, there will be no inappropriate entertainment, promotions, activities or behaviour tolerated at the premises that might put children at risk.
20. Staff training will occur before a staff member is authorised to sell alcohol within the premises.

21. 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.
22. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
23. The Sale or supply of alcohol shall at all times only be to persons attending a pre-booked ticketed film screening or performance of a play on that day.
24. No drinks shall be served in glass containers at any time.
25. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
26. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system, searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
27. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke, shall not be permitted to take drinks or glass containers with them.
28. 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.
29. 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 and will include the external area immediately outside the premises entrance. 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.

30. 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.
31. The supply of alcohol for consumption on the premises permitted by this licence shall be limited to a maximum of 50 private pre-booked events in any given year. For the avoidance of doubt the sale and consumption of alcohol for these events shall not take place more than (30) minutes before and (30) minutes after the scheduled performance times.
32. No deliveries from the premises shall take place between (20:00) and (10:00) on the following day.

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

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

**The Licensing Sub-Committee  
27 January 2021**