



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 11th March, 2021**, This will be a virtual meeting.

Members Present: Councillors Jim Glen (Chairman), Heather Acton and Aziz Toki

1. MEMBERSHIP

There were no changes to the Membership of the Sub-Committee

For the purposes of this meeting, the Chairman proposed that Councillor Heather Acton be appointed Substitute Chairman. Councillor Aziz Toki seconded the nomination and Councillor Acton was duly elected Substitute Chairman.

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

1. 10 AM: LSC (3) SIXES, 170 GREAT PORTLAND ST, W1W 5QB

12WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3 ("The Committee")

Thursday 11 March 2021

Membership: Councillor Jim Glen (Chairman), Councillor Heather Acton and Councillor Aziz Toki

Officer Support: Legal Advisor: Vivienne Walker
Policy Officer: Aaron Hardy
Committee Officer: Cameron MacLean
Presenting Officer: Jessica Donovan

Application for a Premises Licence – Sixes, 170 Great Portland Street, London W1W 5QB – 20/11485/LIPN

FULL DECISION

Premises

Sixes, 170 Great Portland Street, London W1W 5QB

Applicant

Sixes Cricket Limited

Cumulative Impact Area?

N/A

Ward

Marylebone High Street

Proposed Licensable Activities and Hours

Late Night Refreshment

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

Friday to Saturday: 23:00 hours to 00:00 hours

Seasonal variations / Non-standard timings:

- From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day
- On days preceding a Bank Holiday until midnight

Sale by retail of alcohol (on and off sales)

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

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

Sunday: 12:00 hours to 22:30 hours

Seasonal variations / Non-standard timings

- From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day
- On days preceding a Bank Holiday until midnight

Hours premises are open to the public

Monday to Thursday: 07:00 hours to 23:30 hours

Friday to Saturday: 07:00 hours to 00:30 hours

Sunday: 07:00 hours to 22:30 hours

Seasonal variations / Non-standard timings

- From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day
- On days preceding a Bank Holiday until 00:30 hours the following morning

Representations Received

- Environmental Health Service (Ian Watson)
- Metropolitan Police Service (PC Adam Deweltz) (withdrawn)
- Weymouth Court Residents’ Association (withdrawn)
- Portland Village Association (withdrawn)
- Marylebone Association (withdrawn)
- Sandra Blackman (local resident) (withdrawn)
- Amy Somerville (local resident)
- John Reilly (local resident)
- Chris Murray (local resident)
- David Bremner (local resident)
- Angus Haldane (local resident)

Summary of Objections

- Environmental Health expressed concern that the hours requested for the supply of alcohol would likely increase public nuisance in the area and that the hours requested for late-night refreshments would likely increase public nuisance and impact public safety;
- Local residents expressed concern about the nature of the business proposed which they felt was out of keeping with the area.

Summary of Application

The application was for a new Premises Licence for “Sixes”, 170 Great Portland St, W1W 5QB, a Cricket themed Restaurant and Bar with a “Sixes Cricket Simulator” which used modern technology to offer customers of all ages and abilities, including children, a virtual opportunity to bat against renowned bowlers and have their scores recorded on an Electronic Leader Board.

It was proposed that there would be two cricket simulators, one at the front of the Premises and one at the rear of the Premises, each with two nets, and separated by a bar. The simulators would be available for customers to use during the day and in the evening. As well as a bar, there would be a cricket themed restaurant where alcohol would only be sold with a table meal.

It was anticipated that the Premises could accommodate up to 240 customers in the main part of the Premises and up to 80 customers in the restaurant area. As well as the sale of alcohol, it was proposed to offer takeaway food which, after 11 PM, would be by way of a delivery service only.

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.

Under Policy RTN1(a), applications outside the West End Cumulative Impact Zone will generally be granted subject to matters set out in Policy RTN1(a).

Under Policy PB1, applications outside the West End Cumulative Zone will generally be granted subject to matters set out in Policy PB1.

SUBMISSIONS AND REASONS

Ms Donovan, Senior Licensing Officer, introduced the application that was before the Sub-Committee. In so doing, she noted that, during the consultation period, the Applicant had amended the application, reducing the applied-for hours for licensable activities, as follows:

Sale by Retail of Alcohol

Monday to Thursday: 10 AM to 11 PM

Hours Premises Are Open to the Public

Monday to Thursday: 7 AM to 11:30 PM
Sunday: 7 AM to 10:30 PM

In addition, on Fridays and Saturdays and days preceding a Bank Holiday the Applicant had amended the application, as follows –

Sale by Retail of Alcohol

In the Restaurant Area: 10 AM to 11:30 PM

Hours Premises Are Open to the Public

7 AM to midnight

Regarding licensable activities in the Bar and Experiential Area, the Applicant had amended the application, as follows –

Sale of Late-Night Refreshment

11 PM to 11:45 PM

Sale by Retail of Alcohol

7 AM to 12:15 AM

Regarding representations that had been received, Ms Donovan noted that a number of these had been withdrawn following agreement on proposed conditions with the Applicant and the parties making the representations.

In conclusion, Ms Donovan noted that the Premises were located in the Marylebone High Street Ward, and were not within a Cumulative Impact Area (CIA).

Mr Jonathan Smith acting on behalf of the Applicant, a solicitor from Poppleston Allen, stated that, following consultation with the Residents' Associations, agreement had been reached on a number of proposed conditions and hours of operation and the application had been amended, accordingly. Mr Smith detailed the conditions and amendments that had been agreed with the Residents' Associations and, in so doing, highlighting some further amendments, and correcting minor typographical errors.

[The Members of The Sub-Committee then viewed a short promotional video as part of Mr Smith's presentation.]

Mr Smith described the Premises' cricket theme and how the cricket simulators would provide customers with a simulated cricket experience. He noted that the Applicant, Sixes Cricket Ltd, already had a cricket themed pub, the Lazy Fox, in Fulham which attracted all age groups. He stated that the Applicant would like to open the Premises at 7 AM to accommodate children and school groups. Referring to a 3D representation of the Premises, Mr Smith then described the layout of the restaurant and bar area and the simulated cricket nets. At this stage in the proceedings, he invited Mr Calum McKinnon of the Applicant company to address the Sub-Committee.

Mr Calum McKinnon, of Sixes Cricket Ltd, described his experience in the hospitality industry in the last 10 years, including opening and operating "Mac & Wild", a Scottish restaurant brand with Premises in Fitzrovia and the City of London. He described how the bar fitted in with other Licensed Premises offering customers a variety of themed experiences, stating that the Premises would operate as an English gastropub with a fun element in the drinks on offer. In conclusion, he noted that the Premises was the right size to accommodate the cricket nets.

Mr Smith detailed the provisions in the existing Premises Licence, noting that the present application before the Sub-Committee, if granted, would mean the Premises opening hours would extend beyond the Council's prescribed core hours, but the permitted times for the sale of alcohol would be within core hours.

He stated that the reason for seeking opening hours that went beyond core hours was to maximise the use of the cricket nets. Discussions had taken place with the Residents' Associations ("the Associations") on the proposed opening hours and the Applicant had provided the Associations with mobile telephone numbers and email addresses for Mr McKinnon and Hamish Hunter, the proposed Designated Premises Supervisor (DPS).

Mr Smith noted that a number of persons who had made representations had not participated in the consultation between Residents and the Applicant. However, in response to questions raised by those residents, the Applicant had provided

information about the operation of the Premises and the Applicant company. In conclusion, Mr Smith stated he would address the representations that had not been withdrawn in his summing up at the end of the meeting.

In response to questions by Members of the Sub-Committee, Mr Smith and Mr McKinnon provided the following information.

- (a) Regarding proposed Condition 16, Mr Smith stated that, as food was a large component of the operation of the Premises, and because of the effects of the coronavirus pandemic, the Applicant may choose to operate a Late-Night Refreshment (LNR) delivery service after 23:00 hours.
- (b) Regarding the use of the rear doors to the Premises, Mr Smith stated that these would be used for deliveries to the Premises as they provided access to the kitchen and basement areas of the Premises. Mr McKinnon confirmed that it could be made a requirement that, should staff wish to smoke, that they use the front entrances to exit and enter the Premises.
- (c) Because of noise concerns at the rear of the Premises in Bolsover Street, any deliveries after 23:00 hours could be by way of the front entrance. Mr McKinnon stated that, it was not anticipated that there would be deliveries from the Premises after 23:00 hours. However, if there were deliveries after 22:00 hours, delivery drivers would be expected to use the front entrance to the Premises.
- (d) Regarding the use of the cricket nets in the early morning, Mr McKinnon stated it was not expected that people would arrive at 7 AM. He said it was more likely that people who had booked to use the nets at 8 AM may arrive at the Premises at 7:30 AM. He said that this was most likely to be families who had booked to use the net at the weekend, and that it was more likely that school groups would use the nets in the afternoons during the week.

Mr Ian Watson, Environmental Health Officer, stated that the application had been subject to pre-application advice. He noted that there were residents on Great Portland Street and on Bolsover Street. Referring to the Plan of the Premises on Page 20 of the Agenda Pack, Mr Watson noted that use of the Bolsover Street entrance to the Premises had previously given rise to noise complaints. Therefore, to address these concerns, the Applicant had agreed to a condition restricting the use of this entrance.

When considering pre-application advice, officers had taken into consideration the existing licence and the layout of the Premises. Using this information, the present application provided clearly demarcated areas within the Premises [Mr Watson then described the layout and capacity of the Premises].

Mr Watson stated he was aware that mediation had taken place between the Applicant and those Residents that had made representations, and that this had resulted in agreement being reached on a number of issues, including the use of tables and chairs outside the Premises (a Tables & Chairs Licence being required for the tables and chairs on Great Portland Street).

In conclusion, Mr Watson stated that the reduction in hours, in line with requests by Residents, was welcomed, as was the raft of Proposed Conditions agreed with the applicant.

- (a) It was anticipated that there would be a significant reduction in the current 580-person capacity of the Premises due to the space taken up by the cricket nets and the proposal that the basement would no longer be used as an area for customers.
- (b) The Environmental Health Service (EHS) having carried out a survey of the Premises had estimated that the maximum capacity of the Premises would be 550 persons. However, given the proposed use of the Premises, it was anticipated that the actual capacity would be less than this and the EHS would fix the permitted capacity once the Premises had been renovated.
- (c) Regarding access to the Premises by delivery vehicles from Bolsover Street and customers using motor vehicles to get to and from the Premises, Mr Watson described the layout of the adjacent highways and road restrictions around the Premises.
- (d) Regarding objections by residents that a themed cricket pub was not appropriate for these Premises and this location, Mr Watson stated that the size of the Premises was such that potential operators had said they would only be interested in occupying part of the Premises. In addition, the current application could be differentiated from other Sports Bars in Westminster in that the Applicant had not applied to show films, and licensable activities were restricted to core hours. In addition, a number of conditions had been proposed that were intended to prevent noise nuisance affecting residents in Bolsover Street.

Conclusion

The Sub Committee were mindful that this application had originally received a relatively high number of objections. The most common concern raised with the application was that it was out-of-keeping with the area and would not promote the licensing objectives by causing public nuisance. However, the Applicant had clearly sought to engage with both local residents and responsible authorities, as demonstrated by the fact that, during the consultation period, the Applicant had amended the application to reduce the hours for the sale of alcohol and the hours the Premises was open on Sundays. Furthermore, the Sub Committee noted that agreement had been reached with the various parties making representations on proposed conditions to be attached to the Premises Licence, should the application be approved, and that a number of parties, following this agreement had subsequently withdrawn their representations.

The Sub Committee noted that the Applicant had significant experience in the hospitality industry in the last 10 years. This application was a unique offering, in that customers of all ages and abilities, including children, would be offered a virtual opportunity to bat against renowned bowlers and have their scores recorded on an Electronic Leader Board. The Sub-Committee were grateful for the offer made by the Applicant, by way of a community benefit, to liaise with Westminster City Council to make the "Sixes Cricket Simulator" available in the afternoons for use by schools.

The Sub Committee's view was that appropriate conditions had been proposed to promote the Licensing Objective of the Prevention of Public Nuisance at the rear of the Premises on Bolsover Street where there was a number of residential properties. Furthermore, the application, with minor exceptions which had been explained as to

maximise the use of the cricket nets in the premises, was in accordance with the Council's Policy on Core Hours and the reasons for the policy, as set out in the Council's Statement of Licensing Policy.

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 Late Night Refreshment (Indoors)
Monday to Thursday: 23:00 to 23:30 hours
2. To grant permission for Late Night Refreshment (Restaurant Area)
Friday to Saturday: 23:00 to 00:00 hours
Seasonal Variations: On days preceding Bank Holidays until midnight.
3. To grant permission for Late Night Refreshment (Bar/Experiential Area)
Friday to Saturday: 23:00 to 23:45 hours
Seasonal Variations: On days preceding Bank Holidays 23:00 to 23:45 hours
4. To grant permission for Sale by Retail of Alcohol (On and Off Sales)
Monday to Thursday: 10:00 to 23:00 hours
Sunday: 12:00 to 22:30 hours
5. To grant permission for Sale by Retail of Alcohol (Restaurant Area)
Friday to Saturday: 10:00 to 23:30 hours
Seasonal Variations: On days preceding Bank Holidays 10:00 to 23:30 hours
6. To grant permission for Sale by Retail of Alcohol (Bar/Experiential Area)
Friday to Saturday: 10:00 to 23:45 hours
Seasonal Variations: On days preceding Bank Holidays 10:00 to 23:45 hours
7. To grant permission for the Hours the Premises are open to the Public:
Monday to Thursday: 07:00 to 23:30 hours
Sunday: 07:00 to 22:30 hours
8. To grant permission for the Opening Hours (Restaurant Area)

Friday to Saturday: 07:00 to 00:00 hours

Seasonal Variations: On days preceding Bank Holidays 07:00 to 00:00 hours.

9. To grant permission for the Opening Hours (Bar/Experiential Area)

Friday to Saturday: 07:00 to 00:15 hours

Seasonal Variations: On days preceding Bank Holidays 07:00 to 00:15 hours.

10. That the Licence is subject to relevant mandatory conditions as specified in the Agenda papers.

11. 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

12. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the 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 are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

14. All sales of alcohol for consumption off the premises shall only be to persons seated at the designated external seating area to the front of the premises on Great Portland Street within the area marked in green on the plan accompanying the application. External tables and chairs may be subject to being appropriately authorised for the use of tables and chairs on the highway”.

15. There shall be no sales of alcohol for consumption off the premises other than as outlined above in condition 14.

16. 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, which will record the following:

- (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
17. The only sale of hot food or hot drink for consumption off the premises after 23:00 will be by way of delivery to someone's home or business".
18. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
19. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
20. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
21. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
22. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
23. Members of the public, staff or delivery operatives of hot food after (23:00 hours, this time refers only to operatives) shall not access or exit the rear doors of the premises except in the event of an emergency.
24. 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.
25. A waiter/waitress service shall be provided to all licensed areas.
26. Hatched area (cricket experience area) a. The supply of alcohol at the premises in the area hatched on the plan shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal, or to people who are taking part in an experiential experience.

27. Cross Hatched area (restaurant area) b. The supply of alcohol at the premises in the area cross hatched on the plan shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
28. 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.
29. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
30. There shall be no more than 8 tables and 32 chairs outside in the area edged green on the plan and those tables and chairs shall be removed or rendered unusable after 22:00 hours.
31. No customers will be permitted to leave and re-enter the premises, for example to smoke who have drinks or glass containers with them.
32. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner so as to ensure that there is no public nuisance or obstruction of the public highway.
33. No deliveries to the premises shall take place between 17.00 and 08.00 hours on the following day.
34. No collections of waste or recycling materials (including bottles) from the premises shall take place between 17.00 and 08.00 hours on the following day.
35. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 17.00 hours and 08.00 hours on the following day.
36. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
37. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
38. No licensable activities shall take place 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.
39. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. Such capacity shall not exceed 580 persons.

40. A Challenge 21 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.

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

INFORMATIVE

The Applicant has agreed to write to local residents confirming their commitment to an attractive, well-managed external space/frontage that adds amenity to the neighbourhood.

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

This Decision takes immediate effect.

The Licensing Sub-Committee

11 March 2021

2. 1:30 PM: LSE (3) THEATRE CAFE, 99 ST MARTIN'S LANE WC2N 4AZ

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3 **("The Committee")**

Thursday 11 March 2021

Membership: Councillor Jim Glen (Chairman), Councillor Heather Acton and Councillor Aziz Toki

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Officer Support: Legal Advisor: Vivienne Walker
Policy Officer: Aaron Hardy
Committee Officer: Cameron MacLean
Presenting Officer: Jessica Donovan

Application for a Premises Licence – Theatre Café, Basement to Ground Floor, 99 St Martin's Lane, London WC2N 4AZ – 20/11553/LIPN

FULL DECISION

Premises

Theatre Café, Basement to Ground Floor, 99 St Martin's Lane, London WC2N 4AZ

Applicant

The Theatre Café Limited

Cumulative Impact Area?

West End

Ward

St James's

Proposed Licensable Activities and Hours

Live Music (indoors)

Monday to Saturday: 12:00 hours to 23:00 hours
Sunday: 12:00 hours to 22:30 hours

Recorded music (indoors)

Monday to Saturday: 12:00 hours to 23:00 hours
Sunday: 12:00 hours to 22:30 hours

Sale by retail of alcohol (on sales)

Monday to Saturday: 12:00 hours to 23:00 hours
Sunday: 12:00 hours to 22:30 hours

Seasonal variations / Non-standard timings

Hours premises are open to the public

Monday to Saturday: 10:00 hours to 23:00 hours
Sunday: 10:00 hours to 22:30 hours

Representations Received

- Environmental Health Service (Maxwell Koduah)
- Metropolitan Police Service (Cheryl Boon) (withdrawn)
- Licensing Authority (Michelle Steward)
- Alex Duvnjak (local resident)
- Eve Martyres (local resident)
- Ian Haworth (local resident)
- Jessica Kranish (local resident)
- Peter Joyce (local resident)
- Alex Garner (local resident)
- Gary Hayes (local resident)
- Brian Mooney (local resident)

Summary of Objections

- Environmental Health expressed concern that the licensable activities would have a likely impact of increasing public nuisance and affect public safety within the West End Cumulative Impact Area;
- Licensing Authority expressed concerns that the application would not promote the licensing objectives, noting it was in the CIA and that the application did not restrict the use of the premises as a restaurant. Further information was requested for full consideration of the application;
- Local residents who objected expressed concerns about the lack of community engagement, the negative impact the Premises currently has on the area and licensing objectives and the negative impact it would continue to have if the licence were granted.

Summary of Application

The Sub-Committee considered an application for a New Premises Licence for the Theatre Café (the Café”), 99 St Martin’s Lane WC2N 4A which planned to operate as a theatre themed café catering for London Theatre attendees of all ages with theatrical memorabilia adorning the walls and regular live performances by the cast and performers of West End musicals.

It was noted that the Café had originally operated at 66 Shaftesbury Avenue, but had recently moved to larger Premises at 99 St Martin’s Lane.

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.

Under Policy RTN1, applications inside the West End Cumulative Impact Zone will generally be granted subject to matters set out in Policy RTN1(b)

SUBMISSIONS AND REASONS

Ms Donovan, Senior Licensing Officer, summarised the application that was before the Sub-Committee, noting that a number of representations relating to the application had been received by the Licensing Authority.

In conclusion, Ms Donovan stated that the Premises was located within the Ward of St James and was within the West End Cumulative Impact Area (CIA).

Mr Lavell, counsel acting on behalf of the applicant, stated he was joined today by Mr Joe Davey, the Managing Director of Theatre Café; Susannah Rose Martin, Marketing & Brand Manager; and Jack Mullen, Head of Social Media & Café Manager.

Mr Lavell stated that changes to the application had been made as a result of the consultation and mediation that had taken place between the Applicant and the

parties making representations. He summarised the application, noting that the Premises could accommodate over 70 persons but that the Applicant was willing to accept a condition on the Premises Licence limiting the capacity to 60 covers. In addition, conditions proposed by the Metropolitan Police Service (MPS) had been agreed with the applicant, as had the conditions proposed by the Environmental Health Service (EHS), with one exception regarding capacity and the requirement for an additional WC.

Mr Lavell suggested that the wording of a number of agreed conditions could be further refined. In particular, he referred to Proposed Condition 15 which stated – *“The supply of alcohol at the Premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their food/snacks/drinks.”*

Mr Lavell proposed that this condition be amended to read “... ancillary to their food” as it was clear from the condition that this was a table meal and that the sale of alcohol was ancillary to the meal.

Mr Lavell then referred to Proposed Condition 14 which stated – *“The licensable activities authorised by this license and provided at the Premises shall be ancillary to the main function of the Premises as Theatre Café”*.

He stated this condition provided a safeguard against the Premises operating as a conventional bar and this was further supported by Proposed Condition 29 which stated that – *“The supply of alcohol for consumption on the Premises shall be by Server, Waiter or Waitress service only”*.

Mr Lavell then described how the proposed conditions were in accordance with the Council’s Statement of Licensing Policy in relation to cumulative impact areas, noting that it was not proposed to include Model Condition (MC) 66 as the Premises were not a restaurant but a café. Mr Lavell then detailed how the proposed conditions and operation of the Premises would not impact on the West End CIA and why the application was an exception to the CIA policy.

In response to a number of questions by Mr Lavell, Mr Davey provided the background to, and history of, the Premises. In so doing, he identified the Café’s clientele, which included pre-and post-theatre audiences and people who worked in the theatre, including actors. He also described the activities that took place at the Café in the form of short, ad hoc musical performances and Open Mic events.

Mr Davey then described measures that would be taken to ensure that there was no noise nuisance as a result of entertainment events taking place on the Premises, including the use of decibel readers, and a detailed Dispersal policy.

In conclusion, Mr Lavell noted that there had been a number of representations when the application was initially made, but there have been no representations from the residents of the residential properties above the Premises and one resident had made a representation in support of the application.

In response to a number of questions, Mr Lavell and Mr Davey provided the following information.

- (a) Regarding noise complaints, Mr Davey stated that during the coronavirus pandemic lockdown, the Premises had streamed a number of pre-recorded live events during the daytime. On two occasions, the Applicant had been filming live events on the roof of the Premises and residents had been notified that this would be taking place. This had given rise to complaints by residents and an apology had been made for any noise nuisance that had arisen as a result of these activities. Mr Davey stated these activities had been undertaken as a means of assisting persons involved in the performing arts to survive the economic impact of the coronavirus pandemic lockdown.
- (b) The food on offer included pies, including “Sweeney Todd” pies; pizzas; and pastries, noting that a large variety of pastries was on offer.
- (c) Mr Lavell listed those parties who had withdrawn the representations following consultation and mediation, as well as identifying those residents living above the Premises who had not made any representations.
- (d) The musical activities and filming that had taken place on the rooftop had been done in accordance with the Coronavirus Regulations providing artists and others to undertake some work while the theatres were closed.
- (e) The rooftop filming had taken place on two days and had taken place during the day for limited periods of time.
- (f) Anyone wishing to smoke was directed to the front of the Premises where they could smoke. After a certain time, smokers were supervised to ensure that there was no nuisance. Arrangements for people wishing to smoke were set out in the Premises’ Noise policy. Mr Davey confirmed that there was appropriate signage outside in relation to smoking.
- (g) Mr Davey confirmed that there had only been one occasion when a queue had formed outside the Premises and that was on the day the Premises had opened. He did not anticipate that people would have to queue to enter the Premises and he would have no objection to a Model Condition regarding managing queues being added to the Premises Licence.
- (h) The Applicant wished to extend the operating hours to allow it to offer more to its customers during the current period of coronavirus related restrictions and the economic climate caused by the pandemic.
- (i) Regarding the opportunity for Members of the Public to meet West End performers during the ad hoc performances at the Premises, Mr Davey stated that there was a large theatre community and such events provided opportunities not just for performing artists but for those involved in theatre advertising, marketing etc., noting that the Theatre community did stick together as a community.

Mr Maxwell Koduah, Environmental Health Officer, stated that the Applicant had referred to the issue of capacity, noting that the one condition proposed by the Environmental Health Service (EHS) which had not been agreed with the Applicant related to issues of capacity. Therefore, the EHS had maintained its representation for this reason and that he would like to address the Sub-Committee on the matter.

Mr Koduah noted that the Applicant had been specific about limiting the capacity of the Premises to 60 persons. Referring to the Applicant’s statement on Page 17 of the Additional Information Pack, Mr Koduah noted that the Applicant stated that the capacity limit would be 60 covers. However, on Page 45 of the same document headed “Proposed Environmental Health Conditions to Replace Those Contained

within the Operating Schedule”, it was noted that Proposed Condition 9 stated – *“The number of persons permitted in the Premises at any one time (excluding staff) shall not exceed 15 persons.”*

Mr Koduah stated the reason for restricting the capacity to 15 customers was because the Plan submitted with the application showed only one toilet for use by customers and staff. Mr Koduah then referred to the Dispersal Policy in the additional information Pack where it was stated, on Page 22, Paragraph 6, that – *“There are clearly signed toilet facilities in the building which are available for customers at all times. Employee training includes the provision that any patron in the process of leaving the Premises that requests readmission to use the toilets is allowed to do so. Subject to security and other operational considerations, non-customers will also be allowed access to our toilet facilities.”*

He stated that it would be necessary to have further discussions on the number of toilets that would be necessary if the Premises was to have a capacity for 60 covers, and the available space for customers.

Referring to the Noise Management Strategy in the Dispersal Strategy, Mr Koduah noted that at Bullet Point 7, it was stated that – *“Our sound system uses low-power high quality speakers and includes a limiter which is set and locked so that the system cannot operate beyond a pre-set maximum level.”*

He stated that it would be appropriate to add Model Condition (MC) 11, which set out requirements for the operation of noise limiters, to the list of conditions to be attached to the Premises Licence.

As the Applicant had had agreed in principle to MC26 requiring queues to be orderly and supervised, the EHS no longer had concerns about queues outside the Premises.

In conclusion, Mr Koduah stated that the only outstanding issue was that of the capacity of the Premises. He said that the EHS were constrained by the fact that there was only one toilet. If the Applicant were to add to the number of toilets available for use by customers and staff, the EHS could then review its position regarding the capacity of the Premises.

The Chairman noted that the Applicant had stated he would be willing to install another toilet should the application be approved, in which case an appropriate condition to this effect would be added to the Premises Licence.

In response to a number of questions by Members, Mr Koduah, and Mr Lavell and Mr Davey, provided the following information.

- (a) If two toilets were available for use by customers and staff, it would be possible to increase the capacity of the Premises to 45, but not to 60. Alternatively, it may be possible to determine the capacity of the Premises by including either MC90 or MC91.
- (b) If either of these MC's were to be imposed, it would be a requirement that the Premises would not operate until such time as a maximum capacity had been agreed with EHS and/or until such time as an additional toilet or toilets had been installed.

- (c) Mr Lavell stated that, regarding the MC's referred to by Mr Koduah, the Applicant would be willing to accept a suitable MC restricting the operation of the Premises until such time as agreement had been reached with the EHS.
- (d) Mr Davey stated that there was another toilet in the basement area and there was sufficient space in the basement to accommodate a further two or three toilets. Accordingly, it would be the applicant's intention to have a disabled toilet on the ground floor and additional toilets in the basement area.
- (e) Mr Koduah described the requirements of MC 11 in relation to noise limiters. Mr Lavell confirmed that the Applicant had no objection to the addition of MC 11 to the Premises licence conditions.
- (f) Mr Koduah stated that the Council did not have any official complaint on record regarding the operation of the Premises.

Ms Michelle Steward, Senior Licensing Officer, stated that the application had been considered under a number of Council policies, as set out in the Council's Statement of Licensing Policy, as it was not clear from the application which policies would be applicable.

Following agreement between the Applicant and responsible authorities regarding proposed conditions, in particular, Proposed Condition 15, it was agreed that the application came within the Restaurants Policy RTN1, although the Use Type did not fully meet the requirements of the policy. Therefore, it was for the Applicant to demonstrate how the application would not add to the cumulative impact in the West End CIA. Therefore, the Licensing Authority had maintained its representation.

Mr Richard Brown of Citizens Advice Westminster, acting on behalf of local residents, stated that his submission was set out on Page 47 of the Additional Information Pack. He said that the objections to the application were not to the Café itself, per se. They were about the sale of alcohol and the proposed extended opening hours of the Premises, and concerns about noise nuisance caused by loud music from within the Premises.

Mr Brown stated that he was not clear from the Applicant's presentation which objection to the application had been withdrawn. However, he noted that there were several objections from residents which had not been withdrawn. It was the location of the Premises that had given rise to concerns on the part of residents following the relocation of the Premises to its current address below residential blocks on a street with other residential property where there had previously been noise complaints in relation to other operators of the Premises.

Mr Brown noted that there was not a great deal of information in the application regarding noise transmission i.e., measures that had been taken in pursuance of noise mitigation and attenuation, given that the buildings were old and badly insulated.

Mr Brown noted that the resident he was representing, Mrs Evelyn Martyres, had lived in the block for many years and that it was the Café that was, to use a Planning term, the "Agent of Change". He stated that his client had two particular concerns viz. security, and possible queueing outside the Premises. Mr Brown then detailed his client's concerns in both these regards, stating that it was his intention to propose

that there should be a condition on the Premises Licence stating that queueing outside the Premises was not allowed.

Regarding Policy considerations and whether the Premises would operate more like a bar, Mr Brown suggested it was the type of food that was on offer at the Premises that would determine the nature of its operation. He stated that Proposed Condition 15 was a watered-down version of MC66. Mr Brown stated that, in his opinion, the application did not fall within the Council's restaurant policy and, therefore, defaulted to the Council's Cumulative Impact Area (CIA) policy requiring the Sub-Committee to find an exception to the policy allowing the Sub-Committee to grant the application. Mr Brown then noted the strict requirements of the policy.

Addressing Mr Lavell's reference to Paragraph D13 of Cumulative Impact Policy CIP1 in the Council's Statement of Licensing Policy (SoLP), which said that an exception to the policy may be permitted for applications that had a terminal hour of no later than 9 PM, Mr Brown stated that the Sub-Committee had still to be satisfied that the application would promote the Licensing Objectives, and it was his opinion that the application did not promote the Licensing Objectives.

Mr Brown said that, if the Sub-Committee was minded to grant the application, including "in part only", he would ask that consideration be given to comments at Paragraph 4.9 of his submission on the conditions that had been agreed between the Applicant and the Responsible Authorities.

In response to questions by Members of the Sub-Committee, Mr Brown provided the following information.

- (a) Regarding MC11 (Noise Limiters) and how this might meet the requirements of MC12, Mr Brown stated it was his view that the use of sound limiters would not address fully the concerns of residents about noise.
- (b) When it came to representing Objectors at Licensing Sub-Committee meetings, Mr Brown stated that, because Public Council reports were redacted, he did not know the identities of persons objecting to an application. Therefore, it was for residents and others to contact the Citizens Advice Westminster, Licensing Project, should they wish to be represented at the meeting.

In response to the submission by Mr Lavell that one of the objections to the application by a resident had subsequently been withdrawn, Councillor Acton asked for confirmation that a resident's objection had been withdrawn. She also asked that Mr Lavell address the security issue raised by Mr Brown during his presentation.

The Chairman asked if Mr Lavell might address the points raised in Mr Brown's submission regarding measures put in place to mitigate sound and noise nuisance and what measures were in place to control access between the Premises and Talbot House.

In response, Mr Lavell and Mr Davey provided the following information.

- (a) Given their efficacy, MCs 11 & 12 had been included in the Council's Basket of Model Conditions. Therefore, as the application included playing recorded

music and amplified live music, it was proposed that the inclusion of MCs 11 & 12, including the use of noise limiters, was an appropriate means of preventing noise.

- (b) The proposed use of noise limiters had been suggested by the EHS and the Applicant had agreed to the inclusion of MC11 as one of the conditions on the Premises licence. In addition, the sound levels would be set in accordance with noise levels in the residential property directly above the Premises.
- (c) Mr Davey stated that the Premises had an office in the basement of Talbot House which was accessed through the front door to Talbot House. Only Members of Staff using the office had access to Talbot House. All other Members of Staff used the front entrance to the Premises. There was a door between the Café and the office allowing Members of Staff to go between the Café and the office. However, this access between the Café and the office was not open to the public.

In response to a question by the Chairman, the Policy Officer, Kerry Simpkin, stated that the application, as currently presented, fell within the Council's Pubs & Bars policy. However, the application could also be considered under the Council's Restaurants Policy. He stated that the issue of which policy the application fell within centred on the inclusion of Proposed Condition 15 which, as it stood, did not go far enough to meet the requirements of the Restaurants policy. Accordingly, it was his view that the application fell within the Council's Pubs & Bars policy. If Proposed Condition 15 was amended to make the sale of alcohol ancillary to a substantial meal, then the application could be considered as coming within the Council's Restaurants policy.

In response to a question by Councillor Acton, Ms Donovan confirmed that there was no record of any representation opposing the application having been withdrawn.

Conclusion

The application for a premises licence was for a premises which caters for London Theatre attendees of all ages with theatrical memorabilia adorning the walls and regular live performances for the stars of the West End and Broadway. The cafe originally opened at 66 Shaftesbury Avenue but recently moved to larger premises at 99 St Martin's Lane in 2019 due to increased demand. The Sub Committee noted that the café currently opens 10.00 to 20.00 Monday to Friday and 10.00 to 19.00 Saturday and Sunday. The original application was to add the sale of alcohol, live entertainment (both from midday) and pre-recorded to its offering and increase its opening hours until 23.00 Monday to Saturday and 22.30 Sunday.

The Sub Committee noted that it was agreed between the Applicant and the responsible authorities that the application came within the Restaurants Policy RTN1, although the Use Type did not fully meet the requirements of the policy. Therefore, it was for the Applicant to demonstrate how the application would not add to the cumulative impact in the West End CIA.

The Sub Committee were mindful of the fact that there were a significant number of objections to the application. However, following consultation and mediation with residents, the applicant had amended the application to address the concerns of

local residents. The Sub Committee were grateful to the applicant for seeking to work with local residents to ensure that the premises were a positive part of the community.

Similarly, the Sub Committee noted that the applicant had agreed to the conditions proposed by the Metropolitan Police Service (MPS) and the Environmental Health Service (EHS), with the one exception being the capacity of the premises. The Sub Committee noted that EHS complaint was made solely on the basis of capacity – EHS initially wanted to limit the premises to a capacity of 15 because the plan showed one toilet, and EHS were constrained by this. However, this was resolved during the course of proceedings with EHS agreeing to a capacity of 60 following the applicant's explanation of the facilities that could be provided and agreeing to the conversion of the existing ground floor toilet to a Disabled Person's toilet and the installation of one or two toilets, in addition to the existing toilet, in the basement area, for the use of customers and Members of Staff.

The Sub Committee were also grateful to the Applicant for volunteering to limit further proposed Condition 15, as agreed with the Metropolitan Police Service, so as to require that, in accordance with other proposed conditions, the sale of alcohol be ancillary to a meal. The Sub Committee considered that this would ensure that the licensing objectives were promoted.

The Sub Committee agreed with the Applicant that the premises would not add to the cumulative impact of the area. In reaching this conclusion, the Sub Committee had regard to the fact that the premises did not attract customers wanting to go to other licensed premises – it instead attracted people who worked in or were attending nearby theatres. The Sub Committee also considered the Applicant's dispersal strategy to be robust and effective and would ensure that the premises did not add to the cumulative impact in the area.

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 Live Music (Indoors)

Monday to Saturday: 12:00 to 23:00 hours

Sunday: 12:00 to 22:30 hours

Seasonal Variations: None

2. To grant permission for Recorded Music (Indoors)

Monday to Saturday: 10:00 to 23:00 hours

Sunday: 10:00 to 22:30 hours

Seasonal Variations: None

3. To grant permission for Sale by Retail of Alcohol (On Sales)

Monday to Saturday: 12:00 to 23:00 hours

Sunday: 12:00 to 22:30 hours

Seasonal Variations: None

4. To grant permission for the Hours the Premises are open to the Public:

Monday to Saturday: 10:00 to 23:00 hours

Sunday: 10:00 to 22:30 hours

Seasonal Variations: None

5. That the Licence is subject to relevant mandatory conditions as specified in the Agenda papers.
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 premises will not operate drinks promotions.
8. All staff will receive training on emergency procedures, licence conditions/legislation and general safety precautions.
9. All glasses, bottles and rubbish will be cleared from public areas on a regular basis.
10. All safety certificates and inspection reports will be kept on site and available for viewing.
11. No music or speech will be played through external speakers.
12. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as Theatre Café.
13. The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
14. 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.
15. The supply of alcohol at the premises from 21:00 hours shall only be to a person seated taking substantial table meal there and for consumption by such a person as ancillary to their meal.
For the purpose of this condition a 'substantial table meal' means, a meal such as might be expected to be served as the main midday or main evening

meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure serving the purpose of a table.

16. 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.
17. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
18. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
19. The external door shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
21. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
22. A direct telephone number for the duty manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
23. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
24. No licensable activities shall take place at the premises until the capacity of the premises has been assessed by the Environmental Health Consultation Team and a condition detailing the agreed capacity so determined has replaced this condition on the Licence. The maximum capacity, in any event, will not exceed 60 persons (excluding staff).
25. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising

or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

26. A Challenge 21 or 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.
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. 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.
29. No licensable activities shall take place at the premises until the premises have 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.
30. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
31. 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 are open. This staff member must be able to provide a Police Officer or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
32. The supply of alcohol for consumption on the premises shall be by Server, Waiter or Waitress service only.
33. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system

- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

34. Notices shall be prominently displayed at all exits and the outside smoking area requesting patrons to respect the needs of local residents and leave the area quietly.

35. There shall be no self-service of Alcohol.

36. The supply of alcohol for consumption on the premises shall only be to a person seated.

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

11 March 2021

The Meeting ended at 3.15 pm

CHAIRMAN: _____

DATE _____

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**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3
("The Committee")**

Thursday, 11 March 2021

Membership: Councillor Jim Glen (Chairman), Councillor Heather Acton and Councillor Aziz Toki

APPLICATION FOR A NEW PREMISES LICENCE: SIXES, 170 GREAT PORTLAND STREET LONDON W1W 5QB [20/11485/LIPN]

Summary

The Committee has considered an application for a new Premises Licence under the Licensing Act 2003 ("the Act"). The Premises propose to operate as a cricket themed restaurant and bar. The Premises are in the Marylebone High Street Ward, but not within the Cumulative Impact Area or the Special Consideration Zone.

Applicant

Sixes Cricket Limited
170 Great Portland Street
London
W1W 5QB

SUMMARY DECISION

The Committee has considered the committee papers and the submissions made by all of the parties, both orally and in writing.

In reaching its decision the Committee has had regard to the relevant legislation, the Secretary of State's Guidance ("Guidance") and the Authority's Statement of Licensing Policy ("SLP").

In Summary, the Committee has decided, after taking into account all of the individual circumstances of this application and the promotion of the four licensing objectives:

1. To grant permission for Late Night Refreshment (Indoors)
Monday to Thursday: 23:00 to 23:30 hours
2. To grant permission for Late Night Refreshment (Restaurant Area)
Friday to Saturday: 23:00 to 00:00 hours
Seasonal Variations:
On days preceding Bank Holidays: Until Midnight.
3. To grant permission for Late Night Refreshment (Bar/Experiential Area)
Friday to Saturday: 23:00 to 23:45 hours
Seasonal Variations:
On days preceding Bank Holidays: 23:00 to 23:45 hours

4. To grant permission for Sale by Retail of Alcohol (On and Off Sales)

| | |
|---------------------|----------------------|
| Monday to Thursday: | 10:00 to 23:00 hours |
| Sunday: | 12:00 to 22:30 hours |

5. To grant permission for Sale by Retail of Alcohol (Restaurant Area)

| | |
|----------------------------------|----------------------|
| Friday to Saturday: | 10:00 to 23:30 hours |
| Seasonal Variations: | |
| On days preceding Bank Holidays: | 10:00 to 23:30 hours |

6. To grant permission for Sale by Retail of Alcohol (Bar/Experiential Area)

| | |
|----------------------------------|----------------------|
| Friday to Saturday: | 10:00 to 23:45 hours |
| Seasonal Variations: | |
| On days preceding Bank Holidays: | 10:00 to 23:45 hours |

7. To grant permission for the Hours the Premises are open to the Public

| | |
|---------------------|----------------------|
| Monday to Thursday: | 07:00 to 23:30 hours |
| Sunday: | 07:00 to 22:30 hours |

8. To grant permission for the Opening Hours (Restaurant Area)

| | |
|----------------------------------|-----------------------|
| Friday to Saturday: | 07:00 to 00:00 hours |
| Seasonal Variations: | |
| On days preceding Bank Holidays: | 07:00 to 00:00 hours. |

9. To grant permission for the Opening Hours (Bar/Experiential Area)

| | |
|----------------------------------|-----------------------|
| Friday to Saturday: | 07:00 to 00:15 hours |
| Seasonal Variations: | |
| On days preceding Bank Holidays: | 07:00 to 00:15 hours. |

10. That the Licence is subject to relevant mandatory conditions as specified in the Agenda papers.

11. 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

12. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the 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 premise 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. All sales of alcohol for consumption off the premises shall only be to persons seated at the designated external seating area to the front of the premises on Great Portland Street within the area marked in green on the plan accompanying the application. External tables and chairs may be subject to being appropriately authorised for the use of tables and chairs on the highway”.
15. There shall be no sales of alcohol for consumption off the premises other than as outlined above in condition 14.
16. 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, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
17. The only sale of hot food or hot drink for consumption off the premises after 23:00 will be by way of delivery to someone’s home or business”.
18. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
19. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
20. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
21. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
22. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
23. Members of the public, staff or delivery operatives of hot food after (23:00 hours, this time refers only to operatives) shall not access or exit the rear doors of the premises except in the event of an emergency.

24. 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.
25. A waiter/waitress service shall be provided to all licensed areas.
26. Hatched area (cricket experience area) a. The supply of alcohol at the premises in the area hatched on the plan shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal, or to people who are taking part in an experiential experience.
27. Cross Hatched area (restaurant area) b. The supply of alcohol at the premises in the area cross hatched on the plan shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
28. 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.
29. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
30. There shall be no more than 8 tables and 32 chairs outside in the area edged green on the plan and those tables and chairs shall be removed or rendered unusable after 22:00 hours.
31. No customers will be permitted to leave and re-enter the premises, for example to smoke who have drinks or glass containers with them.
32. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner so as to ensure that there is no public nuisance or obstruction of the public highway.
33. No deliveries to the premises shall take place between 17.00 and 08.00 hours on the following day.
34. No collections of waste or recycling materials (including bottles) from the premises shall take place between 17.00 and 08.00 hours on the following day.
35. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 17.00 hours and 08.00 hours on the following day.
36. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
37. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
38. No licensable activities shall take place 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.
39. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. Such capacity shall not exceed 580 persons.

40. A Challenge 21 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.

INFORMATIVE

The Applicant has agreed to write to local residents confirming their commitment to an attractive, well-managed external space/frontage that adds amenity to the neighbourhood.

This is a Summary of the Decision reached by the Licensing Sub-Committee. The fully reasoned decision will be sent out to all parties as soon as possible. The date for appealing the decision will not start until the full reasoned decision has been sent to the Parties.

Licensing Sub-Committee
11 March 2021

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WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3 ("The Committee")

Thursday, 11 March 2021

Membership: Councillor Jim Glen (Chairman), Councillor Heather Acton and Councillor Aziz Toki

APPLICATION FOR A NEW PREMISES LICENCE – THEATRE CAFÉ, BASEMENT TO GROUND FLOOR, 99 ST MARTIN'S LANE, LONDON WC2N 4AZ

SUMMARY DECISION

Case Summary

This is an application for a new Premises Licence under the Licensing Act 2003 ("the Act"). The Premises intend to trade as a theatre themed café. The Premises are in the St. James's Ward and are within the Cumulative Impact Area.

Applicant

The Theatre Café Limited

Summary Decision

The Committee has considered the committee papers and the submissions made by all of the parties, both orally and in writing.

In reaching its decision the Committee has had regard to the relevant legislation, the Secretary of State's Guidance ("Guidance") and the Authority's Statement of Licensing Policy ("SLP").

In Summary, the Committee has decided, after taking into account all of the individual circumstances of this application and the promotion of the four licensing objectives:

1. To grant permission for Live Music (Indoors)

Monday to Saturday: 12:00 to 23:00 hours
Sunday: 12:00 to 22:30 hours
Seasonal Variations: None

2. To grant permission for Recorded Music (Indoors)

Monday to Saturday: 10:00 to 23:00 hours
Sunday: 10:00 to 22:30 hours
Seasonal Variations: None

3. To grant permission for Sale by Retail of Alcohol (On Sales)

Monday to Saturday: 12:00 to 23:30 hours
Sunday: 12:00 to 22:30 hours
Seasonal Variations: None

4. To grant permission for the Hours the Premises are open to the Public:

Monday to Saturday: 10:00 to 23:00 hours

Sunday: 10:00 to 22:30 hours
Seasonal Variations: None

5. That the Licence is subject to relevant mandatory conditions as specified in the Agenda papers.
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 premises will not operate drinks promotions.
8. All staff will receive training on emergency procedures, licence conditions/legislation and general safety precautions
9. All glasses, bottles and rubbish will be cleared from public areas on a regular basis.
10. All safety certificates and inspection reports will be kept on site and available for viewing.
11. No music or speech will be played through external speakers.
12. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as Theatre Café.
13. The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
14. 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.
15. The supply of alcohol at the premises from 21:00 hours shall only be to a person seated taking substantial table meal there and for consumption by such a person as ancillary to their meal.

For the purpose of this condition a 'substantial table meal' means, a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure serving the purpose of a table.

16. 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.
17. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of

the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

18. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
19. The external door shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
21. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
22. A direct telephone number for the duty manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
23. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
24. No licensable activities shall take place at the premises until the capacity of the premises has been assessed by the Environmental Health Consultation Team and a condition detailing the agreed capacity so determined has replaced this condition on the Licence. The maximum capacity, in any event, will not exceed 60 persons (excluding staff).
25. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business
26. A Challenge 21 or 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.
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. 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.
29. No licensable activities shall take place at the premises until the premises have 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.

30. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
31. 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 are open. This staff member must be able to provide a Police Officer or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
32. The supply of alcohol for consumption on the premises shall be by Server, Waiter or Waitress service only.
33. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
34. Notices shall be prominently displayed at all exits and the outside smoking area requesting patrons to respect the needs of local residents and leave the area quietly.
35. There shall be no self-service of Alcohol.
36. The supply of alcohol for consumption on the premises shall only be to a person seated.

This is a summary of the decision reached by the Licensing Sub-Committee. The Fully Reasoned Decision will be sent out to all parties as soon as possible. The date for appealing the decision will not start until the Full Reasoned Decision has been sent to the Parties.

**Licensing Sub-Committee
11 March 2021**