



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 8th April, 2021**, This will be a virtual meeting.

Members Present: Councillors Jim Glen (Chairman), Louise Hyams and Maggie Carman

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 Louise Hyams be appointed Substitute Chairman. Councillor Maggie Carmen seconded the nomination and Councillor Hyams was duly elected Substitute Chairman.

2. DECLARATIONS OF INTEREST

- 2.1 Councillor Louise Hyams declared an interest in Item 1 and advised that she had sat on a Committee which considered an application for external seating for the Applicant.
- 2.2 There were no other Declarations of Interests

3. ORDER OF PROCEEDINGS

1. **10.00 AM: CHILTERN FIREHOUSE, 1 CHILTERN STREET, LONDON W1U 7PA**

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

Thursday 8 April 2021

Membership: Councillor Jim Glen (Chairman), Councillor Louise Hyams and Councillor Maggie Carman

Legal Advisor: Vivienne Walker
Committee Officer: Georgina Wills

Policy Officer: Aaron Hardy
Presenting Officer: Kevin Jackaman

Chiltern Firehouse, 1 Chiltern Street, London W1U 7PA

Application for a Variation of Premises Licence [0/11588 LIPV]

Present: Philip Kolvin QC (Legal Representative, Chiltern Firehouse), Hamish Thompson (Director of Operations, Chiltern Firehouse), Richard Vivian (Acoustics Expert, Chiltern Firehouse) Marcus Lavell (Legal Representative, Chiltern Firehouse), Richard Brown (Westminster Citizens Advice representing, 9 Local Residents). Ms Lee (Objector, Local Resident), Mr Guy Austin (Chair, Marylebone Association) Ian Watson (Environmental Health)

FULL DECISION

Premises

Chiltern Firehouse,
1 Chiltern Street,
London
W1U 7PA

Applicant

Chiltern Firehouse Hotel Ltd

Cumulative Impact Area?

None

Ward

Marylebone High Street

Summary of Application

The Sub-Committee has determined an application for a variation of a Premises Licence. The Premises operate as a hotel and have had the benefit of a Licence from 2012. The Applicant sought to vary Condition 46 which states: 'All tables and chairs shall be removed from the outside area or rendered unusable by 21.00 each day **to** the following: Condition 46 'All tables and chairs shall be removed from the outside area or rendered unusable by 21.00 each day save that up until 1 March 2022 the hour shall be extended until 23:00'. The terminal hour for rendering seating in the outside area was later reduced by the Applicant to 22:00 and the end date to September 2021.

Proposed Activities and Hours

No change save for the variation of Condition 46 to state 'All tables and chairs shall be removed from the outside area or rendered unusable by 21.00 each day save that up until 30 September 2021 the hour shall be extended until 22:00'.

Representations Received

- Environmental Health (Ian Watson)
- Metropolitan Police (PC Cheryl Boon) **(withdrawn)**
- Mr Guy Austin (Marylebone Association)
- 12 Local residents

Summary of issues raised by objectors

- Environmental Health are of the view that the additional hours requested for the provision of tables and chairs will have the likely effect of causing an increase in public nuisance.
- The Marylebone Association had concerns that the Application would likely lead to public nuisance and did not contain any information as to how the applicant proposed to promote the prevention of public nuisance as required in Policy PN1.
- There were 11 local residents who raised concerns over the extended use of the external area and these were on the grounds of the prevention of public nuisance and the failure to promote the objectives of Policy PN1.
- There was 1 local resident who supported the Application on the grounds that prolonged use of the external seating area would be beneficial to the local surrounding area.

Policy Position

Policies CD1, PS1, PN1 CH1, HOT1(a) and HRS1 apply under the City Council's Statement of Licensing Policy ("SLP").

SUBMISSIONS AND REASONS

The Sub-Committee considered an application by Chiltern Firehouse Hotel Ltd (The Applicant) for a variation of a Premises licence in respect of Chiltern Firehouse, 1 Chiltern Street, London W1U 7PA.

The Presenting Officer introduced the application and advised that the Premises currently operate as a hotel. The Applicant sought to vary Condition 46 to enable the usage of tables and chairs in the outside area to be extended to 22:00. The Premises have had the benefit of a premises licence since 2012. The Premises have also had the benefits of Temporary Event Notices. The Metropolitan Police withdrew their representations after agreeing Conditions with the Applicant. There were late representations from the Applicant, and these were circulated to all parties.

Mr Philip Kolvin QC, the Applicant's Legal Representative advised that the application had been made to address the difficulties experienced by businesses in the hospitality sector during the Covid-19 Pandemic lockdown and was part of the business's recovery programme. The Sub-Committee was reminded that Central Government and the Council were both encouraging businesses to optimise all their spaces and that the Application reflected this approach. The Application related to an enclosed Courtyard and the terminal hour and duration of operations had been reduced following an extensive public consultations exercise and reflected the

Planning Consent that had been received. Mr Kolvin advised that the extended hours that was sought were within the core hours and the Premises were not within the Cumulative Impact Area.

He commented that an updated Acoustic Management Report submitted by the Applicant had found that no noise nuisance would emanate from the Courtyard and commented these findings were disputed. Mr Kolvin advised that the Courtyard was surrounded by masonry and vegetation and these elements would help to reduce noise emanating from the external space. All patrons will be seated at the Courtyard. He advised that there have been several complaints received regarding the Premises and these emanated from one local resident. There had been objections raised by a small number of local residents. Mr Kolvin advised that Environmental Health had not found any noise nuisance emanating from the Premises.

The Applicant was reported to have held meetings with residents and had set up a 24hr line for residents. Mr Kolvin advised that the Applicant was also proposing for a WhatsApp Group to be set up with local residents. He commented that the Applicant had agreed to Conditions which stipulated that no noise should be omitted from the Premises, for a door supervisor to be dedicated to the Courtyard and notices which requests that neighbours be respected. Mr Kolvin advised that the Applicant will continue to work with residents and engage with the Baker Street Partnership. In response to the Sub-Committee, Mr Kolvin confirmed that the Application related to the internal Courtyard.

Mr Ian Watson, Environmental Health, advised that the Applicant had amended the hours sought and duration following advice on potential nuisance and objections. He advised that a Planning Application had been submitted and granted prior to the request for the Variation. Mr Watson advised that Environmental Health (EH) had attended meetings regarding proposals for the Planning Application. He advised that the initial Application entailed the use of tables and chairs in the Courtyard until 23:00 and up to March 2022. He confirmed that the terminal hours had been reduced from 23:00 to 22:00 and the Variation had been amended and was now in line with the Business and Planning Act 2020 and would cease on 30 September 2021. Mr Watson advised that a capacity had not been sought for the Courtyard and this was due to requirements regarding social distancing and that the area was also part of the entrance.

Mr Watson confirmed that there had been complaints regarding nuisances emanating from the Premises and some involved the Courtyard. There has been no request for EH to visit the Premises. He advised that complaints had been received in relation to a Ladder Shed and advised that clarification about its location should be sought. Mr Watson advised that the Applicant should be requested to disclose what is discussed with residents at their bi-monthly meetings and whether issues are addressed, if there are recordings of the meeting and if timeframes for addressing concerns are given. Mr Watson noted that the Noise Management Plan had been submitted by the Applicant covered management issues and procedures which staff have to adhere in order to minimise noise. He commented that the Premises were located in a residential area. He advised that there were no concerns raised regarding the use of tables and chairs. Mr Watson advised that EH had not proposed any additional conditions as those listed were viewed to be sufficient for addressing any potential nuisances.

In response to the Sub-Committee, Mr Watson confirmed that there had been no requests for EH to visit the Premises. The Sub-Committee was advised that EH had engaged with the Premises regarding concerns and more recently in relation to social distance requirements. Mr Watson advised that residents experiencing noise nuisance are communicated via an SMS Text Message and given the option on whether they require EH to undertake a visit to the premises concern. The SMS Text Messages are automated and EH will send response within 45mins.

Following questions from the Sub-Committee, Mr Kolvin QC, indicated where the Ladder Shed was located. He confirmed that Residents Meetings are held every two months and are facilitated by a Community Communication Group. The minutes produced from the meeting includes attendance, action logs and details who are responsible for any follow up actions. He commented that meetings were regularly attended by four local residents. Mr Kolvin QC advised that the Applicant was working in collaboration with the Council and residents in deploying street wardens in the areas following concerns raised by a resident. He advised that the Applicant had sent over a thousand letters to local residents.

Mr Kolvin advised that the Applicant had a good relationship with EH and that concerns relating to social distancing had been resolved. He commented that the Applicant had had an 'off-service' and that patrons who purchased beverages were found to be congregating on the streets. This service has now been terminated. Mr Watson commented that the glazing unit in the Courtyard was installed in October 2020 and had replaced a wooden structure.

Mr Richard Brown, Westminster Citizens Advice, advised that he was representing local residents. Mr Brown advised that residents were long standing and had occupied their dwellings for over two decades. The residents' dwellings are located opposite the Premises. Mr Brown advised that residents were supported by the Marylebone Association and Wendover Court Management Ltd. He advised that the Premises had opened in 2014 and had been an agent of change in the vicinity. He commented that during the pre-development stage, residents had been led to believe that the vicinity would remain quiet but however the area had developed into a 'designated venue'. Mr Brown advised that residents have been disturbed by a multitude of issues since the Premises started to operate. He commented that there was still uncertainty on what the Ladder Shed was used for.

Mr Brown commented that residents had reported concerns regarding noise nuisance emanating from the Courtyard. He advised that eight objections have been raised and commented that residents not making formal complaints could be attributed to several factors which include hours when nuisances took place and the 'fatigue' experienced by individuals during later hours and the procedures. The Sub-Committee was advised that visits by EH had not been requested by residents and this was due to individuals not wanting to experience further disturbances. He advised that complaints regarding nuisances should not solely be attributed to a single resident.

The Sub-Committee was advised that residents had become increasingly 'disillusioned' with the resident's engagement meetings and advised that these consultations did not result in any meaningful changes. He commented that the

reductions in the hours of operations and duration of licence were welcomed but however stressed that these amendments did not elevate concerns regarding noise nuisance emanating from the Premises. Mr Brown noted that the Application had received one support and commented that more weight should be given to objectors and this was due to their close proximity to the Premises.

Mr Brown advised that it was recognised that central government and the Council were encouraging Premises to maximise their spaces and highlighted that concerns were largely based on the extensions of the hours of operation in the Courtyard and whether the Licensing objections would be promoted. He commented that EH and the Council's Planning Service had found the reduction of operation hours to 22:00 as only acceptable. Mr Brown commented that the Applicants' view that the Application was a 'moderate extension' was not shared and that there had been no firm undertakings that the Variation would be temporary. He further stated that the installed glazing in the Courtyard had not been fully tested to ascertain whether it would help to insulate sound and that the Planning Services was also uncertain about this matter. Mr Brown noted that a noise policy had been submitted to the Planning Service and it was unknown whether procedures would be affective.

Mr Brown commented that there was a number of unresolved issues which had not been addressed, such as capacity, confirmation on whether patrons will be seated and be waited, if alcohol would be ancillary to a meal during the extended hours and the use of patio heaters and their effects on the environment.

Ms Lee, a local resident addressed the Sub-Committee and advised that Weldon Court, was a 'mixed block' which was well run and had a range of residents which included older persons, young families and professionals. She commented that residents paid towards the upkeep of their properties and that issues which are raised are quickly dealt with by the management company. Ms Lee advised that the vicinity had long standing businesses and commented that residents were supportive of local Premises and were aware of the difficulties faced during the Convid-19 Pandemic and the drive by central government and the Council to support the retail and hospitality Sectors.

Ms Lee advised that resident's failure to complain regarding nuisance was due to reasons earlier explained by Mr Brown, in that such actions were exhaustive. She commented that she had lodged a complaint about 'yapping dogs' and that noises had been frequent over periods of time. Ms Lee commented that the Premises Staff members views that she was 'oversensitive' and had a vendetta against the establishment following making complaints were false and defamatory. Ms Lee commented that Premises did not have a 'neighbourly ethos' and that this had led to complaints being lodged. She commented that no dialogue had been held with the Premises regarding the complaint.

Ms Lee advised that the residential meetings with the Premises were unproductive and that the minutes produced portrayed the establishment in a positive light and neighbours no longer attended. She commented that resident had provided a list of requirements and that these had not been permanently resolved. Ms Lee advised that complaints could be lodged to the Council via a website or telephone call and that response received from EH would ask whether noise nuisance was still occurring. She commented that noise would have ceased, and these were the

reasons why no visit by EH had been made. Ms Lee advised that residents had requested for a Street Marshall and had not had any further information from the Applicant on this issue.

Mr Austin, Chair of the Marylebone Association addressed the Sub-Committee and commented on the close proximity of residents' dwellings to the Premises and the effects of noise nuisances on these parties. He commented that supporters did not live closer to the Premises than residents. Mr Austin queried on whether the glass covering in the Courtyard had been installed to insulate from the elements or reduce noise leakages. He commented that the Application should be considered after compounding evidence had been provided about the shelter's effectiveness in insulating sound. He commented that the Sub-Committee was required to adhere to Policy PN1 and take into consideration proximity of neighbouring premises.

In response to questions from the Sub-Committee, Mr Brown advised that the reduced Application was welcomed and that it was temporary. Ms Lee advised that a WhatsApp Group for residents was not favoured by neighbours and that individuals did not want their private numbers to be shared with the Premises and this was due to former breaches of privacy and relationship with the establishment being strained. She commented that a Street Marshall would be welcomed in particular during the later hours and weekends and these were the periods which nuisances occurred.

Following questions from the Sub-Committee, Mr Thompson, Director of Operations, Chiltern Firehouse, commented that a Street Marshall would be implemented and that this had been communicated to residents. The Street Marshal will operate between 17:00 to 00:00 Monday to Saturday and 17:00 to 23:00 on Sunday. The Marshals will be required to patrol the vicinity and monitor noise levels. There will also be a Bell Team and a Security Team.

The Legal Advisor to the Sub-Committee requested that the Applicant provide a suggested wording which stipulates that a Street Marshal will be employed and details their roles and also to confirm that they will continue to be in operation after 1 October 2021. In response to questions Mr Kolvin advised that the updated Conditions regarding CCTV, Challenge 21 and Incident Log would be accepted. The Sub-Committee noted that Condition 46 which stipulates that chairs should be unusable by 22:00 hours and requested that it be made explicit that this refers to the Courtyard only

The Sub-Committee adjourned 11:30 and resumed at 11:35

In response to questions from the Sub-Committee Mr Kolvin commented that the previous capacity was 120 and that this had now been reduced to 115. These figures were communicated at a residents meeting. He confirmed that there would be management supervision, door supervision and no regulated entertainment. The Courtyard would be seated and be waited and is not governed by the Model Restaurant Condition.

Mr Watson in his summary advised that Street Marshal's roles were limited and commented that specific duties should be assigned to the Premises' staff member in relation to managing noise levels. He commented that the Courtyard had 24hour use and that usage of table and chairs and licencing activities were limited and

restricted. Mr Watson advised that the dynamic use of the space had led EH not to stipulate a specific capacity. He commented that the various reductions made by the Applicant were welcomed.

Mr Austin in his summing up commented that he was aware of the difficulties which business faced during the Covid-19 Pandemic and commented that the concerns were a local issue and stressed the importance of promoting the Licensing Objectives.

Ms Lee in her summing up advised that residents had not been informed about the Courtyard's capacity and preferred for the number to be reduced, but however, acknowledged the current economic climate and its effect on businesses. She commented that residents would prefer for the Premises to take into consideration the residential makeup of the locality when setting out their operational model. Ms Lee stressed that an equal partnership between, residents, other local vendors and the Premises was sought, and all interested parties wished to reside in an area where noise was kept at a minimum.

Mr Brown in his summing up informed that he welcomed that a street marshal would be employed and commented that this would not eliminate the noise emanating from the Premises. He noted that there was no Condition which would require patrons to be seated at the Courtyard. The Sub-Committee was informed that the Planning Application Report for the Premises had indicated that Capacity in the Courtyard would be 80 following social distance requirements. Mr Brown advised that a Condition could be imposed which requires alcohol to be served to patrons that are seated and that a capacity in relation to seated members could be imposed. He advised that it was acknowledged that the Courtyard was used for access and regress. Mr Brown commented that clarification was still sought about the usage of the ladder shed.

Mr Kolvin in his summing up advised that the ladder shed was a waited service lounge. He commented that the Applicant wished to continue to work with residents and did not believe individuals had a 'vendetta' against the Premises. Mr Kolvin advised that the Application was balanced and noted that EH and Planning Service were supportive of the proposals. He advised that there had been a reduction in the hours sought and length of operations. There had been a new glass covering in the Courtyard, an amended management noise plan, a proposed WhatsApp group for residents and a designated street marshal. Mr Kolvin highlighted that patrons would be seated and there would be waiter or waitress service and that there would be no regulated entertainment. Door supervisors would be presented, and he commented that these measures met the requirements of PN1. Mr Kolvin, also commented that the capacity of 120 had previously been communicated to residents and that this figure had now been reduced to accommodate the social distance requirements. Mr Kolvin commented that a Condition which requires that consumption of alcohol to be served to seated persons only would be suffice.

In response to the Legal Officer, Mr Kolvin commented that Condition 46 would be fully reinstated after 1 October 2021. Mr Kolvin advised that a Condition which stipulates for a Street Marshall would be accepted.

The Chair thanked all parties for their submission and Ms Lee for her participation at

the virtual Sub-Committee.

Having listened to all parties the Sub-Committee granted the Application. The Sub - Committee noted the many concerns of the local resident objectors in relation to the Applicant's day to day management of the Premises when it came to issues of nuisance and the promotion of the public nuisance licensing objective. The Committee agreed the Applicant had provided valid reasons as to why the granting of the Application would promote the Licensing Objectives. The Applicant had reduced the terminal hour for rendering outside seating by an hour and the end date had been changed from 1 March 2022 to September 2021. In determining the Application, the Sub-Committee agreed to grant permission to vary condition 46 to the premises licence to the effect that the said condition reads "All tables and chairs shall be removed from the outside area or rendered unusable by 21:00 each day save that up until 30 September 2021 the hour shall be extended to 22:00 in respect of the courtyard only after which time the condition shall be reinstated and thereafter remain in full force and effect.

The Sub-Committee imposed additional Conditions which required alcohol in the courtyard to be served by waiter or waitress service to only seated persons and for a Street Warden to be employed to patrol the vicinity of the premises from 17:00 to midnight on Monday to Saturday and 17:00 to 23:00 on Sunday. For the purposes of effective liaison, the Applicant has agreed to hold bi-monthly meetings with residents, to include the setting up of a live WhatsApp Group for those particular residents, who are willing to join such a group and to maintain the 24-hour telephone line in order to discuss and resolve any issues or concerns residents may have relating to the running of the Premises.

The Sub-Committee was of the opinion that the Conditions imposed on the license would promote the licensing objectives.

Applicant

Chiltern Street Hotel Limited

Summary Decision

The Committee decided that the Applicant had provided valid reasons as to why the granting of the application would not undermine the licensing objectives.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, **the Committee has decided**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives:

1. To grant permission to vary condition 46 to the premises licence to the effect that the said condition reads "All tables and chairs shall be removed from the outside area or rendered unusable by 21:00 each day save that up until 30 September 2021 the hour shall be extended to 22:00 in respect of the courtyard only after which time the condition shall be reinstated and thereafter remain in full force and effect."
2. To add conditions in the terms specified below.

3. That the varied licence is subject to any relevant mandatory conditions.
4. That the existing conditions on the licence shall apply in all respects except in so far as they are varied by this Decision.
5. 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

6. Between the hours of 21:00 and 22:00 daily the consumption of alcohol in the courtyard shall only be to patrons seated and served by waiter or waitress service. This condition shall only apply until 30 September 2021, after which it shall be removed from the Licence.
7. A Street Warden shall be employed to patrol the vicinity of the premises from 17:00 to midnight on Monday to Saturday and 17:00 to 23:00 on Sunday.
8. 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.
9. 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.
10. 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.
11. 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.

INFORMATIVE:

For the purposes of effective liaison, the Applicant has agreed to hold bi-monthly meetings with residents, to include the setting up of a live WhatsApp Group for those particular residents, who are willing to join such a group and to maintain the 24 hour

telephone line in order to discuss and resolve any issues or concerns residents may have relating to the running of the Premises.

**This is the Full Decision reached by the Licensing Sub-Committee.
This Decision takes immediate effect
The Licensing Sub-Committee
8 April 2021**

2. 2.00 PM: 102 GREAT PORTLAND STREET, LONDON W1W 6PD

WITHDRAWN

The Meeting ended at 12.00 pm

CHAIRMAN: _____

DATE _____