



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 15th July, 2021**, This will be a virtual meeting.

Members Present: Councillors Karen Scarborough (Chairman) and Maggie Carman

Apologies for Absence: Councillor Susie Burbridge

1. MEMBERSHIP

1.1 COUNCILLOR BURBRIDGE SENT HER APOLOGIES.

2. DECLARATIONS OF INTEREST

2.1 THERE WERE NO DECLARAIONS OF INTEREST.

1. BLAME GLORIA, GROUND FLOOR AND BASEMENT, 20 BEDFORD STREET, WC2E 9HP

1.1 THE APPLICANT REQUESTED AND WAS GRANTED AN ADJOURNMENT.

2. STOREY'S GATE CAFE, STOREYS GATE LODGE, BIRDCAGE WALK, SW1H 9JH

WCC LICENSING SUB-COMMITTEE NO. 4 ("The Committee")

Thursday 15 July 2021

Membership: Councillor Karen Scarborough (Chairman) Councillor Maggie Carman

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Karyn Abbott

**Application for a New Premises Licence in respect of Storeys Gate Lodge
Birdcage Walk London SW1H 9JH 21/01846/LIPN**

Full Decision

Premises

Storeys Gate Lodge
Birdcage Walk
London
SW1H 9JH

Applicant

Ecsi Ltd represented by Ms Sarah Bellamy Agent for the Applicant.

Cumulative Impact Area

Not Applicable

Ward

St James's

Summary of application

This is an application for a New Premises Licence under the Licensing Act 2003 (“The Act”). The Premises proposes to operate as a Café. The Premises are within the St James's Ward. Neither the West End Cumulative Impact Zone nor Special Consideration Zone apply.

There is a resident count of 5.

Activities and Hours applied for

Sale by retail of alcohol [On and Off sales]

Monday to Saturday 10:00 to 20:00 hours
Sunday 12:00 to 21:00 hours

Seasonal Variation: During the winter season our trading hours are reduced, earliest closing time is 16:00. Alcohol sales will cease 30 minutes before the cafe closes

Hours Premises are Open to the Public

Monday to Sunday 08:00 to 21:00 hours

Seasonal Variation: During the winter season trading hours are reduced to 10:00 to 16:00

Representations Received

- The Metropolitan Police Service – PC Reaz Guerra (**Withdrawn**).
- The Environmental Health Service – Ian Watson (**Withdrawn**)
- F. Geddes Old Queen Street London SW1H 9JA
- C. and L Braithwaite Old Queen Street, London SW1H 9HP (**Withdrawn**).

Summary of issues raised by objectors

- The Supply of Alcohol and for the hours requested may have the effect of increasing Public Nuisance in the area.
- I am writing to inform you that the Metropolitan Police, as a Responsible Authority, are objecting to this application as it is our belief that if granted the application would undermine the Licensing Objectives. There is insufficient detail contained within the operating schedule to promote the licensing objectives.
- I have asked members of the Queen Anne's Gate Residents Association, of which I am secretary, for their comments on this application. While one person was for it, as they said it would be a nice place to have a glass of wine on a summer evening, several were against. These objections were on the grounds of having yet another outlet for alcohol so near a residential area. We already have many pubs around us which do create noise and mess. The location of what will be an outdoor drinking area on Birdcage Walk will create disturbance for those houses on the Old Queen Street and Queen Anne's Gate which back onto the park. Those using the bar will also wend their way home through our streets to access St James Park Underground Station. In conclusion, we think the cafe works very well as a tea/coffee and lunch spot for those using the park but have reservations about its use as a drinking destination.
- We are residents/owners whose property at 20 Old Queen Street backs on to Birdcage Walk in close proximity to these premises. We have already been affected by antisocial behaviour into the evening when individuals who are inebriated, often young people, gather in groups, come to the park, are loud and play music at top volume, and who make obscene comments and are aggressive if asked to be quiet. We have had bottles, and even barricades set out for events, thrown into the street opposite our house on occasions. Such antisocial behaviour can only be exacerbated by adding alcohol sales in or at the edge of the park. It will encourage public disorder.
- We and our premises would be less secure from crime as a result of this, as are then residential buildings which are not occupied at night. There are already many establishments within a radius of a mile so there can be absolutely no need for more licensed premises. There is already a pub and wine bar in Storey's Gate and a pub at the park end of Dartmouth Street.
- There are pubs in Whitehall and around Victoria. There are also many licensed restaurants. This would definitely be a case of over provision. Furthermore, St James's Park is an area for quiet recreation, relaxation and peaceful enjoyment. This will destroy that. As well as us, the wildlife which move around the park after dark will no doubt be disturbed. We request that this application be refused.

Policy Position

- Policies HRS1 and RTN1 apply under the City Council's Statement of Licensing Policy ("SLP"). There is no presumption to refuse the application provided the requirements of policies CD1, PS1, PN1 and CH1 are met.

DECISION AND REASONS

Ms Abbott Presenting Officer outlined the application to the Sub-Committee. This is an application for a New Premises Licence in respect of Storey's Gate Cafe, Storeys Gate Lodge, Birdcage Walk, London, SW1H 9JH. The application has been made by Ecsi Limited (Ms Bellamy). The applicant has applied for retail sale of alcohol. Full details can be found at page 52 of the report. Representations have been received from the Environmental Health Service and The Metropolitan Police Service, but these were subsequently withdrawn after conditions were agreed. There have also been 2 representations from interested parties, one of which has withdrawn and is present today, Mrs Geddes of the Queens Anne Gate Resident Association. The premises are situated within the St James Ward and does not fall within the cumulative impact zone.

Ms Sarah Bellamy Agent appearing on behalf of the addressed the Sub-Committee – The application is for Storeys Gate Café. It is a very small café on the corner of St James Park. Ms Bellamy advised that the Premises has 10 internal covers and an external terrace which seats up to 70 but capacity is currently reduced. The applicant is seeking a premises licence to add alcohol sales to the café. The Premises operates as a café and this is the central focus. The applicant's food offer are sandwiches, paninis and light meals. No hot meals are served. As far as alcohol is concerned this would be premium wines and beers and gin and tonics. The Premises is not looking to become a bar or vertical drinking establishment. Ms Bellamy confirmed that the Premises are managed by the Royal Parks and are subject to stringent procedures including this application if granted. The operating hours would be up to a maximum of 20:00 in the evening, with closure at dusk and this would be earlier in the winter months at around 16:00.

Ms Bellamy said that the applicant is a responsible operator and has been run by the Royal Parks for over 10 years and holds other premises licences. There are similar premises in the Royal Borough of Kensington and Chelsea where alcohol sales have been added and this did not attract antisocial behaviour. The applicant works closely with the parks and local police officers. If the applicant were to see any strange behaviour by customers, then alcohol sales would be restricted accordingly.

In answer to questions from the Sub-Committee Ms Bellamy confirmed the following points:-

- The garden is locked at 20:00 hours and there is no need to render the tables and chairs unusable as members of the public cannot gain access after this time.
- The Premises is to be food led and alcohol is ancillary to the main use of the Premises as a Café despite the outside terrace accommodating up to 70 customers.
- There will be a limited offer of alcohol and this does not include cocktails with the exception of Pimm's.

- The Premises does have kitchen facilities and extra food can be made and served so customers would not be sitting and just drinking alcohol so the applicant is happy to accept a condition that food will be available when alcohol is being served.
- Regarding deliveries and collections, the refuse is managed by the Royal Parks and the applicant uses them as its contractor, and the bins are emptied by them. Deliveries are up until 10:00 and they are behind the café where there is a store area, they are then taken down into a basement area. There is a big fridge/freezer two floors below the café.
- The Premises is currently not selling alcohol and is self-service. This is the operation style which will be continued once Covid-19 restrictions are lifted.
- The applicant has a no glass rule, so alcohol will not be sold in glass vessels. Takeaway sales will be put in a plastic container and that is how the applicant operates the Lido in Hyde Park.
- The applicant would prefer to keep off-sales and potentially close earlier if that is agreeable.
- The applicant operates a kiosk in the park already with off sales and has had no problems with that. We are not the only operator in the park with off sales on their licence.
- Table service for alcohol would be managed using an app that the applicant is seeking to introduce so customers can place orders. This concept has been based on another licensed premises operating in this way.

Mrs Fiona Geddes Secretary of the Queen Anne's Gate Resident Association addressed the Sub-Committee. Ms Geddes said that the issue really is that Old Queens Gate backs on to Birdcage Walk. There are residential houses that back on to Birdcage Walk who have gardens who are likely to be disturbed by customers of the café. When the police and EH issues were dealt with by an amended application, we were fine with this. Mrs Geddes said that there is no real objection to the café and its proposed operating hours and that she would probably frequent the café. Mrs Geddes said that she thinks there had been some confusion as she and other residents thought there were going to be off sales from the café and that bottles of wine were going to be taken away from the café. Clarification was sought from the applicant and they confirmed this to be the case. Mrs Geddes said that there is a problem with anti-social behaviour from people getting drink in the park and then coming into the residential streets and in this regard we would request that the Sub-Committee reject this part of the application as we do not consider it necessary. Mrs Geddes said that in her opinion she felt it was a strange concept for the café to sell bottles to be taken into the park Already the area has a lot of pubs and I don't think they do off sales. I think it can only be a bad thing for people to be drinking in the park and what impact this has on the local environment and sees this as a profit maker for the applicant.

The Legal Advisor to the Sub-Committee discussed with the applicant the potential for two further conditions namely that food is to be available when alcohol sales take place and a personal condition regarding the Premises being used solely as a café with alcohol being ancillary to its main use.

Ms Bellamy confirmed to the Sub-Committee these conditions were acceptable should the licence be granted.

The Sub-Committee realises that it must treat each application on its individual merits. There is no policy presumption to refuse an application that is not within the Cumulative Impact Area provided the licensing objectives are not undermined.

The Sub-Committee welcomed the fact that the applicant had been proactive in working with the Responsible Authorities which lead to the withdraw of those objections, as well as the two resident objectors whereby agreement had been reached on many of the contentious issues, including proposed conditions.

The Sub-Committee noted that the applicant was an experienced operator in the running of these type of premises. There have been no significant issues that had come to the attention of the Sub-Committee that would give cause for concern in relation to the management of the Premises on a day to day basis.

The Sub-Committee in its determination of the matter considered the points raised by Mrs Geddes to be well made in relation to off sales but has to consider the evidence before it and then take a balanced approach when looking at this particular aspect of the application. There was no evidence to suggest that off sales would be a problem. Indeed, the Police did not raise this as a cause for concern in their objection, nor did they propose any condition in this respect. Accordingly, the Sub-Committee considered the crime and disorder licensing objective upon the facts of the case and concluded that the granting of off sales would not give rise to the undermining of the crime and disorder licensing objective.

The Sub-Committee welcomed the fact that the applicant was prepared to accept two further conditions where food is to be available when alcohol sales take place and a personal condition tying the Premises first and foremost as a café with alcohol sold as ancillary thereto.

In its full assessment of the matter the Sub-Committee did have some concerns regarding the outside seating capacity of 70 customers but was reassured by the various undertakings and guarantees given by the applicant that the Premises would be run effectively and efficiently on a day to day basis that will help promote the licensing objectives. The Sub-Committee was reassured that the management arrangements the Royal Parks have in place would help ensure that this happened. In this respect the Sub-Committee when looking at the hours for the Premises considered it appropriate to have a daily terminal hour of 19:00 hours with an earlier closing time during the winter months at 16:00 hours as this would reduce overall the number of off sales. The Sub-Committee did impose a condition on the licence which requires all off sales of alcohol to be in sealed containers and for customers to be seated when alcohol is served to prevent vertical drinking.

The Sub-Committee was pleased to note that the Premises would always be food led and the personal condition accepted by the Applicant and imposed on the licence tying the Premises primary function as a Café with alcohol as ancillary.

The Sub-Committee wishes to state that if potential problems are experienced with nuisance or any other matter concerning the outside terrace resident's do have the option to complain directly to the City Councils Environmental Health Service where any potential complaints will be properly investigated. In addition, reserving the right to invoke the Review Procedure under the Act.

The Sub-Committee noted that the applicant would engage with residents and in this regard considered it appropriate to impose model condition 24 on the licence which requires the applicant to provide a telephone number so residents can contact the Premises management on any given issue if there are problems.

The Sub-Committee concluded that the conditions it had imposed on the Licence together with the Informative below would mitigate the concerns of those who had objected particularly allaying the fears of those residents and would have the desired effect of promoting the licensing objectives.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, **the Sub-Committee has decided**, after considering all of the individual circumstances of this case and the promotion of the four licensing objectives that the application is granted subject to the additional conditions as follows:

1. **To grant permission for the Sale by Retail of Alcohol (On and Off) the Premises** Monday to Saturday 10:00 to 19:00 hours Sunday 12:00 to 19:00 hours. **Seasonal Variation:** During the winter season our trading hours are reduced, earliest closing time is 16:00. Alcohol sales will cease 30 minutes before the cafe closes.
2. **To grant permission for the Hours the Premises are Open to the Public** Monday to Sunday 08:00 to 19:00 hours. **Seasonal Variation:** During the winter season trading hours are reduced to 10:00 to 16:00
3. That the Licence is subject to any relevant mandatory conditions.
4. 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 the hearing

5. Customers will be allowed to purchase a maximum of 4 alcoholic beverages per person in lidded/sealed containers, no glass.
6. Alcohol consumed outside the kiosk but within the licensed area shall only be consumed by persons seated at tables.
7. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance(s). 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.

8. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
9. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
10. No drinks shall be served in glass containers at any time.
11. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
12. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
13. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.
14. No more than (15)% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
15. There shall be no self-service of alcohol on the premises,
16. 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.
17. 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.
18. Upon the direction of a Police Officer, on the grounds of the prevention of crime and disorder or public safety, the premises will immediately cease trading for that day.
19. All cashiers shall receive refresher training on the relevant alcohol laws and the licence holder's policy on challenging for ID. Such training shall take place at least twice a year. Records shall be maintained at the premises containing

information about the training of any person who may make a sale of alcohol including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on request to a police officer or relevant officer of a responsible authority.

20. The Premises Licence Holder shall ensure that 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.
21. The sale of alcohol on the premises shall at all times be ancillary to the main use of the premises as a Café.

Informative

22. The Premises Licence Holder is strongly encouraged to adopt and develop good practices in relation to sustainability measures including when considering waste management for the premises and the local environment generally.

If problems are experienced, then a Review of the Licence can be made.

This is the Full Decision of the Licensing Sub-Committee which takes effect forthwith.

**Licensing Sub-Committee
15 July 2021**

The Meeting ended at 1.00 pm