



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 26th August, 2021**, This will be a virtual meeting.

Members Present: Councillors Karen Scarborough (Chairman), Louise Hyams and Rita Begum

1. MEMBERSHIP

There were no Changes to the Membership of the Sub-Committee.

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

1 Licensing Applications

2. 10 AM: LSC (4) FLOORS 17&18, 31 LONDON ST, 9 WINSLAND MEWS & 128-144 PRAED ST DEVELOPMENT

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

Thursday 26 August 2021

Membership: Councillor Karen Scarborough (Chairman) Councillor Louise Hyams and Councillor Rita Begum

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Aaron Handy
Committee Officer: Cameron Maclean
Presenting Officer: Kevin Jackaman

Application for a New Premises Licence in respect of 17th And 18th Floors Development Site At 31 London Street, 9 Winsland Mews And 128-144 Praed Street London 21/00850/LIPN

FULL DECISION

Premises

17th And 18th Floors Development Site At 31 London Street, 9 Winsland Mews and 128-144 Praed Street London

Applicant

Great Western Developments Limited

Cumulative Impact Area?

N/A

Special Consideration Zone

N/A

Ward

Hyde Park Road

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises proposes to operate as a rooftop bar and restaurant on the 17th and 18th floors. The application follows pre-application advice. The Premises is located within the Hyde Park Road but is not within the West End Cumulative Area Zone nor Special Consideration Zone. There is a resident count of 28.

Activities and Hours applied for

Late Night Refreshment (indoors and outdoors)

Monday to Wednesday: 23:00 hours to 01:00 hours

Thursday to Saturday: 23:00 hours to 03:00 hours

Sunday: 23:00 hours to 00:00 hours

Live Music (indoors and outdoors)

Monday to Wednesday: 12:00 hours to 01:00 hours

Thursday to Saturday: 12:00 hours to 03:00 hours

Sunday: 12:00 hours to 00:00 hours

Recorded Music (indoors and outdoors)

Monday to Wednesday: 12:00 hours to 01:00 hours

Thursday to Saturday: 12:00 hours to 03:00 hours

Sunday: 12:00 hours to 00:00 hours

Sale by retail of alcohol (on sales)

Monday to Wednesday: 10:00 hours to 01:00 hours

Thursday to Saturday: 10:00 hours to 03:00 hours

Sunday: 12:00 hours to 00:00 hours

Hours premises are open to the public

Monday to Wednesday: 08:00 hours to 01:00 hours

Thursday to Saturday: 08:00 hours to 03:00 hours

Sunday: 11:00 hours to 00:00 hours

Representations Received

- Metropolitan Police Service (PC Reaz Guerra)
- Environmental Health Service (Dave Nevitt)
- Paddington Waterways & Maida Vale Society
- Mercure Hotel
- Paddington Now
- South East Bayswater Residents' Association

Summary of issues raised by objectors

- MPS objected on the basis that there was insufficient detail within the operating schedule to promote the Licensing Objectives and noted that the hours sought exceed Westminster's Core Hours Policy.
- EHS objected on the basis that the proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety. EHS noted the hours sought for Licensable activities are in excess of the 'Core Hours' as set out in the City Council's Licensing Policy.
- PWMVS objection was made on the basis that the likely impact of the application, if granted, would be to harm the licensing objective of prevention of public nuisance and prevention of crime and disorder.
- Mercure Hotel objected on the basis of the potential impact of the application on their business and local businesses resulting from the lack of conditions proposed.
- Paddington Now raised concerns in relation to the potential impact of the application on the Mercure Hotel.
- SEBRA's main concern is cumulative effect of nuisance, noise and potential crime disorder from the combined various applications, especially to the residential areas surrounding the Paddington Square development, particularly in the evening hours.

Policy Position

Under Policy HRS1, applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the matters set out in Policy HRS1.

Under Policy COMB1 applications outside the West End Cumulative Impact Zone for premises that propose to operate as a 'combined use premises' will be considered on their merits and subject to the matters set out in Policy COMB1

DECISION AND REASONS

Mr Kevin Jackaman, Senior Licensing Officer, presented the report of the Director of Public Protection and Licensing that was before the Sub-Committee. In so doing, he confirmed that the Applicant had applied for both live and recorded music until midnight, and not just live music, as stated in the report. Representations have been received by the Environmental Health Service (Mr Dave Nevitt) and the Metropolitan Police Service (PC Bryan Lewis). There have also been 4 representations from interested parties and in attendance today are Richard Brown and John Zamit. The premises are situated within the Hyde Park ward and do not fall within any area of cumulative impact.

Mr Craig Baylis, solicitor acting on behalf of the Applicant, stated that a differently constituted Westminster City Council's Licensing Sub-Committee had considered six applications for New Premises Licences for the same development at an (in-person) Licensing Sub-Committee (LSC) meeting on Thursday, 19 August 2021. He stated that a key point that had come out of that meeting was that these were applications for "Skeleton" Premises Licences and it would be for the eventual Premises Operators to apply to the LSC for variations to these Premises Licences in accordance with the proposed Operating Schedules.

Mr Baylis referred to the Schedule of Planning Conditions set out on Pages 24-46 of the Additional Information Pack. He stated that, in relation to Condition 35 and the requirement that the Applicant submit an Operational Management Plan (OMP for the Retail and Restaurant uses, it had been agreed by the LSC at its meeting the previous week, that a suitable condition be added to any Premises Licences such that Premises Licence Holders would also be bound by this requirement and would have to produce and OMP.

Referring to Pages 25 and 26 of the Agenda Pack, Mr Baylis stated that all the Premises Licence conditions proposed by the Metropolitan Police Service (MPS) had been agreed by the Applicant. In response to a question by the Chairman, Mr Baylis confirmed that these conditions had been agreed irrespective of the Operating Hours that might be approved by the LSC, with the exception of Proposed Condition 21 (security measures for customers entering the Premises after 00:00 hours), should the Sub-Committee be minded to grant the application in accordance with Core Hours.

Mr Baylis then presented details of the application. In so doing, he drew parallels with "The Shard" at London Bridge station, which had been one of the Applicant's other developments. The Applicant is seeking to develop an iconic building - there will be new access to the station along with new retail shops. At the bottom there will effectively have a new entrance in to the station, the first floor will be retail and restaurants. Up to the 16th floor it will be office space.

Mr Baylis explained that the lifts only have capacity of 17 persons. There will not be any possibility having mass exits from the top 2 floors. They will be met at the bottom of the lift by SIA door staff and will be dispersed to either taxis or public transport. There will be a controlled element of dispersal. The new tenant will control access at the top and bottom of the lift.

Mr Jonathan Ring, on behalf of the Applicant, provided a detailed description of the development. He stated this development is about a £650 million investment to improve the public realm and infrastructure of the area. It will provide 360,000 sq ft office space over 14 floors. There are 4 levels of retail at the bottom of the building.

In relation to the office space, Mr Ring explained the Applicant has been having discussions with a number of tech firms that are likely to take a big chunk of the space. They have links with the West Coast US so are likely to be working on their time zone. Mr Ring noted the location and links to Heathrow makes it an attractive area for them to come and work in.

Mr Baylis then addressed the various policy considerations set out in the report that was before the Sub-Committee, and the reasons why the Applicant was seeking to operate beyond the hours set out in the Council's policy on Core Hours. Mr Baylis stated that the Premises is not in any of the Council's stress areas so there is no automatic presumption for refusal. He emphasised that his is a very iconic building for this particular area, noting that the external terrace areas will have views over Hyde Park and there are also views over Central London. Mr Baylis explained that the planners have agreed a 03:00 hours close in this area with a predominately restaurant function with an ancillary bar. This is mirrored by condition 29 agreed with the Police where there is limited vertical drinking.

In response to questions by Members of the Sub-Committee,

- (a) Consultation – In relation to why there hadn't been discussions with residents and SEBA, Mr Baylis explained that the Applicant had pre-app discussions with the Police and EHS. Mr Baylis explained it was his view that there was little point in reaching out as there is a lot the applicant does not know at this stage. The Applicant is required to submit a very detailed management plan which they are still in the process of developing. Further, the Applicant is not able to answer any questions about where taxis will go and times of deliveries etc. Mr Baylis stated that there is no question that local residents will be asked to input into that plan to ensure the management plan reflects everyone's interests and concerns;
- (b) Vertical Drinking – Mr Baylis stated that there is no desire to have vertical drinking bars. He advised condition 35 of the planning permission, which makes it clear the primary use is as a restaurant and there will be some drinking on the terrace. This operation is primarily designed for customers sitting down in a restaurant;
- (c) Lifts – There will be 2 lifts that service all of the floors including the office spaces - the lifts start at ground level and stop at level 2 (office reception area) and then go straight to the top floor. There is public access on the top floor but it will be managed by the roof top staff. We see this operating in a similar way to the Shard;

- (d) Capacity – By reference to various fire strategy documents Mr Baylis stated there would be a capacity between 300-500 people. This will be confirmed by EHS once the final layout will be submitted by the new tenant;
- (e) Crime and disorder – Mr Baylis explained that condition 36(a) will only be used as a restaurant and no other purpose. It is primarily restaurant, and Mr Baylis submitted that the Policy suggests restaurants do not cause the same problems. The Applicant has also agreed condition 21 in terms of the club scan requirement which gives the police comfort in that it allows them to trace people that may go and cause crime issue;
- (f) Taxis – Mr Baylis explained that there is a proposal for a taxi rank, but this will need to be part of the operational management plan. This will be discussed with the stakeholders.

Mr David Nevitt, Environmental Health Officer, stated that the EHS had maintained a representation in respect of these applications for 3 reasons. Firstly, the hours sought are beyond core hours which are significantly beyond core. This will be a matter determined by the committee based on the merits of the application. Secondly, the concerns of the local residents also need addressing. Thirdly, so the committee can consider the suitability of the operational management plan which is to be submitted by the applicant and whether it is suitable and sufficient in promoting the licensing objectives.

Mr Nevitt stated that, in his view, it was unlikely that the activities on the 17th & 18th Floors and the rooftop terrace would impact significantly on local residents.

The main concern for the EHS was the late-night dispersal of customers, and that the Applicant had gone some way to allaying these concerns by describing the way in which dispersal of customers would take place, in particular by reference to how the lifts are used for patrons arriving and departing late at night, and how this would be supervised. Mr Nevitt stated that the main issue is for the applicants to demonstrate they can deal with late night dispersal. I don't view this as purely vertical drinking bar establishments and instead are primarily restaurants.

In response to questions by Members of the Sub-Committee,

- (a) Lifts – Mr Nevitt wasn't sure how fast they would travel but presumed they are very efficient. He considered they would be high speed up to the top floors;
- (b) Residents and dispersal – Mr Nevitt stated that there is always the possibility of impact when people get to the ground floor and disperse and this is one of the reasons he maintained his representation. He queried where will guests disperse to and how will this impact the local residents. He noted that there are residents and hotels locally. He suggested it would be helpful for the applicant to confirm what the likely routes away are. He stated that there is probably a fair bit of distance between the likely drop off points and the residents. Mr Baylis stated this is difficult to answer at present as the Applicant does not have the key information for the operational management plan yet. Praed Street will be the main route for cars. He stated that there are tubes, network rail and taxi rank in front of the hotel nearby. There is plenty of room and space for people to get away quietly

PC Bryan Lewis, Metropolitan Police Service, explained that MPS originally objected due to insufficient conditions and this his colleague had proposed a list of conditions. The MPS had maintained their representations as there was insufficient information in the Operating Schedule to determine how the application would Promote the Licensing Objectives given that the hours of operation exceeded Westminster City Council's Policy on Core Hours.

In particular, the Police had concerns that the proposed operating hours until 03:00 hours gave rise to the possibility that, although a Premises might operate primarily as a restaurant, it's operation late at night may become more like that of a nightclub. In addition, depending on the success or otherwise of the Premises, it may be that the Premises Management may wish to cater for a wider, rather than an exclusive, customer base.

PC Lewis stated that there were additional risk factors to be taken into consideration in relation to rooftop terraces. Also, the Police had adopted a standard Counter Terrorism Premises Licence Condition which was included in all central and/or, "complex" buildings Premises Licences. The Condition required Members of Staff to undertake a nationally approved online "Counter Terrorism Awareness Training" course.

In response to questions by Members of the Sub-Committee,

- (a) The locality – PC Lewis stated that the Applicant have suggested the Premises will be a restaurant, but restaurants do not usually trade until 03:00. Nightclubs are our highest risk premises. However, he thought that the location is good and noted it is next to the tube;
- (b) Crime – PC Lewis explained it is a high crime area as it is highly populated area. He stated that the Applicant will need a good dispersal plan which ensures there is security outside the premises monitoring people as they leave and are getting into taxis' and the station safely

Mr Richard Brown, speaking on behalf of SEBRA and PWMVS, stated that many of his comments will apply to both applications. He stated that Southeast Bayswater Residents' Association (SEBRA), with its extensive knowledge of the area, wished to be of assistance to applicants and it would have been helpful if the Applicant had consulted with SEBRA prior to today's meeting. However, SEBRA welcomed the opportunity to comment on the Operational Management Plan (OMP) in due course.

Mr Brown explained that the view of the objectors is that there is insufficient detail in front of the Committee to grant a 3am licence. He submitted that the hours should be dealt with under the licensing policy noting that there are a lot of residents in the vicinity.

He stated that the information about the lifts is helpful and this should help encourage more gradual dispersal. Regulated entertainment has been applied for and he noted the suggestion of no dance floors. Entertainment until late hours mean customers are likely to be louder when they leave the premises. In relation to proposed condition 29, Mr Brown explained that this does not provide a great deal of comfort as vertical drinking is envisaged. It talks about floor space

rather than numbers. The plans do set out the floor space, but this is not eligible in the papers.

Mr Brown stated he would be a little worried if this is the operational management plan as it is not detailed enough. The fundamental point last week was that the applications were granted for core hours for restaurant use. He stated that he can see sense in the tenants then coming back to make variations. However, SEBRA do not see the same logic for an 01:00 or 03:00 licence without any detail here. He explained SEBRA are happy for core hours here or perhaps a little later if there is restaurant conditions. The tenants can then come back to make any variations. He submitted that if the Sub-Committee are minded to grant beyond core hours, SEBRA would like a no entry condition that is considerably earlier than what is proposed. SEBRA do not want the Premises becoming a venue where people come after others have closed.

Mr John Zamit, Chairman of SEBRA, began by outlining his strong views about the lack of consultation. He would have liked to speak to them as SEBRA would like to assist applicants.

In relation to the operational management plan, Mr Zamit stated that there should have been a lot more information in it, including information on the proposals in relation to Late-Night Refreshment.

He stated that the City Council had opposed applications for taxi ranks at certain locations within the vicinity of the development site as this would interrupt the flow of traffic. Furthermore, there had been no discussion about the impact of the development on nearby hotels, despite the Mercure Hotel on Praed Street having submitted a representation.

Mr Zamit stated that to ensure that there was sufficient time to allow the dispersal of customers in accordance with the proposed operating hours, it would be necessary to have a terminal hour for the sale of alcohol which would then allow "drinking up time" of, say, half an hour, by which time, customers would have to be off the Premises. He stated that that he was not aware of any other restaurants in London that were operating until 03:00 hours

[Mr Baylis subsequently confirmed there were a number of restaurants not in Westminster which did operate similar hours to those applied for by the Applicant, and that The Shard had been granted Premises Licences that permitted 24-hour operations.]

In the event that the Premises were going to operate until late, then it would be appropriate to impose a Restaurant condition, and that the hours of operation should be restricted to Core Hours.

Mr Zamit stated that there was no reference in the operational management plan about where Uber drivers would pick up and drop off their customers and there was a concern that vehicles picking up and dropping off customers would continue to do so in a way that was potentially dangerous and at locations where picking up and dropping off passengers was prohibited.

Mr Zamit stated that last entry to the Premises should be at 23:00 hours. SEBRA welcomed the proposal for security staff at the entrance to the Premises to assist in dispersal and to control entry to the Premises. He stated that it was SEBRA's understanding that this application made provision for a restaurant with a small bar for restaurant customers on the 17th Floor and a restaurant on the 18th floor, also possibly with a small bar for restaurant customers.

Finally, Mr Zamit stated that SEBRA was concerned that by 03:00 when it was proposed that the Premises would close, many train services would have ceased to operate and SEBRA was not aware of any plans to introduce late-night or all-night train services.

Conclusion

The Sub-Committee noted that representations were received from the Metropolitan Police Service, Environmental Health Service, Paddington Waterways & Maida Vale Society, Mercure Hotel, Paddington Now and the South East Bayswater Residents' Association.

The Sub-Committee has a duty to consider the application on its individual merits and took into account all of the committee papers, submissions made by the Applicant and all other parties, and the oral evidence given by those parties in attendance during the hearing in its determination of the matter.

The Sub-Committee noted that 6 similar applications to be operated as restaurants went before a Licensing Sub-Committee on the 19 August 2021 in respect of the same development site. These applications were not considered binding on the Sub-Committee's overall decision making but were nevertheless helpful in ascertaining the background history to each application and when looking at matters.

The Sub-Committee noted that what had been applied for by the Applicant in respect of this application was effectively a template for a premises licence due to many unknowns because tenants had yet to be found for the Premises. It was acknowledged and accepted that this would be subject to change at some stage in the future by a new operator most likely through a variation application process.

The Sub-Committee noted that the Applicant had not engaged with the South East Bayswater Residents' Association (SEBRA) and took a dim view of this without being too critical. Whilst there may have been very little to consult upon the Sub-Committee considered it was however, incumbent upon the Applicant to have engaged with all relevant stakeholders as a matter of good practice particularly with such a large-scale development. SEBRA holds a key function within the local area as an active resident's association and its views need to be properly considered as well as those other parties who also objected to the application.

It was apparent to the Sub-Committee during the hearing that there were still many contentious unresolved issues and if the Applicant had engaged right from the outset this may have allayed some of the fears SEBRA had displayed towards the application and may have assisted the negotiation process and the matters raised at the hearing. The Sub-Committee considers it vital for the Applicant to foster a fruitful and meaningful dialogue going forward with SEBRA especially as the applications are likely to be revisited in a different guise once operators have been found.

The Sub-Committee noted that the Applicant was granted planning permission for the development site on the 29 March 2019. Whilst the Sub-Committee recognises that Planning and Licensing are entirely two distinct functions with differing aims, objectives and outcomes there is sometimes a degree of overlap. It was decided that a similar condition should be imposed on the Premises Licence whereby the practical workings of Conditions 34-37 on the Planning Consent are translated into a similar condition on the Premises Licence in so far as they relate specifically to licensing thereby requiring the applicant to comply with matters such as dispersal, operational and servicing management plans together with a public realm strategy to ensure the promotion of the licensing objectives.

In relation to the hours sought, the Sub-Committee had to consider what was appropriate and proportionate from the evidence before it. Whilst it understood that there were some other restaurants which had late night licences, in this instance the Committee decided it was appropriate and proportionate to grant core hours for the licensable activities applied for. The Sub-Committee agreed with SEBRA that there was insufficient information provided to conclude that, on the balance of probabilities, the hours sought would promote the licensing objectives if granted. The Sub-Committee were conscious of the submissions made by the Applicant in relation to why there was limited evidence but considered it appropriate to grant core hours in this case.

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 for Late Night Refreshment (Indoors)** Monday to Thursday 23:00 to 23:30 hours Friday to Saturday 23:00 to 00:00 hours Sunday N/A
2. To grant permission for **Live Music, Recorded Music (Indoors and Outdoors)** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 00:00 hours Sunday 09:00 to 22:30 hours
3. To grant permission for the **Sale by Retail of Alcohol (Indoors)** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 00:00 hours Sunday 09:00 to 22:30 hours
4. To grant permission for the **Opening Hours of the Premises:** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 00:00 hours Sunday 09:00 to 22:30 hours
5. To grant permission for Seasonal Variations: Sundays immediately prior to a bank holiday: 09:00 to 00:00 hours.
6. That the Licence is subject to any relevant mandatory conditions.
7. That the Licence is subject to the following additional conditions and Informative imposed by the Committee which are considered appropriate and

proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing

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 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.
9. A staff member from the premises who is conversant with the operation of the CCTV 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.
10. Signs will be located at the exits to the building to remind occupants that they should ensure that local residents are not disturbed by any licensable activity at the premises.
11. Signs will be provided reminding occupants that alcohol should only be supplied to persons over the age of 18.
12. The number of persons permitted in the licensed areas of the premises at any one time shall not exceed (x persons) excluding staff.
13. 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.
14. 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.
15. 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.
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. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder

- (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system, searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
17. The Premises Licence Holder shall ensure that table service is to be available at all times.
 18. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
 19. On Thursdays to Saturdays after 21.00 there shall be a minimum of 1 SIA door supervisor stationed at the ground floor entrance to the restaurant/terrace lifts and for the rest of the week the need for SIA door staff shall be risk assessed by management of the premises licence holder.
 20. All door supervisors will correctly display their SIA licence when on duty at the premises.
 21. All SIA door staff on duty at premises shall be equipped with Body Worn Video, capable of recording audio and video in any light condition as per the minimum requirements of the Westminster Police Licensing Team. 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. BWV must be activated at an early stage during any incident involving conflict.
 22. Patrons shall be greeted by a member of the staff at the reception areas on the 17th floors (as marked on the plans submitted) before being directed to the relevant area of the premises.
 23. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as The Terrace areas.
 24. In the event that an assault is committed on the premises (or appears to have been committed) the management, on notification of such assault or apparent assault, will immediately ensure that:
 - a. The police (and, where appropriate, the London Ambulance Service) are called without delay.
 - b. All reasonably practicable efforts are taken to detain any suspect(s) pending the arrival of police.
 - c. All reasonable practicable efforts are taken to preserve the crime scene so as to enable a full forensic investigation to be carried out by the police, unless otherwise notified by them.
 - d. Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.

25. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
26. The supply of alcohol shall be by waiter or waitress service or to customers seated at the bar. No more than 25% of the available floor space in the internal bar area, nor more than 50% of the external terrace areas shall be available for vertical drinking.
27. The Premises Licence Holder shall at all times comply with policies relating to dispersal, an operational management plan, servicing plan and public realm strategy as shall be amended from time to time. Such copies of these documents shall be made readily available to the Responsible Authorities upon request.
28. No licensable activities shall take place 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.
29. A direct telephone number for the Manager at the Premises shall be publicly available at all times the premises is open. This telephone number is to be made available for residents and businesses in the vicinity.
30. The Premises Licence Holder shall ensure that there is no dedicated dance floor at the Premises.
31. There shall be no admittance to the Premises by patrons after 23:00 hours.
32. 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.

INFORMATIVE

33. **The Premises Licence Holder is strongly encouraged to consult with SEBRA regarding the various aspects of conditions 34-37 of the Planning Consent dated 29 March 2019. This is to ensure that SEBRA are fully involved in the process and can voice their views notwithstanding Condition 27 imposed on the Premises Licence**
34. **The Premises Licence Holder is strongly encouraged for all members of staff to undertake online Counter-Terrorism training with close consultation with the Metropolitan Police Service who can offer advice and assistance where necessary.**
35. **The Premises licence holder is strongly encouraged to engage with SEBRA, residents and businesses to facilitate regular meetings to discuss issues directly affecting them regarding the running and management of the Premises including any issues specifically connected to public nuisance.**
36. **The Sub-Committee noted that the Premises is to be known as the Pavilion Bar.**

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

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

**The Licensing Sub-Committee
26 August 2021**

- 3. 10 AM: LSC (4) ROOFTOP TERRACE & BAR, PADDINGTON SQUARE DEVELOPMENT, 31 LONDON ST, 9 WINSLAND MEWS & 128-144 PRAED ST**

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

Thursday 26 August 2021

Membership: Councillor Karen Scarborough (Chairman) Councillor Louise Hyams and Councillor Rita Begum

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Aaron Handy
Committee Officer: Cameron Maclean
Presenting Officer: Kevin Jackaman

Application for a New Premises Licence in respect of Bar and Rooftop Terrace at Units 2 And 46 at Paddington Square Development Site At 31 London Street, 9 Winsland Mews And 128-144 Praed Street London W2 6ZY 21/00851/LIPN

FULL DECISION

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- MPS objected on the basis that there was insufficient detail within the operating schedule to promote the Licensing Objectives and noted that the hours sought exceed Westminster's Core Hours Policy.
- EHS objected on the basis that the proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety. EHS noted the hours sought for Licensable activities are in excess of the 'Core Hours' as set out in the City Council's Licensing Policy.
- PWMVS objection was made on the basis that the likely impact of the application, if granted, would be to harm the licensing objective of prevention of public nuisance and prevention of crime and disorder.
- Mercure Hotel objected on the basis of the potential impact of the application on their business and local businesses resulting from the lack of conditions proposed.
- Paddington Now raised concerns in relation to the potential impact of the application on the Mercure Hotel.
- SEBRA's main concern is cumulative effect of nuisance, noise and potential crime disorder from the combined various applications, especially to the residential areas surrounding the Paddington Square development, particularly in the evening hours.

Policy Position

Under Policy HRS1, applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the matters set out in Policy HRS1.

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

DECISION AND REASONS

Mr Kevin Jackaman, Senior Licensing Officer, presented the report of the Director of Public Protection and Licensing that was before the Sub-Committee. In so doing, he confirmed that the Applicant had applied for both live and recorded music until midnight, and not just live music, as stated in the report. Representations have been received by the Environmental Health Service (Mr Dave Nevitt) and the Metropolitan Police Service (PC Bryan Lewis). There have also been 4 representations from interested parties and in attendance today are Richard Brown and John Zamit. The Premises are situated within the Hyde Park ward and do not fall within any area of cumulative impact.

Mr Craig Baylis, solicitor acting on behalf of the applicant, stated that many of the issues considered by the Sub-Committee in the previous application were applicable to the current application. He confirmed that, as with the previous application, the Applicant wished to amend the application to reduce the Hours for the Sale of Alcohol, as follows –

- Sunday to Wednesday: 10:00 hours to 23:30 hours
- Thursday to Saturday: 10:00 hours to 00:30 hours

This would allow a “drinking up time” of half-an-hour before customers had to be off the Premises.

Mr Baylis then referred to the illustrations in the Additional Information Pack to describe the layout of “The Pavilion” building which was a stand-alone building sitting substantially in the public realm. Whilst there was a lot of external seating shown in the photo, he stated that the building had a limited amount of outdoor seating and it was proposed that drinking would be permitted in this area subject to numerous conditions which had been agreed with the Police, including Condition 29 which stated –

“The Premises shall develop and operate a Noise Management Policy and Dispersal Policy. Copies of these policies shall be made available upon the request of Police or authorised officer.”

Mr Baylis stated that these particular Premises were more bar oriented than the other Premises [within the Development]. However, there remained a requirement that there be a substantial food offering at these Premises. In response to questions by Members of the Sub-Committee,

- (g) Premises – the Premises is on the ground and first floor and partly on the roof terrace. The tenant will effectively take all 3 floors;
- (h) Capacity – There isn’t a set capacity yet. There is a condition for EHS to determine it when an operator comes forward

Mr David Nevitt, Environmental Health Officer, stated that the EHS had maintained a representation in respect of these applications for 3 reasons. Firstly, the hours sought are beyond core hours which are significantly beyond core. This will be a matter determined by the committee based on the merits of the application. Secondly, the concerns of the local residents also need addressing. Thirdly, so the Sub-Committee can consider the suitability of the operational management plan which is to be submitted by the applicant and whether it is suitable and sufficient in promoting the licensing objectives.

Mr Nevitt stated that, in his view, although this was a more modest application in terms of the applied-for Hours of Operation, the EHS iterated similar concerns to those expressed in relation to the first application. Particular issues included the use of the outside space and dispersal of customers late at night, and the hours permitted for the use of the outdoor seating.

[In response to Mr Nevitt’s concerns about the use of the outdoor tables, Mr Baylis referred the Sub-Committee to the Plan on Page 59 of the Additional Information Pack which illustrated the layout of the outdoor tables. Mr Baylis stated that the Applicant would be willing to accept a condition whereby the outdoor tables and chairs were rendered unusable by 23:00 hours].

In response to questions by Members of the Sub-Committee,

- (c) Outdoor seating – This area could accommodate up to 10 customers and it was anticipated that the capacity of the Premises within the Pavilion Building would be no more than up to 150;
- (d) Vertical drinking - Because this was more of a bar operation, there would be an option for “vertical drinking” on both the Ground and First Floor Premises, should the tenant wish to offer this type of operation;
- (e) Capacity - the suggested capacity of 150 for the Premises excluded Members of Staff, the number of which would be dependent upon the type of operation of the Premises. However, it was proposed that there should be a Premises Licence condition requiring that table service be available in which case it was probable that there would be a likely requirement for a minimum of 10 Members of Staff; and,
- (f) Off Sales - There would be no Off Sales of Alcohol and only those customers seated outside would be permitted to drink outside the Premises.

PC Bryan Lewis, Metropolitan Police Service, stated that, as with the previous application, the MPS had maintained its representations due to there being insufficient Premises Licence conditions. As the Applicant had now agreed to the Premises Licence conditions proposed by the Police, there were only a few points he wished to make in relation to this application viz.

- (a) The operations Management Plan (OPM) should refer to the conduct of patrons in the rooftop areas; and
- (b) The outdoor seated area should be covered by CCTV.

Mr Richard Brown, speaking on behalf of SEBRA and PWMVS, stated that the comments he had made on the previous application also applied to the present application. However, there were a number of specific points pertaining to this particular application given the different style of operation proposed for these premises vis-à-vis the previous application.

- (a) The proposed hours remained beyond the Council’s Core Hours which raised a particular concern as it was proposed that the Premises would operate primarily as a bar.
- (b) The proposal for live and recorded music presented a different proposition in terms of licensable activities when considering live and recorded music in a vertical drinking bar as opposed to a bar where customers were seated listening to background music.
- (c) As vertical drinking would be permitted at these Premises, capacity was a key issue should the Premises Licence application be granted. Also, it would be unusual for Westminster City Council to permit vertical drinking Premises to operate until 01:00 hours, notwithstanding that the Premises were not located within a stress area.
- (d) As with the previous application, the lack of certainty [as to how it was intended that the various Premises would operate], raised the question of whether the Sub-Committee could be reasonably sure, on the balance of

probabilities, that granting the application, as submitted, would promote the Licensing Objectives.

- (e) It was the view of SEBRA and PWMVS that, without more information, the Sub-Committee could not be sure that granting the application, as it stood, would promote the Licensing Objectives. It may be that, when Operators applied for a variation to the Premises Licences, the Sub-Committee might be satisfied the Operators could operate the various Premises until 03:00 hours and promote the Licensing Objectives.
- (f) Regarding the suggested capacity of 150 for these Premises, if this was agreed, it would be necessary to amend the relevant proposed condition to reflect this as a maximum capacity as the Plans of the Premises on Page 41 of the Agenda Pack suggested a proposed total number of covers of 214 for these Premises.
- (g) Regarding Off Sales, as it was proposed that there would be no Off Sales, except to customers seated outside the Premises, it would be necessary to impose a condition similar to that provided for in MC66 which stated –

“... customers are permitted to take from the Premises part consumed and re-sealed bottles....”.

In conclusion, Mr Brown stated that the general points made on behalf of SEBRA and PWMVS in relation to the previous application also applied to this application i.e., that the hours of operation should be restricted to the Council's Core Hours, and that it was for the Premises Licence Holders to seek a variation to the Premises Licences, if granted, to extend the Hours of Operation, if so desired.

Mr John Zamit, Chairman of SEBRA, stated he was concerned that there was no proposed “Last Entry” condition on the current Premises Licence application that would prevent customers from seeking last-minute entry to these Premises after other venues had closed, notwithstanding that there would be door staff supervising entry to the Premises.

It was his view that it would not be unreasonable to impose a condition on the Premises Licence stating there would be no entry to the Premises, say one hour or half-an-hour, before the Terminal Hour for the Sale of Alcohol.

Regarding Off Sales, he agreed there should be no Off Sales except for those to customers who had already purchased alcohol and who wished to take part consumed resealed bottles of alcohol with them when they left the Premises.

[In response to a question by the Chairman, Mr Baylis stated he would not be prepared to accept a “Last Entry” condition as part of the current application].

Mr Zamit regretted that there had been no consultation with Residents' Associations prior to today's hearing when such issues could have been discussed, including Refuse Collections proposals which, he noted, had been excluded from today's considerations due to the lack of detail in the Operations Management Plan (OMP).

Conclusion

The Sub-Committee noted that representations were received from the Metropolitan Police Service, Environmental Health Service, Paddington Waterways & Maida Vale Society, Mercure Hotel, Paddington Now and the South East Bayswater Residents' Association.

The Sub-Committee has a duty to consider the application on its individual merits and took into account all of the committee papers, submissions made by the Applicant and all other parties, and the oral evidence given by those parties in attendance during the hearing in its determination of the matter.

The Sub-Committee noted that 6 similar applications to be operated as restaurants went before a Licensing Sub-Committee on the 19 August 2021 in respect of the same development site. These applications were not considered binding on the Committee's overall decision making but were nevertheless helpful in ascertaining the background history to each application and when looking at matters.

The Sub-Committee noted that what had been applied for by the Applicant in respect of this application was effectively a template for a premises licence due to many unknowns because tenants had yet to be found for the Premises. It was acknowledged and accepted that this would be subject to change at some stage in the future by a new operator most likely through a variation application process.

The Sub-Committee noted that the Applicant had not engaged with the South East Bayswater Residents' Association (SEBRA) and took a dim view of this without being too critical. Whilst there may have been very little to consult upon the Sub-Committee considered it was however, incumbent upon the Applicant to have engaged with all relevant stakeholders as a matter of good practice particularly with such a large-scale development. SEBRA holds a key function within the local area as an active resident's association and its views need to be properly considered as well as those other parties who also objected to the application.

It was apparent to the Sub-Committee during the hearing that there were still many contentious unresolved issues and if the Applicant had engaged right from the outset this may have allayed some of the fears SEBRA had displayed towards the application and may have assisted the negotiation process and the matters raised at the hearing. The Sub-Committee considers it vital for the Applicant to foster a fruitful and meaningful dialogue going forward with SEBRA especially as the applications are likely to be revisited in a different guise once operators have been found.

The Sub-Committee noted that the Applicant was granted planning permission for the development site on the 29 March 2019. Whilst the Committee recognises that Planning and Licensing are entirely two distinct functions with differing aims, objectives and outcomes there is sometimes a degree of overlap. It was decided that a similar condition should be imposed on the Premises Licence whereby the practical workings of Conditions 34-37 on the Planning Consent are translated into a similar condition on the Premises Licence in so far as they relate specifically to licensing thereby requiring the Applicant to comply with matters such as dispersal,

operational and servicing management plans together with a public realm strategy to ensure the promotion of the licensing objectives.

In relation to the hours sought, the Sub-Committee had to consider what was appropriate and proportionate from the evidence before it. Given the Premises intended to operate as a form of bar, with vertical drinking elements, in this instance the Sub-Committee decided it was appropriate and proportionate to grant core hours for the licensable activities applied for. The Sub-Committee agreed with SEBRA that there was insufficient information provided to conclude that, on the balance of probabilities, the hours sought would promote the licensing objectives if granted. The Sub-Committee were conscious of the submissions made by the applicant in relation to why there was limited evidence but considered it appropriate to grant core hours in this case.

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 for Late Night Refreshment (Indoors)** Monday to Thursday 23:00 to 23:30 hours Friday to Saturday 23:00 to 00:00 hours Sunday N/A
2. To grant permission for **Live Music, Recorded Music (Indoors and Outdoors)** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 00:00 hours Sunday 09:00 to 22:30 hours
3. To grant permission for the **Sale by Retail of Alcohol (Indoors)** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 00:00 hours Sunday 09:00 to 22:30 hours
4. To grant permission for the **Opening Hours of the Premises:** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 00:00 hours Sunday 09:00 to 22:30 hours
5. To grant permission for Seasonal Variations: Sundays immediately prior to a bank holiday: 09:00 to 00:00 hours.
6. That the Licence is subject to any relevant mandatory conditions.
7. That the Licence is subject to the following additional conditions and Informative imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing

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 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.

9. A staff member from the premises who is conversant with the operation of the CCTV 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.
10. Signs will be located at the exits to the building to remind occupants that they should ensure that local residents are not disturbed by any licensable activity at the premises.
11. Signs will be provided reminding occupants that alcohol should only be supplied to persons over the age of 18.
12. The number of persons permitted in the licensed areas of the premises at any one time shall not exceed (x persons) excluding staff.
13. 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.
14. 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.
15. 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.
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. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system, searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
17. The Premises Licence Holder shall ensure that table service is to be available at all times.

18. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
19. On Thursdays to Saturdays after 21.00 there shall be a minimum of 1 SIA door supervisor stationed at the ground floor entrance to the restaurant/terrace lifts and for the rest of the week the need for SIA door staff shall be risk assessed by management of the premises licence holder.
20. All door supervisors will correctly display their SIA licence when on duty at the premises.
21. All SIA door staff on duty at premises shall be equipped with Body Worn Video, capable of recording audio and video in any light condition as per the minimum requirements of the Westminster Police Licensing Team. 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. BWV must be activated at an early stage during any incident involving conflict.
22. Patrons shall be greeted by a member of the staff at the reception areas on the 17th floors (as marked on the plans submitted) before being directed to the relevant area of the premises.
23. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as The Terrace areas.
24. In the event that an assault is committed on the premises (or appears to have been committed) the management, on notification of such assault or apparent assault, will immediately ensure that:
 - a. The police (and, where appropriate, the London Ambulance Service) are called without delay.
 - b. All reasonably practicable efforts are taken to detain any suspect(s) pending the arrival of police.
 - c. All reasonable practicable efforts are taken to preserve the crime scene so as to enable a full forensic investigation to be carried out by the police, unless otherwise notified by them.
 - d. Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
25. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
26. The supply of alcohol shall be by waiter or waitress service or to customers seated at the bar. No more than 25% of the available floor space in the internal bar area, nor more than 50% of the external terrace areas shall be available for vertical drinking.

27. The Premises Licence Holder shall at all times comply with policies relating to dispersal, an operational management plan, servicing plan and public realm strategy as shall be amended from time to time. Such copies of these documents shall be made readily available to the Responsible Authorities upon request.
28. No licensable activities shall take place 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.
29. A direct telephone number for the Manager at the Premises shall be publicly available at all times the premises is open. This telephone number is to be made available for residents and businesses in the vicinity.
30. The Premises Licence Holder shall ensure that there is no dedicated dance floor at the Premises.
31. There shall be no admittance to the Premises by patrons after 23:00 hours.
32. 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.

INFORMATIVE

33. **The Premises Licence Holder is strongly encouraged to consult with SEBRA regarding the various aspects of conditions 34-37 of the Planning Consent dated 29 March 2019. This is to ensure that SEBRA are fully involved in the process and can voice their views notwithstanding Condition 27 imposed on the Premises Licence**
34. **The Premises Licence Holder is strongly encouraged for all members of staff to undertake online Counter-Terrorism training with close consultation with the Metropolitan Police Service who can offer advice and assistance where necessary.**
35. **The Premises licence holder is strongly encouraged to engage with SEBRA, residents and businesses to facilitate regular meetings to discuss issues directly affecting them regarding the running and management of the Premises including any issues specifically connected to public nuisance.**
36. **The Sub-Committee noted that the Premises is to be known as the Pavilion Bar.**

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

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

**The Licensing Sub-Committee
26 August 2021**

