



**CITY OF WESTMINSTER**

# **MINUTES**

## **Licensing Sub-Committee (3)**

### **MINUTES OF PROCEEDINGS**

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 27th January, 2022**, This is a virtual Teams meeting..

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

**Also Present:** Councillors

**Apologies for Absence:**

**1. MEMBERSHIP**

**THERE WERE NO CHANGES TO THE MEMBERSHIP.**

**2. DECLARATIONS OF INTEREST**

**THERE WERE NO DECLARATIONS OF INTEREST.**

### **APPLICATIONS**

1. 18-22 FINCHLEY ROAD, NW8 6EB

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

**Thursday 27<sup>th</sup> January 2022**

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

Officer Support: Legal Adviser: Vivienne Walker  
Policy Officer: Kerry Simpkin  
Committee Officer: Sarah Craddock  
Presenting Officer: Roxsana Haq

**Application for a Variation of Premises Licence - 18-22 Finchley Road  
London NW8 6EB – 21/06196/LIPV**

**FULL DECISION**

**Premises**

18-22 Finchley Road  
London NW8 6EB

**Applicant**

Quick Commerce Limited  
Represented by Philip Kolvin QC, Robert Botkai, Winckworth Sherwood, (Agent),  
Joseph Falter (Applicant Company) Joseph Winter (Applicant Company) Jamie  
Stephenson (Applicant Company) and Adrian Studd (Consultant).

**Ward**

Abbey Road

**Cumulative Impact**

N/A

**Special Consideration Zone**

N/A

## **The Applicant wishes to vary the licence as follows:**

To vary the hours for the Sale by Retail of Alcohol for consumption off the premises from Monday to Saturday 08:00 to 23:00 and Sunday 09:00 to 22:30 to Monday to Sunday 00:00 to 00:00.

## **Representations Received**

- Environmental Health Service (Maxwell Koduah)
- Metropolitan Police Service (PC Reaz Guerra)
- Nine Interested Parties.

## **Issues raised by Objectors**

Environmental Health Service stated:

- The hours requested to supply alcohol may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.

The Metropolitan Police Service stated:

- If granted the application would undermine the Licensing Objectives.
- The hours sought exceed Westminster's Core Hours Policy and there is insufficient detail contained within the operating schedule to promote the licensing objectives.

The local residents stated:

- This once peaceful and safe surrounding of the neighbourhood would be completely destroyed if this would go ahead. With the granting of licence, this will lead to the attraction of frequent opportunistic crime to come to the surrounding area.
- There are two schools with several hundred high school students in the immediate neighbourhood to the subject premises. Students could be tempted to access alcoholic drinks from the premises to the detriment of societal peace in St John's Wood.
- This will add to traffic congestion in the area and deteriorate air quality. It will increase the risk of accidents. The area is residential with small children everywhere.
- Activity of alcohol sales and the possible noise involved throughout the night could be intolerable for myself and my neighbours, trying to sleep with a window or two open, and accustomed to a peaceful living. The potential for drinking in this area especially during the evening and night is horrific. It must not be allowed.
- Core licensing hours should not be extended under any circumstances as this will also create a precedent elsewhere in St John's Wood.
- This will be a huge disturbance to the neighbourhood.
- The establishment will become a hang out and will cause loitering and noise.

- The application would undermine the licensing objectives, in so far as they relate to the prevention of public nuisance and the prevention of crime and disorder.

### **Summary of the Application**

The Committee has determined an application for a variation of a Premises Licence under the Licensing Act 2003 (“The Act”). The Premises stock convenience goods including alcohol for packaging and delivery to fulfil customers’ orders made online or via a app. The Premises are situated within the Abbey Ward but not in a Cumulative Impact Zone or a Special Consideration Zone. The Premises have the benefit of a Premises Licence (21/01568/LIPN) since May 2021. There is a resident count of 119.

### **Policy Considerations**

**HRS1** - Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy. 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 following:

The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.

**DC1** - Applications for a delivery centre outside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the Council’s Core Hours Policy HRS1.
3. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.
4. The premises are not located in a predominantly residential area, and
5. The application and operation of the venue meeting the definition of a delivery centre in Clause D.

### **SUBMISSIONS AND REASONS**

Ms Haq, Senior Licensing Officer summarised the application set out in the report before the Sub-Committee. She explained that the application was for a variation to the Premises licence to vary the hours for the Sale by Retail of Alcohol for consumption off the premises from Monday to Saturday 08:00 to 23:00 and Sunday 09:00 to 22:30 to Monday to Sunday 00:00 to 00:00. She advised that representations had been received from the Environmental Health Service, the Metropolitan Police Service and nine Interested Parties. She further advised that the Premises were situated in the Abbey Road ward but did not fall within a cumulative

impact or special consideration zone. She confirmed that additional submissions had been received from the applicant which had been circulated to all the relevant parties before the Sub-Committee hearing.

Mr Kolvin, Counsel, representing the Applicant, outlined the application before the Sub-Committee. He advised that the Premises had been operating without harm to the Licensing Objections since May 2021 when the Licensing Sub-Committee had kindly granted the Premises a Premises Licence restricted to Core Hours. He outlined that during the past eight months the Premises had delivered products including alcohol to customers within the local neighbourhood for 15 hours per day and had delivered products including alcohol within the local neighbourhood 24/7 from its licensed facilities elsewhere in London.

Mr Kolvin referred to the Council's new DC1 Licensing Policy which was crafted in response to the emergence of the home delivery sector and advised that applications for a delivery centre outside the West End Cumulative Impact Zone would generally be granted subject to the various criteria within the new Policy. He outlined that his client complied with all the criteria within the new policy, that the Premises already operated 24 hours a day and that granting this variation would allow alcohol to be picked, packed and delivered from the Finchley Road Premises rather than from its other stores after Core Hours. He emphasised that this would bring the night-time operation under the direct control of Westminster City Council's licensing regime.

Mr Kolvin highlighted:

- His client had conducted an exhaustive search for a suitable Premises site which was large enough to contain stock, accommodate staff, including staffing facilities such as WCC facilities for its riders, have off road parking, was situated away from a highly residential area and enabled the company to promote the licensing objectives. He advised that his client believed there was no other site in Westminster with all these qualities.
- His client was a responsible and professional operator with highly experienced individuals working at the Premises. Mr Kolvin explained that customers could not attend the Premises and that everything was delivered by electric vehicles. He advised that all drivers were properly trained and were employed directly by the company which meant that his client had direct control over the whole operation and was not reliant on third party drivers. He added that all deliveries were made to homes or places of work (they were never made to open spaces), and age verification was strictly enforced. He highlighted drivers were always informed when they were carrying age restricted products and packages were clearly marked 'Challenge 25' which drivers were required to observe strictly on pain of dismissal.
- His client had not received any detrimental submissions from any of the Responsible Authorities or Interested Parties in the eight and half months of operation and no complaints had been received regarding public nuisance. Six of the objections had been made by residents who considered that the Premises were going to operate as a 24-hour shop. Mr Kolvin confirmed that this was not the case.

- The Premise Licence already contained a comprehensive list of conditions which were attached at pages 22 and 23 of the report however his client was content to add two more conditions to make it clear that the public could not attend the Premises and that periodic contact with the various local resident associations would be maintained. He highlighted that no additional conditions had been suggested by the Responsible Authorities.
- His client was already complying and promoting the licencing objectives and there had been no submissions made to the contrary. Mr Kolvin outlined that many operators were sending alcohol into Westminster 24/7 and suggested that it would be preferable that such sales of alcohol be made by a responsible operator which was subject to Westminster's licenced conditions and licensing policies.
- The operation of a delivery Premises that had been established in a quiet and narrow residential street (Clifton Hill) which had caused serious nuisance to local residents and had consequently been refused a Premises Licence. He emphasised that this highlighted the need to pick the correct location for such an operation. He further highlighted that the Responsible Authorities had not provided any information in support of their representations.
- His client currently operated 24 hours a day from Premises situated in Clerkenwell, East Finchley and Notting Hill. He advised that allowing the Finchley Road Premises to also operate 24 hours a day would mean the distance travelled by drivers would be shorter enabling the business to use its human resources more effectively.
- The granting of this application would not set a precedent because there was no such thing as precedent in licence as each case was determined on its own merits. He added that Westminster had also created a detailed policy for such applications and the Licensing Sub-Committee would have to be satisfied that each applicant could comply with the criteria and promote the licencing objectives. He highlighted that the Premises Licence contained a long list of conditions which promoted the licensing objectives and that his client had also put in place in house systems to protect its staff and the public.

In response to questions from the Sub-Committee, Mr Kolvin advised that the Council's Core Hours Policy was always directed towards Premises where customers were attending the Premises and where queuing, clogging up the pavements and leaving the Premises late at night had the likely effect of causing noise nuisance and harm to public safety in a cumulative impact zone. Mr Kolvin further advised that his client had demonstrated that he could operate beyond core hours without causing harm to the Licensing Objectives thorough the operation of the other sites in London. Mr Kolvin outlined how Challenge 25 was implemented through an App which informed the driver that their delivery included alcohol and that proof of age needed to be requested from the customer. He added that the customer would also be informed that they needed to provide ID on delivery of their order and that if none was produced the alcohol would be removed and taken back to the depot. Mr Kolvin commented that there had been five such cases in Finchley

Road where alcohol had been returned because no customer had presented themselves to the driver. He emphasised that there had been no incidents where drivers had got into any difficulty enforcing challenge 25 and drivers had never encountered difficulties in refusing to hand over alcohol to intoxicated customers.

Mr Jamie Stevenson, representing the Applicant company, advised that there was an internal fleet of mechanics maintaining the e-bicycles. The Sub-Committee noted the huge advantages of directly employing drivers instead of hiring them from a third party.

Mr Maxwell Koduah, representing the Environmental Health Service (EHS), advised that the variation to this Premises Licence had been received on the 24 June 2021 which was only 42 days after the Licensing Sub-Committee had granted the Premises a new Premises Licence with Core Hours. Mr Koduah considered that the Applicant would not have had sufficient evidence to demonstrate the promotion of the Licensing Objectives at this time and in addition the current licensing policy to deal with such applications had only come into effect in October 2021.

Mr Koduah confirmed that there was already an extensive list of conditions attached to the Premise Licence which promoted the Licensing Objectives. However, he welcomed the two additional conditions offered by the Applicant that no public be allowed on the Premises and the undertaking to maintain relations with the local Resident Associations. He confirmed that no public nuisance complaints had been made against the Premises.

Mr Koduah highlighted that he had maintained his representation as the application was requesting hours well in excess of the Council's Core Hours Policy and therefore it was for the Sub-Committee to determine this application. He confirmed that the company had already been running a 24-hour operation from the Premises; the only difference was that that the deliveries containing alcohol were being packed and delivered by drivers elsewhere in one of their other sites.

PC Reaz Guerra, representing the Metropolitan Police Service (MPS), advised that the Police were maintaining their representation on the grounds of prevention of crime and disorder and protection of harm to children. He explained that the application was for an increase in hours for off sales of alcohol and that historically off licences in Westminster operated within Westminster's Core Hours Policy so that they were closed before most pubs, so the supply of alcohol was not readily available unless people had stocked up at home or gone on to a late hour's bar or nightclub. He outlined that there were generally additional controls and measures in place regarding the supply of alcohol to customers in late night bars/nightclubs such as trained staff to deal with intoxicated people and security staff to deal with any trouble. He emphasised that having access to alcohol 24 hours a day could lead to anti-social behaviour.

PC Guerra explained that a responsible operator had a duty of care to both their customers and staff which included the delivery riders who could become targets for robbery and therefore their safety compromised. He added that there was always potential for confrontation between the customer and driver and therefore it would be easier for the driver to make the sale of alcohol as opposed to deal with any confrontation.

PC Guerra commented that drunkenness at home brought all kinds of safeguarding concerns such as domestic violence and there would also nothing to stop people becoming noisy and disturbing their neighbours. He also added that it would be difficult for delivery staff to pick up and identify an intoxicated person or domestic issues on a person's doorstep.

PC Guerra highlighted that the Police considered that this operation could pose a serious risk to public safety and that the Core Hours policy had been introduced as a key preventative measure to protect the public. PC Guerra referred to the Licensing Sub-Committee's decision taken on the 13 May 2021 and read out:

'The Sub-Committee did consider that the Applicant to be responsible and that it was a well-run business but on balance the Sub-Committee agreed with the Police that there would be a real risk to the licensing objectives if a 24-hour Premises Licence were granted. The Sub-Committee noted that allowing 24 hours of off sales of alcohol would remove safeguards typically found from late night sales of alcohol. Furthermore, the Sub-Committee considered it likely that while riders were clearly well trained, the brief contact between riders and customers would make it more likely that inebriated customers could purchase alcohol. The Sub-Committee also considered that the business model may put riders at risk in the event that they sought to refuse an intoxicated customer. On this basis the Sub-Committee concluded that there were not exceptional reasons to grant the licence for off sales beyond core hours and to do so would undermine the licencing objectives.

PC Guerra emphasised that the concerns outlined above still existed and in conclusion requested that the Sub-Committee refuse this application and avoid setting an indefinite precedent for future applications.

In response to questions from the Sub-Committee regarding the applicant's assertion that he was already operating 24 hours a day at licensed 24-hour premises within Westminster without complaint or evidence of public nuisance, PC Guerra advised that one of the issues the Police had was establishing the link between off licences and the crime and disorder that takes place within Westminster. The Sub-Committee noted that the existing condition 15 stated that deliveries shall only be to a residential address or place of work so deliveries would not be made to schools.

Mr Kolvin advised that his client was operating 24/7 across London and there was no evidence that drivers were being placed at risk. He emphasised that London was a 24-hour city with Uber eats and Deliveroo being commonplace. Mr Stevenson advised that their drivers were extensively trained, and the training included general health and safety as well as lifting and handling and how to identify an individual who may be potentially intoxicated. Mr Stevenson then described the APP that was used to monitor operations 24/7 on a real time basis. He strongly confirmed that his company had never experienced any problems with customers and had no records of incidences where riders had been threatened or felt threatened. He emphasised that the company was already delivering in Westminster and granting this licence would reduce risk because local riders would get to know the customers/area as opposed to riders delivering orders from outside the borough. He confirmed that he would maintain dialogue with the various Resident Association beyond the 12-month period. Mr Kolvin advised that his client maintained good governance principles



which included employment practices, sustainability, health and safety and neighbourhood relations.

Mr Kerry Simpkin, Policy Adviser to the Sub-Committee, advised that the key considerations for the Sub-Committee was whether this application met and complied with the Council's Licensing policies as well as promoting the licensing objectives within the Council's Statement of Licencing Policy. He confirmed that all applications were determined on their individual merits. He advised that the Premises were situated outside of a cumulative impact or special consideration zone.

Mr Kolvin advised that the Sub-Committee must judge the application on the evidence before it today. He emphasised that he was not asking the Sub-Committee to grant this application as an exception to policy as the application fitted within the Council's new Licencing Policy DC1. He explained that this application should be granted because the applicant had proposed measures that would mitigate or eliminate any potential impact on the licensing objectives and residents even through the Premises would operate outside the Council's Core Hours Policy.

Mr Kolvin concluded that the Premises were situated in an exceptional location and operated exceptionally well. The new licensing policy made it clear that applications beyond core hours would be considered on their merits. He advised that his client was already delivering in the area without harm, as were lots of other operators, and that it would be preferable that his client operated under conditions set by Westminster City Council.

## **Conclusion**

The Sub-Committee considered the application on its individual merits. In reaching their decision, the Sub-Committee took into account all the committee papers, supplementary submissions made by the Applicant, and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee was satisfied that, in accordance with the Licensing Act 2003, Home Office Guidance and on the evidence before it, it was appropriate and proportionate, in all the circumstances, to **GRANT** the application.

In reaching its decision the Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would not undermine the licensing objectives.

The Committee in its determination noted that the Applicant has now operated in the locality for some months and there was no evidence of public nuisance or lack of public safety. The Applicant has clear procedures in which all delivery personnel, who are directly employed by the Applicant, are trained in order to promote the licensing objectives. There is also suitable provision within the premises for delivery personnel to wait without causing a public nuisance and all deliveries will be by non-motorised transport. It was also noted that the premises are in a suitable location and the Applicant satisfies the criteria of Policy DC1 of the Council's Statement of Licensing Policy.

The Committee noted that the Applicant had agreed two additional conditions as set out below in order to promote the licensing objectives.

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

1. To grant permission **to vary the hours for the Sale by Retail of Alcohol for consumption off the premises** from Monday to Saturday 08:00 to 23:00 and Sunday 09:00 to 22:30 to Monday to Sunday 00:00 to 00:00.
2. To add conditions 28 and 29 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.

**Conditions: On Current Licence - Mandatory:**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.

- 5(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 5(ii) For the purposes of the condition set out in paragraph 5(i) above -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) "permitted price" is the price found by applying the formula -
 
$$P = D + (D \times V)$$
 Where -
    - (i) P is the permitted price,
    - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
    - (i) the holder of the premises licence,
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 5(iii). Where the permitted price given by Paragraph 5(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Conditions consistent with the operating schedule**

6. The sale of alcohol from the premises shall be for delivery only by a delivery rider.

7. The premises shall install and maintain a comprehensive CCTV system as per the 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 the 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 are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
9. An incident log/register shall be maintained to record all incidents of crime and disorder occurring on delivery of products. This log/register will be available for inspection by a Police Officer or other authorised officer on request.
10. There shall be no signage or advertisement, or promotional material affixed to the outside of the premises that give any reference to the sale of alcohol taking place at the premises.
11. The premises licence holder will ensure that an age verification policy will apply whereby all delivery riders will be trained to ask any customer to whom alcohol is delivered, who appears to be under the age of 25 years to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.
12. All delivery riders shall receive training in age restricted sales.
  - Induction training must be completed and documented prior to the delivery of alcohol by the rider.
  - Refresher/reinforcement training must be completed and documented at intervals of no more than 6 months.
  - Training records will be available for inspection by a Police Officer or other authorised officer on request. Training records will be electronically stored by the licence holder for a period of 12 months.
13. A warning shall be displayed on the digital platform on which an order is placed informing customers that they must be aged 18 or over to make a purchase of alcohol and notifying customers that the rider will carry out age verification on delivery. The customer will be required to declare that he or she is aged 18 or over. If the rider is not satisfied that the customer is aged 18 or over any alcohol in the order will be withheld.
14. All riders shall be trained to record refusals of sales of alcohol in a refusals log/register. The log/register will contain:
  - details of the time and date the refusal was made.
  - the identity of the rider refusing the sale.

- details of the alcohol the person attempted to purchase.  
This log/register will be available for inspection by a Police Officer or other authorised officer on request.

15. Delivery of alcohol shall be to a residential address or place of work.
16. Riders will be permitted to collect orders and deliver by pedal bike, electric bike (or other electric vehicle) only.
17. Riders will not be permitted to smoke in the immediate vicinity of the premises.
18. Riders will not be permitted to congregate in the immediate vicinity of the premises.
19. Riders will be instructed not to loiter in the vicinity of residential premises.
20. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
21. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
22. Prominent, clear and legible notices must be displayed at all exits requesting staff and couriers to respect the needs of local residents and to leave the premises and the area quietly.
23. 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.
24. The premises licence holder shall not sell super-strength beer, lager, cider or spirit mixtures with an alcohol content over 5.5% ABV (alcohol by volume) save for products agreed (email will suffice) with the Police. This restriction shall not apply in respect of the specialist branded, premium priced products for example craft ales, local or microbrewery specialist products, boxed gifts or national celebratory/commemorative beer, lager or cider.
25. All delivery riders will be employed directly by the licence holder or a group company of the licence holder.
26. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
27. Deliveries to the premises shall only take place between 07:00 and 23:00 hours save that this restriction does not apply to deliveries of bread and milk.
28. There shall be no access to the public for the purchase of alcohol or other items at any time.

29. The licence holder shall make contact with a representative of the St John's Wood Society and Balmoral Court 20 Queens Terrace Residents Association Limited every 3 months for a period of 12 months from 28 January 2022 to check if any residents have had reason to complain about the licence holder's business operation at the premises.

**INFORMATIVE**

30. The Premises Licence Holder is encouraged to have continuous dialogue with the local residents to ensure regular checks to ascertain if any residents have reasons to complain about the operation of the premises.

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

**This Decision takes immediate effect.**

**The Licensing Sub-Committee  
27<sup>th</sup> January 2022.**

2. HYDE PARK, SERPENTINE ROAD, W2 2UH

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

**Thursday 27 January 2022**

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

Officer Support: Legal Adviser: Vivienne Walker  
Policy Officer: Kerry Simpkin  
Committee Officer: Sarah Craddock  
Presenting Officer: Roxsana Haq

Present: Sarah Le Fevre, Counsel and Jack Spiegler (Thomas and Thomas) (Representing the Royal Parks, The Applicant), Alun Mainwaring (Events, Royal Parks), Holly Baird (Events, Royal Parks), Steve Edwards (DPS, Royal Parks) and Jim King (CEO, Royal Parks).

Mr Anil Drayan – Environmental Health Services  
PC Reaz Guerra – Metropolitan Police Service  
Mr Richard Brown, Solicitor, Westminster Citizens Advice Bureau, representing two local residents.  
Mr Mike Dunn, local resident

**Application for a New Premises Licence – Hyde Park Serpentine Road, W2 2UH – 21/11135/LIPN**

**FULL DECISION**

**Premises**

Hyde Park  
Serpentine Road  
London W2 2UH

**Applicant**

The Royal Parks Limited

**Ward**

Knightsbridge and Belgravia

**Cumulative Impact Zone**

None

**Special Consideration Zone**

None

### **Licensable Activities and Hours applied for**

#### **Plays, Live Music, Recorded Music, Performance of Dance and anything of a similar description (Indoors and Outdoors)**

Monday to Sunday 10:00 to 22:30

Seasonal Variations/Non-standard timings: None

#### **Films (Indoors and Outdoors)**

Monday to Thursday 10:00 to 23:30

Friday to Saturday 10:00 to 00:00

Sunday 10:00 to 22:30

Seasonal Variations/Non-standard timings: Sundays before Bank Holiday

Mondays 10:00 to 00:00

#### **Sale by Retail of Alcohol (On Sales)**

Monday to Sunday 12:00 to 22:30

Seasonal Variations/Non-standard timings: None

#### **Opening Hours of the Premises**

Monday to Sunday 05:00 to 00:00

Seasonal Variations/Non-standard timings: None

#### **Representations Received**

- Metropolitan Police Service (PC Reaz Guerra)
- Environmental Health Service (Anil Drayan)
- Six local residents (opposing)
- Friends of Hyde Park & Kensington Gardens (Supporter)
- Hyde Park Estate Association (Supporter)

#### **Issues raised by Objectors**

Representations were received from Environmental Health Service (EHS), Metropolitan Police Service (MPS), six local residents. The thrust of those objection cited public safety, public nuisance and crime and disorder.

#### **EHS stated:**

- The provision and hours proposed for the Supply of Alcohol may result in an increase in Public Nuisance in the area and may impact on Public Safety.



- The provision and hours proposed for the Regulated Entertainments may result in an increase in Public Nuisance in the area and may impact on Public Safety.

**MPS stated:**

It is our belief that if granted the application would undermine the Licensing Objectives. There is insufficient detail within the operating schedule to promote the Licensing Objectives.

**Local Residents stated:**

- For us living with young kids not far from the Serpentine south gallery pavilion, the music is often so loud that it disturbs their sleep. So, time limit and DB limit welcome please.
- It is simply not possible to hold music events for tens of thousands of attendees without creating some nuisance. This nuisance will result from the noise of the performances, the egress of attendees en masse, the disruption caused by road closures and the Police helicopter monitoring the egress.
- We already suffer a lot from the noise nuisance of the concerts, the anti-social nuisance of large numbers egressing after the concerts, disruption to local traffic flow with the closure of Park Lane and the Police helicopter monitoring the situation at the end of concerts.
- There should be a maximum number of days mentioned so that local residents are aware of how much noise and other possible nuisance to expect. It should not be left open-ended.

**Issues raised by the Supporters**

The application has been supported by the Friends of Hyde Park and Kensington Gardens and Hyde Park Estate Association. The Supporters stated:

We support the application for the following reasons:

- The advantage of having less concert site to rig and derig, and one less mass movement of vehicles through the park to perform this operation for a September festival is most welcome.
- We understand that this year, as in every year, adjustments are being made to sound systems and stage angles. New technology has helped this to improve constantly.

**Summary of the Application**

The Committee has determined an application for a new Premises Licence under the Licensing Act 2003 (“The Act”). The Premises are currently licensed under reference 19/15397/LIPDPS which permits the sale of alcohol and regulated entertainment. The application proposes a new Premises Licence to replace the current Premises Licence, which will be surrendered as a condition of the new licence being granted. The proposed new Licence will be on the same terms as the existing Premises Licence. However, the applicant is seeking to amend condition 28 relating to event scheduling. The Premises are within the Knightsbridge and

Belgravia Ward but not located in any area of Cumulative Impact. There is a resident count of 725.

## **Policy Considerations**

### **HRS1**

- Applications within the core hours will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.
- 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.

### **CCSOS1(A)**

- Applications outside the West End Cumulative Zones will generally be granted subject to:
  1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
  2. The hours for licensable activities are within the Council's Core Hours Policy HRS1.

## **SUBMISSIONS AND REASONS**

Ms Haq, Senior Licensing Officer summarised the application set out in the report before the Sub-Committee. She explained that the application was for a new Premises Licence which was on the same terms as the existing Premises Licence with the exception that the Applicant was seeking to amend condition 28 relating to event scheduling. She advised that representations had been received from the Environmental Health Service, the Metropolitan Police Service and six local residents which were opposed to the application and from the Friends of Hyde Park and Kensington Gardens and Hyde Park Estate Association who were in support of the application. She confirmed that the Premises were situated in the Knightsbridge and Belgravia Ward but did not fall within a cumulative impact or special consideration zone.

Ms Sarah Le Fevre, Counsel, for the Applicant, outlined the application before the Sub-Committee. She advised that the musical events held in Hyde Park were of national significance and provided an essential stream of income for the Royal Parks, which allowed them to maintain the parks to a high standard against the backdrop of declining Government funding. She explained that the application for a new Premises Licence would, if granted, differ from the existing Premises Licence in relation to a single condition: the existing Condition 28 which related to the scheduling of events, and that the new Premise Licence would permit the hosting of all 9 Major Events where attendance of more than 20,000 persons was permitted within a period of 21 days. She confirmed that only seven such events were permitted to take place currently within that 21-day window and that no other variation of the existing permissions or restrictions or requirements was sought.

Ms Le Fevre explained that this application was sought because of the decision of the BBC to move the Proms away from Hyde Park which had historically accounted for two of the larger Major Events in the Park's calendar. Accordingly, the Royal Parks had considered its own corporate objectives, Westminster Council's published vision for the Borough and the Council's licensing objectives and had decided to offer these two event slots to its other major event operator, subject to the decision of the Licensing Sub-Committee, to promote key shared economic, environmental, community and cultural objectives.

Ms Le Fevre confirmed that the Applicant was not requesting an increase in the number of events held within the calendar year and that AEG would operate all nine events within a period of 21 days, rather than operate an additional two events at a different time of the year. She outlined the benefits of this new rescheduling:

- **Economic** – the use of an established operator with expertise in running Major Events whilst promoting the licensing objectives and the continuation of essential funding for the parks as well as the wider Westminster economy.
- **Environmental** - a single build and break period and halving traffic movements and reducing fuel emissions.
- **Cultural and Community** – a doubling of the period of free entry to midweek summer activities during the event period and the availability of the entire Parade Ground to the public for an interrupted period between the end of the event period in high summer and the set up for Winter Wonderland.

Ms Le Fevre advised that since the Licensing Review Hearing of the Premises Licence the operator AEG had demonstrably improved the management of the events held in Hyde Park as well as reduce their environmental impact which was reflected in the very substantial reduction of complaints received from residents. She referred to the residents' concern that if this application were granted there would be nothing to stop a consecutive series of nine concerts taking place and emphasised that this was not the operator's intention. Ms Le Fevre concluded that there was support for this application from the Friends of Hyde Park and Kensington Gardens and Hyde Park Estate Association.

In response to questions from the Sub-Committee, Ms Le Fevre advised that the Royal Parks would be willing to have an additional clause that nine consecutive concerts could not be held in Hyde Park if the Sub-Committee considered it necessary. The Sub-Committee considered that the existing Premises Licence was already very tightly controlled by way of conditions and that the Environmental Health Service had proposed three additional conditions (conditions 31, 32 and 39 attached in the report) which set out the involvement of the Responsible Authorities prior to events.

Mr Drayan, representing the Environmental Health Service (EHS), advised that the EHS had maintained their representation as they considered that it was for the Licensing Sub-Committee to determine this application. Mr Drayan confirmed that EHS was otherwise satisfied with the application. He advised that holding all nine events within 21 days, instead of at different times of the year, would be beneficial for those residents affected by the events because there would be less impact on the environment and a reduction in building noise with only one infrastructure being used. He added that even though environmental issues were not part of the

Licensing Act it was important for the Sub-Committee and residents to note the importance of sustainability, reducing wastage and the environmental impact within Westminster.

Mr Drayan advised of the location and operation of the various noise/sound limiters situated outside of Hyde Park during musical events. He added that atmospheric conditions could cause noise nuisance for certain residents one year and not in following years. He confirmed that all noise limiting equipment was monitored directly by the EHS and that the conditions placed on the Premises Licence after the Licensing Review Hearing had considerably reduced the number of noise complaints. He further confirmed that the operator also monitored noise levels and together the operator and the EHS worked to ensure the noise level remained within the level set on the Premises Licence.

In response to questions from the Sub-Committee, Mr Drayan advised that there was detailed monitoring during rehearsals and that their records indicated that they had not received many, if any, complaints during rehearsal time. He outlined that all Responsible Authorities were included in the Event's Licensing Safety Advisory Groups and approved the Alcohol Management Plan prior to events being held. He added that Westminster's City Inspectors always attended events to see how the Alcohol Management Plan was being implemented and to ensure that each bar had its own Personal Licence Holder. He highlighted that all events were ticketed events only, entrance was closely monitored, the event area could support over 65,000 people safely and the Advisory Group always assessed how previous events had gone and any issues identified, such as alcohol misuse, was addressed and lessons learnt identified so they did not reoccur at future events. He explained that there had not been any significant issues with regards to alcohol misuse however on the rare occasion some people had caused issues leaving the site. He concluded by advising that the EHS were not afraid to act if the conditions of the Premise Licence were breached and highlighted the famous incident when Bruce Springsteen was switched off during an event in Hyde Park because of timing issues.

PC Guerra, representing the Metropolitan Police Service, advised that the Police had maintained their representation as they considered, similar to the Environmental Health Service, that it was for the Licensing Sub-Committee to determine this application. He advised that the changes sought did not overly concern the Police and that the modification to the existing Premises Licence allowed the events to take place in a single period. He further advised that from a Police's point of view there was no concern regarding having nine consecutive events as the events needed the same amount of Police resources whenever they were held. He emphasised that all events had an Alcohol Management Plan and that a Personal Licence Holder was present at each bar area during the whole event.

Mr Richard Brown, Solicitor representing the residents introduced Mr Mike Dunn, local resident, to the Sub-Committee. Mr Dunn advised that it was inevitable that events attended by thousands of people would cause all sorts of nuisance and disruption. He outlined that his main concerns were the noise from the event itself and the egress of large numbers of people which caused problems for both commercial enterprises and residents. He explained that, in his opinion, the right balance 'for all' had been reached during the Licensing Review Hearing in 2012 where conditions had been agreed by all parties, with the most important ones being

the limits to the number of attendees and condition 28 which limited the number of concerts in a 21-day period.

Mr Dunn advised that since 2012 there had always been six concerts in the summer made up of two blocks of three on successive weekends and two concerts in September. He further advised that to the best of his knowledge there had never been a programme of nine concerts and therefore he considered that the Royal Parks was adding one additional concert to their annual programme. He emphasised that he was very much against the removal of condition 28 which moved away from the traditional pattern of events. He explained that the parade ground within Hyde Park provided over 70% of the Royal Park's income and that these various events predominately affected residents living in Northwest Mayfair. He highlighted that the Royal Parks should spread events over all their parks rather than increasing the concentration in Hyde Park to the detriment of its neighbours in Northwest Mayfair. He concluded that he preferred to have events spread out during the year.

In response to the Applicant's submission to the application, Mr Dunn advised that the rehearsals were considerably worse than the event itself because of the testing noise/sound limits where residents received a pattern whereby excessive noise was created which then was gradually toned down until it met the allowed levels. Mr Dunn referred to the timings of the rehearsals which seemed to go on late into the evening. He acknowledged that the operation of these events had improved significantly, however, complaints were made by residents who were informed that the noise levels were within the permitted limits. He emphasised that the noise nuisance was terrible for the residents living very close to this part of Hyde Park.

Mr Brown advised that during the Licensing Review hearing the Environmental Health Service had advised that the purpose of including condition 28 was so events would be spread out so residents would be more willing to tolerate these events. Mr Drayan responded and advised that the reason the current condition existed on the Premises Licence was so that the Royal Parks could hold both the BBC Proms and the Summer Events. He added that as the Royal Parks no longer accommodated the BBC Proms it seemed reasonable to hold all major events during one period. He added that sustainability might not be part of the Licensing Act however it did form part of the Council's Licensing Policy.

Mr Brown advised that holding nine events over three successive weekends would be an intensification of events and requested that the balance was maintained by keeping the status quo. He referred to Section 4 of the Licensing Act which stated that 'authorities should exercise their functions with a view to promoting the licensing objectives' and that the Applicant's submissions, regarding economic, cultural and environmental, although important in a holistic way, were not licensing objectives. He advised the Sub-Committee that it must primarily take into the consideration the promotion of the licensing objectives when determining this application.

In response to questions from the Sub-Committee, EHS advised that if complaints were received during rehearsal, they immediately informed the operator. The Sub-Committee noted that condition 60 limited the hours of rehearsal and sound checking to between 10am and 8pm. Ms Le Fevre explained that there had always been nine events held annually in Hyde Park: eight were rolling events that occurred every year

and the ninth event was used to celebrate a particular occasion such as the Commonwealth Games or the Football World Cup. Mr Mainwaring, representing the Royal Parks, confirmed that nine events was set out in the Royal Parks General Strategy as the appropriate and maximum number of events to be held at Hyde Park. He further advised that its other Parks were also used to hold events, however, Hyde Park was the perfect place to hold the larger entertainment concerts.

Mr Brown advised that the wind always blew from the southwest in Britain which automatically meant that anyone living to the northeast of Hyde Park was inevitably affected by the noise from the concerts. He added that unfortunately there had been very little residential input into the current licence regarding noise nuisance and the decision taken that 75 decibels was reasonable, in his opinion, was incorrect. He further added that residents did complain about the noise nuisance, however, they got complaint fatigue when informed that the events were not breaching their conditions. He advised that the EHS was perfectly entitled to change their position, however, he had wanted to make the point that at the Licensing Review Hearing they had considered that it was beneficial to hold events in two separate slots. He again emphasised that the licensing objectives took priority over environmental factors.

Ms Le Fevre advised that the Applicant believed that this was a properly crafted and considered application and that it was supported by the Environmental Health Service, Metropolitan Police Service and two Resident Associations.

## **Conclusion**

The Sub-Committee considered the application on its individual merits. In reaching their decision, the Sub-Committee took into account all the committee papers, supplementary submissions made by the Applicant, and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee was satisfied that, in accordance with the Licensing Act 2003, Home Office Guidance and on the evidence before it, it was appropriate and proportionate, in all the circumstances, to **GRANT** the application.

In reaching its decision the Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would not undermine the licensing objectives.

The Sub-Committee in its determination noted that the Applicant had been operating successfully for years and that both the Environmental Health Service and Metropolitan Police Service were in favour of this New Premises Licence. The Sub-Committee noted that there would be a decrease in public nuisance and public restrictions to Hyde Park if all the events were held within one 21-day period. The Sub-Committee further noted that the Applicant had also agreed to the amended conditions as set out below in order to promote the licensing objectives.

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

1. To grant permission for **Plays, Live Music, Recorded Music, Performance of Dance and anything of a similar description (Indoors and Outdoors)** Monday to Sunday 10:00 to 22:30  
  
Seasonal Variations/Non-standard timings: None
2. To grant permission for **Films (Indoors and Outdoors)** Monday to Thursday 10:00 to 23:30 Friday to Saturday 10:00 to 00:00 Sunday 10:00 to 22:30 hours.  
  
Seasonal Variations/Non-standard timings: Sundays before Bank Holiday Mondays 10:00 to 00:00
3. To grant permission for the **Sale by Retail of Alcohol (On Sales)** Monday to Sunday 12:00 to 22:30 hours.  
  
Seasonal Variations/Non-standard timings: None
4. To grant permission for the **Hours the Premises are open to the Public** Monday to Sunday 05:00 to 00:00 hours  
  
Seasonal Variations/Non-standard timings: None
5. To grant permission to amend conditions 28, 31, 32 and 39 as specified below.
6. That the Licence is subject to any relevant mandatory conditions.

#### **Conditions consistent with the operating schedule**

11. Unless otherwise agreed with the City Council, the total number of people to be accommodated for the purposes of this Licence, in any event site at any one time shall not be more than 64,999 (excluding security, staff, performers and employees).
12. Save for unanticipated occurrences or emergencies, and with the agreement of relevant officer(s) of the Hyde Park Licensing & Safety Advisory Group ("LSAG"), the hours when the licensable activities will be carried out will be no later than the hours set out below:  
Regulated Entertainment: Monday to Sunday 10:00 to 22:30  
Exhibition of Films: Monday to Thursday 10:00 to 23:30 Friday to Saturday 10:00 to 00:00 Sunday 10:00 to 22:30 Sunday before Bank Holiday 10:00 to Midnight. Alcohol: Monday to Sunday 12:00 to 22:30
13. Risk assessments shall be produced for each event, and these shall be made available to the Environmental Health Consultation Team no less than 28 days before the event where practicable.
14. External organisers of events shall refer to the relevant Guides, copies of which have been deposited with the Licensing Authority.

15. External organisers shall be issued with an agreement for hire of the Park, or part thereof. This agreement shall include the conditions attached to the Premises Licence and, if relevant, those agreed as a result of meetings of the LSAG.
16. Save for events to which conditions 60 and 61 applies, the Licensee will take all reasonable steps to ensure that amplified music will not cause a nuisance in accordance with the sound management plan, the terms of which are to be updated from time-to-time that will help promote the licensing objectives.
17. Each operator selling alcohol shall have a personal licence holder on the premises save as agreed with the Licensing Safety Advisory Group ("LSAG") and in accordance with the Alcohol Management Plan.
18. When alcohol is sold at the event the following conditions shall apply to all bars, both for the public and in hospitality areas:
  - a) Unless otherwise agreed with LSAG bars will be closed at least 30 minutes before the event finish time.
  - b) Bars will not be permitted to run price promotions, happy hours or other promotions designed to encourage excessive drinking.
  - c) Unless otherwise agreed with LSAG drinks will not be sold or served in glass vessels or containers.
19. Unless otherwise agreed by the Police, alcohol will not be sold on more than 20 days in any calendar year. For each of the 20 days the Responsible Authorities must be given a minimum of 28 days' notice and the Metropolitan Police will have the right to veto the sale of alcohol at events provided they give notice of their veto no later than 7 days after being notified.
20. Drinks shall not be sold or served in glass vessels or containers or served in any measure greater than a pint, except in designated controlled areas - such as in VIP or Hospitality areas - as pre-agreed by the LSAG.
21. Substantial food and non-intoxicating beverages, including drinking water, shall be available throughout the permitted hours in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
22. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
23. All training records shall be made available to Police, officers of the Licensing Authority and Trading Standards upon request.
24. The premises shall at all times maintain and operate an age-restricted sales refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor. This refusal recording system shall be available upon request to Police, Licensing Authority staff and Trading Standards.



25. Unless otherwise agreed with the LSAG, reasonable prevention methods shall be undertaken to deter members of the public from bringing any alcohol into or removing any alcohol from the licensed area.
26. The number of locations where alcohol is sold at the event shall not exceed those indicated on the event plan approved by LSAG.
27. At all locations where alcohol is sold, the name and contact telephone number of the Designated Premises Supervisor shall be displayed in a prominent position on the premises, so that it is clearly visible. The named Personal Licence Holder for that location will also be displayed with their contact telephone number.

### **Conditions applicable to Major Events**

28. Unless the prior consent of the Environmental Health Consultation Team and Westminster City Council has been obtained, the premises may only hold Major Events where the number of persons attending the event (excluding security, staff, performers and employees) is between:
  - a) 5,000 - 19,999 on no more than 5 days per calendar year (which will be part of the existing Hyde Park events calendar - none will be staged as stand-alone events and the terminal hour will be 22:00 hours and 4 out of 5 of those events will take place within a 21-day rolling period)
  - b) 20,000 - 49,999 on no more than 2 days per calendar year
  - c) 50,000 - 64,999 on no more than 7 days per calendar yearA 'Major Event' is an event where:
  - a) The playing of live and/or recorded music and/or the showing of films or recorded images, as defined by the Licensing Act 2003 is the principal reason for attending the event; and
  - b) Where the number of persons attending the event (excluding security, staff, performers and employees) exceed 4,999.
29. Unless the prior consent of the Environmental Health Consultation Team has been obtained, the premises may hold Major Events on no more than three days in any calendar year where the showing of films or recorded images, as defined by the Act, is the principal reason for persons attending the Event.
30. Save for Events to which Condition 28 applies, licensable activities after 18:30 shall be restricted to no more than 25 days per annum and such activities shall cease no later than 22:00 with the exception of the showing of films where the hours above apply.
31. Any major events shall be notified to the Responsible Authorities and LSAG with a minimum 3 months' notice, unless otherwise agreed with the Environmental Health Consultation Team. Any member of the LSAG may request a meeting for such other events not included in the definition of Major Event.

32. i) The Hyde Park Licensing and Safety Planning Group (LSAG) shall be set up for major events and chaired by a representative of the Royal Parks. Meetings of the LSAG shall be held as often and be composed of as determined by the LSAG.
- ii) Membership of the LSAG shall consist of invited representatives of the following and any other appropriate and specialist advisor(s) as required by the chair of the LSAG:
- The Royal Parks
  - Designated event organiser (where the licensee is not the event organiser)
  - Westminster City Council (Environmental Health Consultation Team (EHCT) and Emergency Planning Team)
  - The Metropolitan Police Service
  - The London Ambulance Service
  - London Fire Brigade
  - Transport for London
- (iii) The operational use of this licence to meet the licensing objectives of the Licensing Act for the major events shall be agreed through the LSAG process. Prior to the event starting EHCT shall provide feedback to the Licensee that the event can proceed based on canvassing carried out of the members of the LSAG.
33. An advertised 'hotline' telephone number to the Licensee shall be available to local residents.
34. Any queue which forms outside the premises shall be stewarded at all times to ensure that minimal disturbance is caused.
35. Patrons shall be encouraged not to congregate outside the premises after the event has finished.
36. Promotional literature and tickets will contain information regarding public transport options and public conveniences and shall request persons to leave the area quietly.
37. One person must be nominated for each major event to act as safety co-ordinator, who is authorised to carry out all reasonable requests made by the LSAG or their authorised representative.
38. The LSAG or their authorised representative must be provided with the particulars of the nominated safety co-ordinator.
39. The Premises Licence Holder shall present a draft Event Management Plan to authorised officers at least 28 days before the first event day with a final version presented to the final meeting of the LSAG The Event Management Plan shall include but not limited to the following:
- (a) Covid 19 Statement (if appropriate);
  - (b) Access Management Plan;
  - (c) Adverse Weather Plan;
  - (d) Alcohol Management Plan;

- (e) Cancellation Procedure;
- (f) CCTV Plan;
- (g) Communications Plan;
- (h) Child & Vulnerable Adults Policy;
- (i) Crowd Management Plan (including Security and Stewarding Plan);
- (j) Egress Management Plan;
- (k) Emergency Evacuation procedures;
- (l) Event Control Statement of Intent;
- (m) Event Medical Plan;
- (n) Event Safety Plan including Risk Assessment;
- (o) Fire Safety Management Plan;
- (p) Ingress Management Plan;
- (q) Lighting Plan;
- (r) Noise Management Plan;
- (s) Public Liability Insurance;
- (t) Security and Crime Reduction Plan;
- (u) Site Plans;
- (v) Sustainability Statement;
- (w) Terms and Conditions of Entry;
- (x) Trader Food Management Plan;
- (y) Transport Assessment;
- (z) Waste Management Plan.

40. So far as is reasonably practicable the Event Organiser must ensure that the event is run in accordance with the Event Management Plan.
41. There shall be adequate means of control to ensure that only permitted numbers of persons gain access to the event site.
42. Adequate stewarding within the licensed area must be provided at all times during the licensed event.
43. Upon reasonable request, authorised enforcement officers of the Responsible Authorities: Environmental Health Consultation Team, Metropolitan Police Service and London Fire Brigade, must be provided with security passes for full and free access at all times to each and every part of the licensed area.
44. A communication system must be provided to ensure the effective operation of the site under both normal and emergency evacuation conditions. The Licensee must provide an adequate incident control centre and a rendezvous point for the Police and other emergency services.
45. Adequate rigid barriers or fences designed to adequately resist right-angle and parallel loads commensurate with probable crowd pressure must be provided around any stage and other location where it is necessary to limit crowd pressure in the interests of safety.
46. Details of all marquees, tented structures and temporary structures should be provided including emergency exits and signage, fire warning and firefighting equipment.

47. All fabric, including curtains and drapes used on stage for tents and marquees, or plastic and weather sheeting, shall be inherently or durably flame retardant to the relevant British Standards. Certificates of Compliance must be available upon request by the LSAG or their authorised representative.
48. Full structural design details and calculations of all and any structures to be erected within the licensed area, must be submitted to the Westminster City Council Building Control. A certificate from a competent person or engineer that a completed structure has been erected in accordance with the structural drawings and design specification must be available for inspection prior to a relevant structure being used during the licensed event.
49. Any moving flown equipment must contain a device or method whereby failure in the lifting system would not allow the load to fall. All hung scenery and equipment must be provided with a minimum of two securely fixed independent suspensions such that in the event of failure of one suspension the load will be safely sustained.
50. A sufficient number of easily identifiable, readily accessible receptacles for refuse must be provided, including provisions for concessions. Arrangements must be made for regular collection. Public areas must be kept clear of refuse and other combustible waste prior to, and so far, as is reasonably practicable, during the licensed event.
51. After any event any litter remaining will be collected and removed from the site as soon as physically possible, either overnight or starting daybreak the following day if it is considered impractical to collect the litter in darkness.
52. Regular fire patrols must be maintained at all times when the public are present in the licensed area to check for and guard against possible fire hazards. The area underneath the stage to be kept clear of flammable materials.
53. A schedule detailing types and locations of firefighting equipment must be submitted to the LSAG or their authorised representative as required.
54. Competent persons shall be employed to assess the electrical requirements at the event and the compatibility of the electricity supply with the equipment to be used. Appropriate safety devices (such as 30mA Residual Current Devices at Source) must be used for electrical apparatus, particularly for any electrical equipment exposed to adverse conditions or electrical equipment to be used in association with handheld devices (e.g. microphones). The competent person must make a certificate of inspection of the electrical installation available for inspection.
55. Emergency exits and entrances to the event area must be kept clear at all times and must be provided with clearly visible signage.
56. All parts of the licensed area intended to be used in the absence of adequate daylight and all essential safety signage shall be suitably illuminable. Details

of the locations and level of illumination must be submitted to the LSAG or their authorised representative.

57. Electrical generators, where used, must be:
  - (a) Suitably located clear of buildings, marquees and structures, and free from flammable materials, save for that in the generator tank;
  - (b) Enclosed to prevent unauthorised access;
  - (c) Able to provide power for the duration of the event;
  - (d) Back up electrical generators are to be provided to power essential communications, lighting and Safety systems in the event of primary generator failure, unless otherwise agreed by LSAG.
58. All spare fuel, including LPG, must be kept and stored safely in accordance with relevant Health and Safety legislation and suitable safety signage and firefighting equipment provided.
59. Unless otherwise agreed, details of any proposed use and storage of lasers, special effects, fireworks or pyrotechnics shall be presented to the LSAG or their authorised representative, and the Environmental Health Consultation Team 28 days in advance of the event.
60. The following noise conditions shall apply:
  - (a) A noise control consultant shall be appointed, who shall liaise between all parties including the Licence Holder, promoter, sound system supplier, sound engineer and the Environmental Health Consultation Team on all matters relating to noise control prior to the event.
  - (b) For the purposes of monitoring music noise levels during the event and sound check, the noise control consultant shall contact the Environmental Health Consultation Team and agree noise sensitive locations which are to be used to monitor compliance with conditions (d) and (e).
  - (c) A noise propagation test shall be undertaken in consultation with representative(s) of the Environmental Health Consultation Team prior to each Major Event in order to set appropriate control limits at the sound mixer position. The sound system shall be configured and operated in a similar manner as intended for the event. The sound source used for the test shall be similar in character to the music likely to be produced during the event.
  - (d) The control limits set at the mixer position shall be adequate to ensure that the Music Noise Level shall not at 1 metre from the façade of any noise sensitive premises exceed 75 dB(A) over a 5-minute period throughout the duration of the concert.
  - (e) Rehearsal and sound check times shall be limited between the hours of 10:00 and 20:00. Notification of the time(s) and duration of sound checks shall be provided to the Environmental Health Consultation Team at least 24 hours beforehand.
  - (f) The promoter, system supplier and all individual sound engineers shall be informed of the sound control limits and that any instructions from the noise control consultant regarding noise levels shall be implemented.
  - (g) A communications link should be provided to enable condition (f) above to be complied with and any numbers / radios shall be made available to the Environmental Health Consultation Team prior to the event starting.

- (h) The appointed noise control consultant shall continuously monitor noise levels at the sound mixer position and advise the sound engineer accordingly to ensure that the noise limits are not exceeded. The Environmental Health Consultation Team shall have access to the results of the noise monitoring at all times. The Environmental Health Consultation Team shall have access and facilities to enable them to carry out their own monitoring.
- (i) No members of the audience shall be allowed within 3 metres of any speakers.
- (j) The speakers must be located to the satisfaction of the Environmental Health Consultation Team.
- (k) Residential properties and the relevant amenity group(s) in the immediate vicinity of the Park will be contacted as soon as reasonably practicable (and in any event no later than 28 days) prior to any Major Event advising them of the times of the Event and any sound check or rehearsal times and giving them a telephone number to contact in the event that they have any complaints.
61. At Major Events with a capacity between 5,000 and 19,999 defined in condition 28(a) the music noise level shall not at 1 metre from the façade of any noise sensitive premises exceed 65dB(A) over a 5-minute period throughout the duration of the advertised event. To demonstrate this a suitable and sufficient noise management plan shall be provided to the Environmental Health Consultation Team at least 28 days prior to the event.
62. Adequate medical and first aid cover and facilities appropriate to the licensed event must be provided.
63. Adequate drinking water points in suitable locations must be provided and maintained to the satisfaction of the LSAG or their authorised representative.
64. Adequate sanitary accommodation must be provided and maintained to serve the licensed event to at least the standards contained within the "Guide to Health, Safety and Welfare at Pop Concerts and Similar Events", or as advised by the Environmental Health Consultation Team. Suitable arrangements must be made for the collection and disposal of used hand towels, sanitary towels and other refuse from the sanitary accommodation.
65. Details of the proposed location, level of provision and means of effective maintenance and servicing of sanitary accommodation must be submitted to the LSAG or their authorised representative if requested.
66. During the build up and break down of the events site, any activities that might cause noise to be audible outside the Park will be limited to the hours of 08:00 to 20:00 Monday to Friday and 10:00 to 18:00 Saturday to Sunday.
67. Any generators, refrigerators or other machinery running overnight will be silenced, screened or sited so as not to be audible outside the Park.
68. There shall be a welfare point (or equivalent area) for the reporting and management of lost children. The welfare point will be staffed by trained (and appropriately certified by the Disclosure and Barring Service) members of staff who will be in radio contact with the head steward and the safety co-ordinator.

69. The Event Organiser, contractor and any staff employed thereof shall comply with the Conditions of this Licence.
70. All reasonable endeavours shall be undertaken to ensure that all functions relating to the setting up, the executions and dismantling of the event, the licensed area and all equipment are carried out in accordance with the Health and Safety at Work etc. Act 1974 and all related regulations, Codes of Practice and Guidance Notes. All assistance for the necessary inspections relating to Health and Safety both prior to and during the licensed event shall be provided. All documentation required by the Health and Safety at Work etc. Act 1974 relating to contractors and employees must be available for inspection by authorised officers at all times during the licensed event and must be kept at a location at the licensed area to be notified to the LSAG or their authorised representative.
71. Arrangements shall be made, to the satisfaction of Westminster City Council, for the cleansing of litter and waste in the vicinity of Hyde Park during and after events.
72. The event organiser will comply with all reasonable requirements of the Environmental Health Consultation Team, Westminster City Council, the London Fire and Emergency Planning Authority and the Metropolitan Police Service.
73. Throughout the duration of the events (including sound checks, rehearsals and concert performances) the Music Noise Levels (MNLs) shall not exceed 15dB (LAeq5 minute) above background (Representative LA90 obtained on a number of equivalent days during the last 4 hours of the proposed concert time without the event running) or 65dB (LAeq 5 minute) whichever is the lowest. The MNL shall be assessed at measurement points greater than 1km to the north and 750 metres to the east (distance measured from the main stage mixer position). These measurement points will not be situated on trunk roads. All measurement points will be prescribed in the Noise Management Plan.
74. Throughout the duration of the events (including sound checks, rehearsals and concert performances) the control limits set at the mixer position shall be adequate to ensure that the 63 Hz and 125 Hz octave frequency bands shall not exceed 75 dB (LZeq 15 minutes) as a result of Music Noise Level (MNL) beyond a 2Km radius (distance measured from the main stage mixer position). The 63 Hz and 125 Hz octave frequency bands shall be assessed in a free field position at measurement points prescribed by Westminster City Council Environmental Health.
75. At events of 30,000 capacity or less, any unnecessary delay towers will be switched off upon the reasonable request of the Environmental Health Consultation Team.
76. Sufficient numbers of stewards/marshals shall be employed as required by the size of the event to ensure that patrons leave the premises safely.

77. Unless otherwise agreed, an Egress Management Plan shall be presented to and agreed by the LSAG or their authorised representative, no later than 28 days prior to the event. Please note: The Egress Management Plan may require the closure of Park Lane or other surrounding roads with the approval of the relevant authorities.
78. Where the number of persons attending an event is between 5,000 and 19,999, and where that event is taking place within a site capacity of 64,999, bars shall be operated at one third or less of the bars operating at 64,999 to reflect the lower capacity audience, and in agreement with LSAG.
79. No licensable activities shall take place at the premises until premises licence 19/15397/LIPDPS (or such other number subsequently issued for the premises) has been surrendered.

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

**This Decision takes immediate effect.**

**The Licensing Sub-Committee  
27<sup>th</sup> January 2022.**



3. **MA DAMES, 58 PORCHESTER ROAD, W2 6ET**

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

**Thursday 27 January 2022**

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

Officer Support: Legal Adviser: Vivienne Walker  
Policy Officer: Kerry Simpkin  
Committee Officer: Sarah Craddock  
Presenting Officer: Roxsana Haq

**Application for a Temporary Event Notice in respect of Ma Dames 58**  
**Porchester Road London W2 6ET 22/00354/LITENP**

**FULL DECISION**

**Premises**

Ma Dames  
58 Porchester Road  
London W2 6ET

**Premises User**

Miss Jennifer Cassandri

**Ward**

Bayswater

**Cumulative Impact Zone**

None

**Special Consideration Zone**

Queensway and Bayswater

The Committee has considered objections from Environmental Health Service and the Metropolitan Police Service to a Temporary Event Notice ("TEN") which been given by Miss Jennifer Cassandri ("The Applicant") in relation to an event taking place on 30<sup>th</sup> January 2022 between the hours of 00:01 and 03:00 ("The Event").

The Applicant is proposing to provide the sale of alcohol, the provision of regulated entertainment and late-night refreshment.

The Committee has considered the committee papers and the submission made by all the parties, both orally and in writing. In reaching its decision the Committee has had regard to the relevant legislation, the Secretary of State's Guidance ("The Guidance") and the Authority's Statement of Licensing Policy ("SLP").

**The Committee has decided**, after taking into account all of the individual circumstances of this application, the prevention of public nuisance, crime and disorder and the protection of children from harm licensing objectives:

**To issue a Counter Notice under section 105 of the Licensing Act 2003 for the event. This notice means permission for the licensable activities requested in the Temporary Event Notice has not been approved.**

### **SUBMISSIONS AND REASONS**

Ms Roxsana Haq, the Presenting Officer, outlined the application.

Ms Soraya Zidoun on behalf of the Applicant stated that this was an application to hold a 40<sup>th</sup> birthday party for the wife of a regular client at the Premises. She highlighted that it would be a private event held for friends and family and that they had held events for this particular client in the past with no issues occurring. She explained that they would employ four to six SIAs who will help control the departure of the customers to prevent noise nuisance to residents. She emphasised that this was not a ticketed event. She further stated that the Premises had not accepted any private bookings since the 15 December 2021, to avoid trouble over the Christmas period and that the bills were now piling up which needed to be paid. She mentioned that the Premises wished to convert into a comedy club but wanted to also keep their late-night licence to hold events for their regular customers only.

Ms Zidoun explained that Ms Cassandra (the Applicant) was unable to be present at the hearing today as she had to travel to France to bury her father. She confirmed that she would be back in the UK by the date of the private event. She also confirmed, when questioned by the Sub-Committee that the Premises had been open as per their Premises Licence on Thursday, Friday and Saturday evenings to the general public.

Ms Zidoun advised that she was the Events Manager for the Premises and that to prevent nuisance at the Premises they requested clients provide their passport or driving licence and there is a guest list. She emphasised that the client who had booked the event on Sunday was a regular customer who had previously held events at the Premises with no issues or cause for concern for the Premises or residents.

In response to questions from the Sub-Committee, Ms Zidoun confirmed that they had received complaints regarding a couple of events that had been held at the Premises as it had been a struggle to get everyone to leave the Premises quietly. She confirmed that the Police had been called and eventually everyone had stopped

making a noise and left the Premises. She explained that the Premises had introduced a new policy which stated that they would not hold events to new customers and that their preference was to hold birthday parties/end of school year parties for under 18s (where there would be no alcohol and parents were present) and which would finish at midnight. She confirmed that nine out of ten enquires for bookings were refused as they were very careful on who held events in their Premises because of their previous bad experiences. She again emphasised that there would be no anti-social behaviour on Sunday as the event was being hosted by a regular customer and was by invitation only. There would be security present who would control the guests leaving at the end of the night. She explained that guests would be allowed to leave in groups of 5 to avoid causing noise nuisance to the residents. Ms Zidoun alleged that her clientele had received threats from residents.

Ms Zidoun stated that that Environmental Health Service had been unable to visit the Premises to check the noise limiter (there had been 14 complaints regarding noise transference through the party walls) because the Applicant had been tending to her father who was very ill and who lived in France. She added that as the Premises had no events booked it had not been an emergency. She advised that the Applicant would be back in the UK on Friday and a visit could be arranged before the event on Sunday.

Mr Watson, representing the Environment Health Service (EHS), stated that previously EHS had not objected to any temporary event notices (TENS) from these Premises. However, complaints had been received by residents, there was concern regarding the noise transference through the party walls and that the noise limiter and party walls had not been inspected by EHS (even though requests for a visit to the Premises had been requested by EHS). He stated that the last TENS event held at the Premises had been a 30<sup>th</sup> birthday party (not an event from a promotor) and that complaints had still been received regarding noise nuisance on the street and noise transference through the party walls. Mr Watson referred to the plans of the Premises and advised that previously there had been a false wall erected to prevent noise transfer to resident's premises.

In response to questions from the Sub-Committee, Mr Watson advised that the noise limiter should be under management control and that the noise limiter should not form part of the necessary amplification. He explained that another concern was that visiting DJs could potentially bring their own equipment and not route it through the noise limiter.

Mr Watson called Alex Juon, City Inspector, as a witness.

Mr Juon stated that a number of complaints had been received about the operation of these Premises since the 19 July 2021, which was when nightclubs had been allowed to re-open again following the pandemic lockdown. He advised that complaints had been received by numerous people including from the Ward Councillors, the Police, local residents and council officers. He explained that photographs and video evidence had been received illustrating ASB activity outside of the Premises as well as in the immediate surrounding residential area of Celbridge Mew (inhalation of nitrous oxide) and on Westbourne Park Road.

Mr Juon stated that these complaints were received when TENs had been granted to the Premises and he had been informed that residents were now spending weekends away because of their concern around noise nuisance and for fear of disturbance. He added that he had written personally to Miss Cassandri in December 2021, suggesting three alternative dates to visit the Premises. However, no date had been secured to visit the venue. He further advised that there had been a meeting held on the 5 November 2021, with the Applicant who reassured him that she was putting measures in place to improve the operation of the Premises, including a dispersal plan, however, since then he had seen videos that suggested these measures had been ineffective, and no dispersal plan had been sent to the Council. He confirmed that since the last event held under a TEN at the Premises no complaints had been received from residents.

In response to questions from the Sub-Committee, Mr Juon advised that the noise limiter and party walls needed to be inspected before any further TENs were granted to the Premises. He further added that there was also the ongoing issue of people creating noise nuisance leaving the Premises especially in Westbourne Park Road as the Premises still did not have a dispersal plan.

PC Reaz Guerra, representing the Metropolitan Police Service, stated that there had been nine TENS in 2021 (four birthday parties and five externally promoted events). He advised that from his perspective it did not make much difference whether the event was a promoted event or a birthday party as the concerns raised were particularly related to the later hours when people were dispersed from the Premises. He stated that the Applicant had not provided any information regarding additional controls that had been put place to prevent anti-social behaviour and disturbance to residents. He stated that he was concerned that the Applicant was out of the country and might not be present at the event scheduled to be held this Sunday.

PC Reaz Guerra called PC Andy Burgin as a witness.

PC Burgin stated that he had been liaising with the community regarding the Premises for a few months and advised that he had received an extensive list of complaints about the Premises, all occurring after 01.30am. The complaints included:

- loud conversations and partying on Westbourne Park Road.
- the playing of loud music and the revving of car engines.
- smoking nitrous oxides or drug taking.
- shouting, drinking, vomit in the surrounding roads
- urination and defecation in the mews behind the club.
- people having sex in the mews behind the club.

PC Burgin advised that residents were distraught and were leaving their homes whilst events were taking place. He confirmed that it was clear from the videos that he had viewed that the ASB activities (mentioned above) were being caused by customers from attending the nightclub. He strongly advised the Sub-Committee that this was not normal behaviour from people leaving a nightclub and that their behaviour was unacceptable in such a residential area. He stated that the location was not fit for purpose. In response to questions from the Sub-Committee, he

advised that the Premises already had an extensive set of conditions on its Premises Licence to promote the Licensing Objectives which if followed would prevent ASB occurring in the surrounding residential area. However, in any event, the Applicant did not seem able to ensure that the conditions already on the licence were enforced and therefore, he was still of the view that the licensing objectives would be undermined.

### **Conclusion**

The Committee agreed with the concerns raised by the Environmental Health Service and the Police that they did not have sufficient reassurance that the application would promote the licensing objectives. Indeed, having heard the evidence as stated above, the Committee decided that allowing the Temporary Event Notice would undermine the prevention of crime and disorder and prevention of public nuisance licensing objectives and it determined to issue a counter notice under section 105 of the Licensing Act 2003.

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

**Licensing Sub-Commission  
27 January 2022**

The Meeting ended at 5.49 pm