



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Wednesday 20th July, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Aziz Toki (Chair) and Caroline Sargent

1. MEMBERSHIP

THERE WERE NO CHANGES TO THE MEMBERSHIP.

2. DECLARATIONS OF INTEREST

THERE WERE NO DECLARATIONS OF INTEREST.

1. 109 WESTBOURNE PARK ROAD, W2 5QL

WCC LICENSING SUB-COMMITTEE NO. 1 **("The Committee")**

Wednesday 20th July 2022

Membership: Councillor Aziz Toki (Chairman), and Councillor Caroline Sargent

Officer Support: Legal Advisor: Steve Burnett
 Policy Officer: Aaron Hardy
 Committee Officer: Georgina Wills
 Presenting Officer: Emanuela Meloyan

Present: Ash Vaish, Applicant, Curve And Edges Ltd
 Richard Brown, Westminster's Citizens Advice
 (representing, John Zamit, The South East Bayswater Residents' Association)

Application for a New Premises Licence in respect of 109 Westbourne Park Road London W2 5QL- 22/03062/LIPN

FULL DECISION

Premises

109 Westbourne Park
Road
W2 5QL

Applicant

Curve And Edges Ltd

Ward

Bayswater

Cumulative Impact

N/A

Special Consideration Zone

N/A

Activities and Hours applied for

Sale by Retail of alcohol (On Sales Only)

Monday to Sunday 09:00 to 23:00

Opening Hours for the Premises

Monday to Sunday 09:00 to 23:00

Summary of Application

The Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises intends to operate as a restaurant on the ground floor and basement of the premises. There is a bar located in the basement. The Premises are located within the Bayswater Ward and not located in any Cumulative Impact Zone or Special Consideration Zone.

Representations Received

- Metropolitan Police (PC Reaz Guerra / **Withdrawn**)
- Environmental Health Service (Maxwell Koduah / **Withdrawn**)
- The South East Bayswater Residents' Association (SEBRA)
- Six residents (**three residents Withdrawn**)

Summary of Representations

- The Metropolitan Police Service had made representation in relation to the application as the proposal may undermine the licencing objectives of Prevention of Crime and Protection of Children from Harm. The Metropolitan Police Service withdrew their representation following the Applicant amending their Conditions.
- Environmental Health Service had made a representation as the hours requested to perform live music and play recorded music may have the likely effect of causing an increase in Public Nuisance within the area. That the supply of alcohol and 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. Environmental Health Service withdrew their representation following the Applicant amending their Conditions
- The South East Bayswater Residents' Association had made representation on the grounds of potential nuisance, noise etc (along with potential crime & disorder) to the area and to neighbours above or adjacent along with those living in the large block of flats immediately opposite.
- Residents raised concerns over Public Nuisance and Crime and Disorder. Three residents withdrew their representation.

Policy Position

HRS1

- Under Policy HRS1, applications within the core hours set out in the policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy and applications for hours outside the core hours set out in the policy will be considered on their merits, subject to other relevant policies, and with particular regard to the matters identified in Policy HRS1.

RNT1

- Under Policy RNT1, applications inside 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 has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone. 4. The application and operation of the venue meeting the definition of a restaurant as per Clause C.

SUBMISSIONS AND REASONS

1. The Presenting Officer, Ms Emanuela Meloyan introduced the application to the Committee and advised that the application was for a new Premises

Licence for a restaurant. She confirmed that representations against the application had been received by the Environmental Health Service, Metropolitan Police, The South East Bayswater Residents' Association and six local residents. The Environmental Health Service, Metropolitan Police and three residents had withdrawn their representations.

2. The Applicant has agreed a set of conditions and reduced hours applied for. The Committee were informed that that the Premises are within the Bayswater Ward and not situated in any Cumulative Impact Zone or Special Consideration Zone.
3. Mr Vaish, Applicant Curve And Edges Ltd, advised that the Premises intended to operate as a restaurant and would offer a fusion of Indian, Chinese, and Korean cuisine. He informed the Committee that the Curve And Edges Ltd comprised of a group of chefs who had experience in the restaurant sector.
4. The Committee was informed by the Applicant that issues surrounding operating in a residential area was known. This required them to ensure that there was no nuisance emanating from the Premises. Mr Vaish confirmed that the operational hours and licensable hours had been amended and reduced. The Applicant has no connections with the previous Licence holder or Premises.
5. In response to the Committee, Mr Vaish advised that the Company operated numerous Premises in the City. He advised that the restaurant had not yet been launched. Mr Vaish advised that conditions proposed by Environmental Health Service and Metropolitan Police had been agreed. Mr Vaish advised that interior of the Premises was very small and confirmed that the terrace would not be in use.
6. Following questions from the Committee Mr Vaish advised that the external area would be used for smokers and that no alcohol or meals will be served in this vicinity.
7. The Committee was informed by Mr Richard Brown, Westminster's Citizens Advice, representing, John Zamit, (SEBRA) that he had had dialogue with the Applicant and had agreed conditions. Mr Brown submitted that he was also representing the other three local residents who had not withdrawn their representations. Mr Brown commended the Applicant who had agreed conditions proposed by SEBRA. This included permitting only five smokers in the forecourt and notices being displayed which requires patrons to be respectful of residents and the area.
8. Mr John Zamit, SEBRA, advised the Committee that a number of objections had been made against the previous License and confirmed that the Premises was situated in a heavily residential area. Mr Zamit advised that the Applicant had agreed to conditions proposed by SEBRA regarding smoking in the Premises forecourt.

9. In response to the Legal Officer, Mr Vaish advised that Conditions 34 and 35 had been agreed.
10. The Legal Officer advised that conditions which were not relevant to the applicant, such as conditions restricting regulated entertaining would be deleted, if the Committee were minded to grant the application.

DECISION

The Committee is aware that it has a duty to consider each application on its individual merits and did so when determining this application. The Committee decided that the Applicant had provided valid reasons as to why the granting of the New Premises Licence would promote the licensing objectives.

The Committee had regard to, but not exclusively to the fact that the premises is not located in a CIZ or SCZ, that the Applicant had liaised with the residents and authorities.

Having carefully considered the committee papers, Licensing act 2003, Westminster's Statement of Licensing Policy, the Revised Guidance issued under sec 182 of the Licensing Act 2003 and the submissions made by all the parties, both orally and in writing, **the Committee has decided**, after taking into account all the individual circumstances of this case and the promotion of the four licensing objectives:

- a) To grant permission for the **Sale of Alcohol for consumption on the Premises Monday to Sundays 09.00 to 23:00 hours**
- b) To grant permission for **the premises to open to the Public Mondays to Sundays 09.00 to 23:00 hours**
- c) The New Premises Licence shall be subject to the relevant Mandatory Conditions 1- 8
- d) The New Premises Licence shall be subject to the following conditions agreed at the hearing which are considered appropriate and proportionate to promote the licensing objectives:

Agreed Conditions consistent with the operating schedule.

9. There shall be no consumption of alcohol outside the premises building.
10. 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
11. All windows and external doors shall be kept closed after 21:00 hours, except for the immediate access and egress of persons.

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

13. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity

14. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times

15. 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

16. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day.

17. No deliveries to the premises shall take place between 20.00 and 08.00 hours on the following day

18. 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

19. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business

20. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

21. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.

22. All emergency exit doors shall be available at all material times without the use of a key, code, card, or similar means.

23. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device

24. 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.

25.No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. The capacity so determined shall not exceed 40 persons on the ground floor and 25 persons in the basement.

26. (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.

(b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.

(c) 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.

(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.

(e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

27.A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

28.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

29.Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke or make a phone call, shall not be permitted to take drinks or glass containers with them

30.There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.

31.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.

32. The premises shall only operate as a restaurant,

- (i) in which customers are shown to their table or the customer will select a table themselves,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table,
- (iv) which do not provide any takeaway service of food or drink for immediate consumption off the premises,
- (v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

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

33.No deliveries from the premises, either by the licensee or a third party shall take place between 20:00 and 08:00 hours on the following day.

34.Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke or make a phone call, shall be limited to (5) persons at any one time.

35.Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.

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

**The Licensing Sub-Committee
20 July 2022**

2. 15 LONDON STREET, W2 1HL

WCC LICENSING SUB-COMMITTEE NO. 1
("The Committee")

Wednesday 20 July 2022

Membership: Councillor Aziz Toki (Chairman), and Councillor Caroline Sargent

Officer Support: Legal Advisor: Steve Burnett
Policy Officer: Aaron Hardy
Committee Officer: Georgina Wills
Presenting Officer: Emanuela Meloyan

Present: Mr Aman Patel - Applicant (Mr Hemang Patel)
Suresh Kanapathi – Agent (Mr Hemang Patel)
PC David Morgan – Metropolitan Police
Maxwell Koduah – Environmental Health
Richard Brown, Westminster’s Citizens Advice
(representing, John Zamit, The South East Bayswater Residents’ Association)

Application for a New Premises Licence in respect of 15 London Street London W2 1HL- 22/03874/LIPN

FULL DECISION

Premises

15 London Street,
London,
W2 1HL

Applicant

Mr Hemang Patel

Ward

Hyde Park

Cumulative Impact

N/A

Special Consideration Zone

N/A

Activities and Hours applied for

Sale by Retail of alcohol (Off Sales Only)

Monday to Thursday 07:30 to 23:30

Friday to Saturday 07:30 to 00:30

Sunday 09:00 to 23:30

Late Night Refreshment:

Friday to Saturday 23:30 to 00:30

Opening Hours for the Premises

Monday to Sunday 00:00 to 00:00

Summary of Application

The Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The premises intends to operate as a shop. The premises had the benefit of a premises licence from 2005 until January 2021 when the licence lapsed as the result of the death of the Premises Licence Holder and family member of the Applicant.

Representations Received

- Metropolitan Police (PC David Morgan)
- Environmental Health Service (Maxwell Koduah)
- The South East Bayswater Residents' Association
- Two residents

Summary of Representations

- The Metropolitan Police Service had made representation in relation to the application as the Applicant originally sought to sell alcohol 24 hours day and which substantially added to the risk of increased crime and disorder in the area.
- Environmental Health Service had made a representation as the hours requested to provide late night refreshment may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area. The supply of alcohol and the hours requested may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area
- The South East Bayswater Residents' Association had made representation on the grounds of potential nuisance, littering, noise and underage sales (along with potential crime & disorder).
- Residents raised concerns over Public Nuisance and Crime And Disorder

Policy Position

HRS1

- Under Policy HRS1, applications within the core hours set out in the policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy and applications for hours outside the core hours set out in the policy will be considered on their merits, subject to other relevant policies, and with particular regard to the matters identified in Policy HRS1.

SHP1

- Under Policy SHP1, applications for a shop outside the West End Cumulative Impact Zone will generally be granted subject to the application meeting the requirements of policies CD1, PS1, PN1 and CH1. The hours for licensable activities are within the council's Core Hours Policy HRS1. The operation of any delivery services for alcohol meeting the Council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone. The application and operation of the venue meeting the definition of a shop in Clause C. For the purposes of this policy: A shop is defined as a stall, vehicle, vessel, temporary structure, building or part of a stall, vehicle, vessel, temporary structure or building where the primary activity is the sale of goods or services to customers upon payment. The licensable activities for the sale of alcohol for consumption on the premises, regulated entertainment and/or late-night refreshment must be ancillary to the primary use of the premises as a shop. The licensable activity of the sale of alcohol for consumption off the premises must be an ancillary function to the primary use of the premises unless that primary use is to sell alcohol for consumption off the premises, e.g. a traditional off licence

SUBMISSIONS AND REASONS

1. The Presenting Officer, Ms Emanuela Meloyan introduced the application and advised that the application was for a new Premises Licence for a shop. The Committee were informed by Ms Meloyan that representations had been received from the Metropolitan Police, Environmental Health Service, The South East Bayswater Residents' Association and two residents.
2. The premises is situated in the Hyde Park Wark and not in the Cumulative Impact Area or Special Consideration Zone. There were additional information submitted by the Applicant and these were circulated to all parties.
3. Mr Suresh Kanapathi, the Applicants' Agent advised the Committee that the premises had been in operation for over three decades and was a family business that had contributed to the local economy. He submitted that the application was effectively a transfer of the License to another family member.
4. The Committee were informed that the Applicant's brother had deceased during the Covid-19 Pandemic and following the family's bereavement, the licence had inadvertently lapsed. He stated that the application was to in

effect, 'resurrect' the previous Premises Licence. Mr Kanapathi said that hours originally applied for had been amended and they were now the same as the previous operational hours. He also confirmed that late night refreshments had been withdrawn. Mr Kanapathi confirmed that conditions proposed by Environmental Health had been agreed.

5. Mr Kanapathi submitted to the Committee that the premises had no history of complaints. He advised that the Applicant had over 15 years of retail experience.
6. Mr Patel, the Applicant, confirmed to the Committee that that the business started in 1985 with his brother. He further advised his brother died due to Covid-19. The Premises Licence had lapsed during the same period in which the family was grieving.
7. Mr Patel explained that the existing hours were applied for and application for a 24 hours operation was made in error. This had now been communicated to the Responsible Authorities and the application had been amended and conditions had been agreed with the Environmental Health Officer.
8. In response to questions from the Committee, Mr Patel advised that he was the owner of the premises and he employed shop managers who are personal licence holders. These staff members are present during each shift. The premises has a metal shutter and deliveries were not received before 07:00 or after 16:00 and that some deliveries took place on Saturday.
9. In response to questions from the Committee, Mr Patel advised that delivery companies, such as UBER or Just Eat are not used, and the premises operated as a traditional grocery shop. There is no food prepared in the Premises and food is only reheated. The Committee was advised that hot food largely comprised of croissants and sales of these items usually took place between 07:00 to 12:00.
10. Mr Patel advised that the Premises did not offer strong strength beers and informed that the sale of miniatures were poor and he did not wish to sell them as the shop was too small. The Committee was advised that a condition which prohibited the sales of miniatures would be agreed.
11. Mr Patel advised that the premises was currently operating under Temporary Event Notices (TENs) and its operational hours and conditions applied were the same as the existing licence. There have been no concerns raised against the premises or the operator during the use of TENs. Mr Patel advised that alcoholic beverages amounted to 10% of the overall sales.
12. The Committee heard from PC David Morgan, Metropolitan Police, that representations had been maintained on the grounds of the licensing objection of the Prevention of Crime and Disorder and in support of the Council's Licensing Policy. PC Morgan advised that the hours applied for were beyond core hours. He advised that the Council had a few off Licence premises which operated after core hours and that the premises extended

hours could be link to crime and disorder in the vicinity. He advised that crime and disorder normally took places in different areas which alcohol was purchased. PC Morgan commented that these incidents had an effect on the emergency response units' resources and anti-social behaviour also impacted residents.

13. The Committee were informed by PC Morgan that the vicinity had the highest crime rate outside the West End. He stated that statistics indicated that there had been an increase in criminal activity in the vicinity and a majority of these were alcohol related. PC Morgan advised that the premises operating 30 mins after core hours could cause issues. He advised that Premises which offer alcohol beyond core hours could be attractive to patrons leaving other licensed premises as a way to obtain later alcoholic drinks. PC Morgan stated that the Metropolitan Police had maintained representation on these grounds.
14. He acknowledged that the Premises had previously operated with the hours which had been applied for, without issue by submitted that this application is to be treated as new application.
15. In response to questions from the Committee, PC Morgan informed that there was no evidence which linked the premises to crime or disorder. He advised that statistics were relating to the general area.
16. Following questions from the Legal Officer, PC Morgan advised that it was welcomed that the premises would not be operating 24hrs and commented that it was still preferred for establishments operational hours to be within core hours. He confirmed that there have been no concerns associated with the operation of the premises.
17. Mr Maxwell Koduah, Environmental Health Service, informed the Committee that the Applicant had originally applied for a 24-hour operation and late-night refreshments. He commented that following discussions with the Applicant, the application had been modified and mirror the lapse licence. Mr Koduah confirmed that the lapse license was beyond core hours and that there was no history of complaints regarding the premises.
18. He informed the Committee that the premises was small and that the conditions regarding late night refreshments were now obsolete. The Committee was told that conditions proposed for the new Premises Licence was an improvement on the conditions on the lapse licence.
19. In response to the Committee Mr Koduah confirmed that the Applicant had agreed to all conditions proposed by Environmental Health. Mr Koduah advised that a condition should be imposed which restricted any deliveries or services before 07:00.
20. In response to questions from the Legal Officer, Mr Patel advised that alcohol beverages are brought to the counter by patrons. The Committee noted that Condition 9 on the Licence required all alcoholic beverages to be kept behind the counter and behind secured doors. The Committee were informed by the

Applicant that there were metallic shutters behind the counter where and champagne and spirits were kept but some beers and wines were kept in the fridges and shelves. The Committee noted that Condition 9 on page 54 of the agenda would be reviewed to avoid breaches.

21. Mr Richard Brown, Westminster's Citizens Advice representing, John Zamit, SEBRA, noted that the licence had lapsed, and this was due to the Applicant's bereavement of a close family member. Mr Brown advised that SEBRA agreed with the concerns raised by the Metropolitan Police about the premises operational hours being beyond the core hours. He advised that it was unusual for off-licence to operate outside core hours. Mr Brown advised that representation had been made by one resident and this was in relation to noise complaints and individuals congregating in the locality.
22. Mr Brown submitted that it was preferred for the premises to operate within core hours and that Policy required resurrections of lapse licenses to be subject to policy and best practice. He advised that the premises operating within core hours would be best practice. Mr Brown advised that the concerns regarding street drinkers and patrons leaving drink led establishments in the vicinity and these individuals having access to alcoholic beverages after core hours.
23. The Committee were informed by Mr Brown that the area was a hub for 'sporting fixtures' and noted that Crossrail would also bring individuals to the area therefore increasing the risk of patrons having access to off sales of alcohol. Mr Brown further commented that there were no specific concerns about the premises operation and that the effects of the off licence operating past core hours was the main concern. Mr Brown commented on the crime statistics provided by PC Morgan as very surprising.
24. Mr Brown advised that he supported the model condition which the Applicant agreed and which prohibited the sale of spirit miniatures and for a condition which required for alcoholic beverages to be locked away. He also advised that it was preferred for deliveries to take place between 08:00 to 20:00
25. The Committee noted from Mr Zamit, SEBRA that it was preferred for alcoholic beverages to be kept in lockable counters and this was to prevent late sales and protect vendors from theft. He advised that the locality had difficulties with street drinkers, rough sleepers and vagrancy.
26. Mr Zamit advised that there were several drinks led establishments within the vicinity. He commented that crime and disorder and anti-social behaviour occurred in other areas and may not take place in front of the premises. He highlighted that there were no nearby establishment which had an alcohol offer beyond core hours. He was of the opinion that the premises operational hours should reflect current policies.
27. PC Morgan advised the Committee that the Applicant had agreed to core hours whilst operating TENS.

28. Mr Kanapathi reminded the Committee that the Applicant had operated the business for several decades and the premises was a small unit. He advised that the Premises was well staff and managed. Mr Kanapathi advised that the Premises had a history of promoting the licensing objectives and contributed to the local economy. He emphasised to the Committee that there was no evidence provided which linked the premises operation to crime and disorder or anti-social behaviour. The Committee was advised that the premises had a customer base, and these included local residents and tourists.
29. Conditions had been agreed by the Applicant which prohibited the sale of strong beers and miniatures. Mr Kanapathi highlighted that the premises Licence could have been transferred but it had lapsed due to a close family bereavement. Mr Kanapathi stated that due to the size of the premises there would be difficulties in installing lockable cabinets and commented that the off licence had been operating successfully in its current layout. However, he confirmed to the Committee that the fridges could be locked and that two members of staff will be present during the later hours.
30. In response to questions from the Committee, Mr Patel confirmed that the premises would need to be redesigned if lockable cabinets were to be installed and informed that these equipment's were sourced from abroad. The Committee was advised that alcohol could be covered after the licensed hours.
31. In response to questions from Legal Officer, Mr Patel advised that lockable screens could be installed and noted that this would ensure that agreed conditions are met. Mr Patel advised that Challenge 25 is operated, and all tills are automatically locked during transaction of alcohol sales. He advised that spirits would be kept behind the counter and storage cabinets would be locked after licensable hours.
32. The Legal Adviser then confirmed with the Applicant and his representative that the conditions starting on page 53 were acceptable but deleting condition 26, the addition of Model Conditions 28 (to replace condition 9), 32 and 85, amending condition 22 to have a terminal time of 07.00 instead of 08.00 and adding a condition which restricts the sale of alcohol after 23.00 at the premises whilst the Applicant is the Premises Licence Holder.
33. All the conditions were agreed verbally by the Applicant subject to the Committee granting the application.
34. The Committee thanked all parties for their submission and retired to make their Decision.

Summary Decision

The Committee is aware that it has a duty to consider each application on its individual merits and did so when determining this application.

The Committee considered the conditions which were imposed and agreed that they would ensure that all four of the Licensing Objectives would be promoted.

The Committee decided that the Applicant had provided valid reasons as to why the granting of the New Premises Licence would promote the licensing objectives.

The Committee, however, were extremely worried about the amount of crime in the area and sympathised with the concerns raised by Mr Brown and Mr Zamit. In coming to this Decision, all Parties are made aware that the Committee were concerned about the premises trading in excess of core Hours.

Nevertheless, the Committee were persuaded in part by the Applicant's acceptance of more stringent conditions than the ones which appeared on the lapsed Premises Licence. Furthermore, in reaching their decision, the Committee noted that the application for the sale of alcohol did not exceed core hours all week. The premises had also previously traded without issues or complaints in relation to crime and disorder and public nuisance and this was even when they traded under TEN's. In addition to this, the Premises is not located in a Cumulative Impact Area or Special Consideration Zone.

The Committee also welcomed the Applicant's agreement to the conditions agreed with the EHO and their agreement to:

1. Model Conditions MC28, securing alcohol after the terminal time for the sale of alcohol,
2. MC32 no self-selection of spirits,
3. MC85, no miniatures,
4. a condition restricting trade past core hours on Fridays and Saturdays would only be permitted whilst the Premises Licence Holder is this Applicant, Mr Hemang Patel.

All of which promoted the licensing objectives and were also supported by Mr Brown and John Zamit of SEBRA.

Thus, having carefully considered the committee papers, Licensing Act 2003, Westminster's Statement of Licensing Policy, the Revised Guidance issued under sec 182 of the Licensing Act 2003 and the submissions made by all the parties, both orally and in writing, **the Committee has decided**, after taking into account all the individual circumstances of this case and the promotion of the four licensing objectives:

- e) To grant permission for the **Sale of Alcohol for consumption off the Premises:**

Monday to Thursday 07.30 to 23:00 hours
Fridays and Saturdays 07.30- 00.30
Sunday 09.00 to 23.00

- f) To grant permission for **the premises to open to the public Mondays to Sundays 00.00 to 00:00 hours**
- g) The New Premises Licence shall be subject to the relevant Mandatory Conditions 1- 8:

- h) That the New Premises Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Agreed Conditions consistent with the operating schedule:

6. (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.

(b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.

(c) 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.

(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.

(e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

7. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

8. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.

9. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked storeroom or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.

10. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles and cans.

11. No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.

12. No more than (15)% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.

13. 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. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

15. 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.

16. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance

17. All windows and external doors shall be kept closed after 21:00 hours except for the immediate access and egress of person.

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

19. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity

20. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times

21. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day

22. No deliveries to the premises shall take place between 23.00 and 07.00 hours on the following day

23. No deliveries from the premises, either by the licensee or a third party shall take place between 23:00 and 08:00 hours on the following day

24. 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.

25. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of

26. There shall be no self-selection of spirits on the premises, save for spirit mixtures less than 5.5% ABV.

27. No miniature bottles of spirits of 20 cl or below shall be sold from the premises.

28. The sale of alcohol for consumption off the premises after 23.00 on Fridays and Saturdays shall only be permitted whilst the Premises Licence Holder is Mr Hemang Patel.

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

**The Licensing Sub-Committee
20 July 2022**

3. **W H SMITH RETAIL UNIT, MARYLEBONE STATION, MELCOMBE PLACE,
NW1 6JJ**

WCC LICENSING SUB-COMMITTEE NO. 1
("The Committee")

Wednesday 20th July 2022

Membership: Councillor Aziz Toki (Chairman), and Councillor Caroline Sargent

Officer Support: Legal Advisor: Steve Burnett
 Policy Officer: Aaron Hardy
 Committee Officer: Georgina Wills
 Presenting Officer: Emanuela Meloyan

Present: Ewen Macgregor – TLT Solicitors - WH Smith Travel
 Holdings Limited
 PC Brian Hunter – Metropolitan Police

**Application for a variation of Premises Licence in respect of WH Smith Retail
Unit Marylebone Station, Melcombe Place London NW1 6JJ - 22/03479/LIPV**

FULL DECISION

Premises

WH Smith Retail Unit
Marylebone Station
Melcombe Place
London
NW1 6JJ

Applicant

WH Smith Travel Holdings Limited

Ward

Regents Park

Cumulative Impact

N/A

Special Consideration Zone

N/A

Activities and Hours applied for

To vary the opening hours as follows:

From

Monday to Friday 08:00 to 20:00
Saturday and Sunday 09:30 to 20:00

To

Monday to Friday 07:00 to 00:00
Saturday and Sunday 07:00 to 23:00

To vary the hours for the sale of alcohol (off Sales Only)

From

Monday to Friday 08:00 to 20:00
Saturday 09:30 to 20:00
Sunday 09:30 to 20:00

To

Monday to Saturdays 0800 to 2300
Sunday 0900 to 2230

To replace condition 15 at Annex 2 which states:

“There shall be no self-service of spirits on the premises, save for spirit mixers of less than 5.5% ABV”

so that it reads as follows:

“Save for spirit mixers, there shall be no self-service of spirits on the premises.”

Summary of Application

The Committee has determined an application for a variation of a Premises Licence under the Licensing Act 2003 (“The Act”). The Premises operates as a newsagent and shop unit operating in London Marylebone train station. The premises has had the benefit of a premises licence since 2021.

Representations Received

- Metropolitan Police (PC Reaz Guerra)
- Environmental Health Service (Maxwell Koduah / **Withdrawn**)
- Two residents (**Withdrawn**)

Summary of Representations

- The Metropolitan Police Service had made representation in relation to the application as the proposal may undermine the licensing objectives of Prevention of Crime and Protection of Children from Harm and that there is insufficient detail contained within the operating schedule to promote the licensing objections
- Environmental Health Service had made a representation as the proposed extension in the hours of alcohol supply may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area. The proposed changes in conditions safeguarding the supply of alcohol may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area. As presented, the application would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.

Environmental Health Service withdrew their representation after discussions with the Applicant.

- Residents raised concerns over Public Nuisance and Crime And Disorder and the increase of the Premises offering sales of alcohol.

The two representations were withdrawn following mediation between both residents and the Applicant.

Policy Position

HRS1

- Under Policy HRS1, applications within the core hours set out in the policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy and applications for hours outside the core hours set out in the policy will be considered on their merits, subject to other relevant policies, and with particular regard to the matters identified in Policy HRS1.

SHP1

- Under Policy SHP1, applications for a shop outside the West End Cumulative Impact Zone will generally be granted subject to the application meeting the requirements of policies CD1, PS1, PN1 and CH1. The hours for licensable activities are within the council's Core Hours Policy HRS1. The operation of any delivery services for alcohol meeting the Council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone. The application and operation of the venue meeting the definition of a shop in Clause C. For the purposes of this policy: A shop is defined as a stall, vehicle, vessel, temporary structure,

building or part of a stall, vehicle, vessel, temporary structure or building where the primary activity is the sale of goods or services to customers upon payment. The licensable activities for the sale of alcohol for consumption on the premises, regulated entertainment and/or late-night refreshment must be ancillary to the primary use of the premises as a shop. The licensable activity of the sale of alcohol for consumption off the premises must be an ancillary function to the primary use of the premises unless that primary use is to sell alcohol for consumption off the premises, e.g. a traditional off licence

SUBMISSIONS AND REASONS

11. On request from the Applicants' representative, the Committee decided that as the submissions from both the Metropolitan Police and the Applicant will be identical, the applications for a variation of Premises Licence in respect of WH Smith Retail Unit Marylebone Station, Melcombe Place London NW1 6JJ and W H Smith Paddington Station Praed Street London W2 1HB would be considered together, However separate decisions will be provided for each site.
12. The Presenting Officer, Ms Emanuela Meloyan introduced the application and confirmed to the Committee that the application was for a variation of a Premises Licence for WH Smith Retail Unit Marylebone Station Melcombe Place, London NW1 6JJ. The Premises located at Melcombe Place, London NW1 6JJ trades as a newsagent and shop unit operating in London Marylebone train station. She confirmed that representations against the application had been received from the Environmental Health Service, Metropolitan Police and two residents.
13. The Environmental Health Service and both residents had withdrawn their representations. The Presenting Officer outlined to the Members that the Premises is located in the Regents Park Ward and not situated in any Cumulative Impact Zone or Special Consideration Zone.
14. Mr Ewen Macgregor, Legal Representative WH Smith Travel Holdings Ltd, submitted to the Committee that further submissions had been lodged and appeared starting at page 5 of the additional papers. Mr Macgregor stated that the application is modest and requested for changes for the stores operational hours and hours permitted for the sales of alcohol. There was also a request to vary the condition in relation to the sales of spirit mixtures.
15. Mr Macgregor confirmed to the Committee that sales of alcohol were within core hours and that there were no policy considerations. Mr Macgregor advised that the application, if granted, would be more restrictive than what is currently required in the existing Premises Licence. The Committee was advised that other licensed premises located nearby, had longer operational hours and also offered the sales of alcohol. The Committee was informed that the Applicant was a good operator of a renowned brand.

16. Mr Macgregor explained to the Members that the variation of the Premises Licence in respect to ABV restrictions on spirit mixtures had been undertaken in order to bring parity with other premises. The sales of alcohol on offer at the Premises were for branded goods which were sold at a higher price range than nearby competitors.
17. The Committee was advised that conditions which restricted sales of spirits had been removed from other sites operated by the Premises Licence Holder which is located in Victoria and this area is within the Special Consideration Zone. On that occasion, no objections were received from the Metropolitan Police or any indication that the variation of the Premises Licence for the Victoria site has had a negative effect on the promotion of the four Licensing Objectives.
18. Mr Macgregor confirmed that residents and Environmental Health had withdrawn their submission after discussions with the Applicant. He commented that there had also been extensive consultation with the Metropolitan Police.
19. The Committee was advised that the Premises were not a burden on Responsible Authorities resources and highlighted that no representations had been received from local amenity societies such as The South East Bayswater Residents Association (SEBRA). Mr Macgregor explained that sales of alcohol amounted to a small percentage of overall sales.
20. In response to questions from the Committee, Mr Macgregor confirmed that the Metropolitan Police had been given additional information, including sales and the operational style of Premises. He advised that changes in the operational hours was sought to increase sales following the Covid-19 Pandemic and the rise in footfall.
21. PC Brian Hunter, Metropolitan Police advised the Committee that representations had been maintained in order to promote the Licensing Objectives of the Prevention of Crime and Disorder.
22. He stated that there were no objections to the hours requested for the sale of alcohol and highlighted that these were within core hours. The Police said that there were concerns regarding the variation of Condition 15 of Annex 2 of the existing Premises Licence as this related to 'no self-service' of spirit mixtures.
23. PC Hunter suggested to the Committee that the modifications would allow patrons access to high strength alcohol beverages and allow these purchases to be via self-served counters. He further submitted that self-served purchases removed elements of controls. The Committee was advised that these types of beverages were attractive to young people.
24. PC Hunter submitted to the Members that the highest strength alcoholic beverages had a volume of 14.9% ABV and that there was a range of 19 of these commodities on offer. He reminded the Committee that the applications were considered on their own merits and the premises in Victoria had been

granted on this basis. There were concerns that the grant of this application could set a precedent.

25. In response to question from the Committee, Mr Macgregor advised that alcohol beverages were displayed at the back of the Premises and that all of these purchases are authorised by a member of staff regardless purchased at a counter manned by a person or a self-service machine. He stated that these were usual practise operated by several retail units. The Committee was advised that patrons would be able to self-service when taking alcoholic beverages from shelves.
26. Mr Macgregor continued to explain that the Premises spirits would be required to be stored behind a counter.
27. Following questions from Mr Burnett, the Committee's Legal Adviser, PC Hunter stated that there had been no link to crime and disorder neither at this Premises or the premises situated in Victoria, but the British Transport Police (BTP) had jurisdiction over this locality and he did not receive direct reporting.
28. In response to additional questions from the Legal Adviser, PC Hunter confirmed that BTP and the Metropolitan Police Licensing Department was linked to overall policing. PC Hunter advised that the rationale for objecting to the application stemmed from PC Reaz Guerra and commented that crime statistics are reviewed, and communications are made with the Ward Officer. PC Hunter advised that there were no specific crime and disorder linked to the Premises and commented that statistics on crime are monitored and kept by the BTP.
29. PC Hunter explained at the hearing that it would be difficult to link criminal activities to a premises, as incidents could take place in a different location once alcoholic beverages had been purchased. The Committee were advised that PC Guerra had primarily dealt with the application.
30. In response to questions from the Committee, Mr Macgregor submitted that food, and non-alcoholic beverages were displayed near alcoholic beverages. Alcoholic beverages were kept in a separate display unit and noted that the premises current layout was tested and did not cause any issues regarding the mentioned goods gaining attraction from young people or other persons.
31. In response to the Policy Officer, PC Hunter advised that it was preferred for patrons to have interactions with staff members when purchasing alcoholic beverages and that these exchanges helped to deescalate potential conflicts where purchases of alcoholic beverages are refused. The Committee was advised that potential conflicts could not be reduced if patrons used self-service counters.
32. The Committee noted that it was widely known that sales of alcohol need to be authorised in self-service counters in retail units and noted that no links had been made regarding these types of sales transactions and crime and disorder.

33. Mr Macgregor in his summary advised that the Applicant offer of sales of alcohol had been in place for a long period and that there was no evidence of breaches of conditions and crime and disorder being linked to the Premises. He commented that a similar application had been granted for the Premises in Victoria and no objections had been raised. He advised that the variation was reasonable and modest and brought the Premises in parity with other retail units. The Committee was advised that self-service counters were widely used at the premises of different operators, and that the alcohol offer at this site was priced higher than leading competitors. Mr Macgregor advised that all condition which had been proposed by the EHO were agreed.

34. The Chair thanked all parties for their submissions.

Decision

The Committee is aware that it has a duty to consider each application on its individual merits and did so when determining this application.

The Committee decided that the Applicant had provided valid reasons as to why the granting of the New Premises Licence would promote the licensing objectives.

In particular but not exclusively, the Committee noted that there was no evidence linking the premises to crime and disorder, the Applicant operated other sites in more sensitive areas with similar conditions and without adversely affected the Licensing Objectives and that a similar application at a sensitive site in Victoria (SCZ) had not attracted representations from the Metropolitan Police.

Having carefully considered the committee papers, additional evidence, Licensing Act 2003, Westminster's Statement of Licensing Policy, the Revised Guidance issued under sec 182 of the Licensing Act 2003 and the submissions made by all the parties, both orally and in writing, **the Committee has decided**, after taking into account all the individual circumstances of this case and the promotion of the four licensing objectives:

To grant permission for the **Sale of Alcohol for consumption off the Premises:**

Monday to Saturdays 0800 to 23.00

Sunday 09.00 to 22.30

i) To grant permission for **the premises to open to the Public:**

Monday to Friday 07.00 to 00.00

Saturday and Sunday 07.00 to 23.00

j) To grant permission to **replace** current condition 15 which reads:

There shall be no self-service of spirits on the premises, save for spirit mixers of less than 5.5%ABV, with "Save for spirit mixers, there shall be no self-service of spirits on the premises."

- k) The varied Premises Licence shall be subject to the existing Mandatory Conditions.
- l) The varied Premises Licence shall be subject to the following **conditions consistent with the operating schedule** which are considered appropriate and proportionate to promote the licensing objectives.

6. Any detail shown on the plan that is not required by the licensing plans regulations is indicative only and subject to change at any time

7. Locations of fire safety equipment and other safety equipment subject to change in accordance with the requirements of the Responsible Authorities or following a risk assessment.

8. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.

9. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.

10. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises.

11. All recordings shall be stored for a minimum period of 31 days with date and time stamping.

12. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.

13. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale or display of alcohol

14. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.

15. Save for spirit mixers, there shall be no self-service of spirits on the premises.

16. No sales of beers, lagers or ciders of 6% ABV (alcohol by volume) or above shall be sold from the premises

17. 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

18. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale

19. A record shall be kept detailing all refused sales of alcohol. The record should include:

a. the date and time of the refused sale and the name of the member of staff who refused the sale.

20. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open

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

22. Measures will be in place for the safe evacuation of persons with disabilities in case of fire or emergency

23. Staff are trained to ensure that in case of any doubt whether a purchaser is over the age of 18 that they must refuse a sale of alcohol unless valid identification is produced.

24. This training shall be refreshed on an annual basis with copies of training records being made available to the relevant officer of the responsible authority, and/or the police, on request

25. All displays of alcohol will be appropriately ticketed to advise purchasers that it is an offence for those under 18 to purchase alcohol.

26. Prominent notices will be displayed at points of sale advising customers that they may be asked to provide evidence of age.

27. Prominent notices shall be displayed on the premises advising customers of the permitted hours for the sale of alcohol.

28. No miniature bottles of spirits of 20 cl or below shall be sold from the premises.

Conditions proposed by the Metropolitan Police Service and agreed with the applicant so as to form part of the operating schedule.

29. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.

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

**The Licensing Sub-Committee
20 July 2022**

4. W H SMITH, PADDINGTON STATION, PRAED STREET, W2 1HB

**WCC LICENSING SUB-COMMITTEE NO. 1
("The Committee")**

Wednesday 20th July 2022

Membership: Councillor Aziz Toki (Chairman), and Councillor Caroline Sargent

Officer Support: Legal Advisor: Steve Burnett
 Policy Officer: Aaron Hardy
 Committee Officer: Georgina Wills
 Presenting Officer: Emanuela Meloyan

Present: Ewen Macgregor – TLT Solicitors - WH Smith Travel
 Holdings Limited
 PC Brian Hunter – Metropolitan Police

**Application for a variation of Premises Licence in respect of W H Smith
Paddington Station Praed Street London W2 1HB - 22/03481/LIPV**

Premises

W H Smith
Paddington Station
Praed Street
London
W2 1HB

Applicant

WH Smith Travel Holdings Limited

Ward

Hyde Park

Cumulative Impact

N/A

Special Consideration Zone

N/A

Activities and Hours applied for

To vary the opening hours as follows:

From

Monday to Friday 06:30 to 21:00
Saturday and Sunday 08:00 to 19:00

To

Monday to Friday 05:30 to 22:30

Saturday 06:00 to 22:30

Sunday 07:00 to 22:30

To vary the hours for the sale of alcohol (off Sales Only)

From

Monday to Friday 08:00 to 21:00

Saturday 08:00 to 19:00

Sunday 09:00 to 19:00

To

Monday to Saturday 08:00 to 22:30

Sunday 09:00 to 22:30

To replace condition 15 at Annex 2 which states:

“There shall be no self-service of spirits on the premises, save for spirit mixers of less than 5.5% ABV”

so that it reads as follows:

“Save for spirit mixers, there shall be no self service of spirits on the premises”

Summary of Application

The Committee has determined an application for a variation of a Premises Licence under the Licensing Act 2003 (“The Act”). The Premises intends to operate as a shop. The premises are a WH Smith Retail Unit inside London Paddington Station. The premises has had the benefit of a premises licence since February 2021.

Representations Received

- Metropolitan Police (PC Reaz Guerra)

Summary of Representations

- The Metropolitan Police Service had made representation in relation to the application as the proposal may undermine the licencing objectives of Prevention of Crime and Protection of Children from Harm. That there is insufficient detail contained within the operating schedule to promote the licensing objections

Policy Position

HRS1

- Under Policy HRS1, applications within the core hours set out in the policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy and applications

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

SHP1(A)

- Under Policy SHP1, applications for a shop outside the West End Cumulative Impact Zone will generally be granted subject to the application meeting the requirements of policies CD1, PS1, PN1 and CH1. The hours for licensable activities are within the council's Core Hours Policy HRS1. The operation of any delivery services for alcohol meeting the Council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone. The application and operation of the venue meeting the definition of a shop in Clause C. For the purposes of this policy: A shop is defined as a stall, vehicle, vessel, temporary structure, building or part of a stall, vehicle, vessel, temporary structure or building where the primary activity is the sale of goods or services to customers upon payment. The licensable activities for the sale of alcohol for consumption on the premises, regulated entertainment and/or late-night refreshment must be ancillary to the primary use of the premises as a shop. The licensable activity of the sale of alcohol for consumption off the premises must be an ancillary function to the primary use of the premises unless that primary use is to sell alcohol for consumption off the premises, e.g. a traditional off licence

SUBMISSIONS AND REASONS

35. On request from the Applicants' representative, the Committee decided that as the submissions from both the Metropolitan Police and the Applicant will be identical, the applications for a variation of Premises Licence in respect of WH Smith Retail Unit Marylebone Station, Melcombe Place London NW1 6JJ and W H Smith Paddington Station Praed Street London W2 1HB would be considered together, However individual Decisions will be provided for each site.
36. The Presenting Officer, Ms Emanuela Meloyan introduced the application and advised that the application was for a variation of a Premises Licence for a premises in respect of W H Smith, Paddington Station Praed Street London W2 1HB. The Premises operates as a Retail Unit inside London Paddington Station. A representation was received by the Metropolitan Police. Ms Meloyan outlined that the Premises are within the Hyde Park Ward and not situated in any Cumulative Impact Zone or Special Consideration Zone.
37. Mr Ewen Macgregor, Legal Representative WH Smith Travel Holdings Ltd, submitted to the Committee that further submissions had been lodged and appeared starting at page 109 of the agenda papers. Mr Macgregor stated that the application is modest and requested for changes for the stores operational hours and hours permitted for the sales of alcohol. There was also a request to vary the condition in relation to the sales of spirit mixtures.

38. Mr Macgregor confirmed to the Committee that sales of alcohol were within core hours and that there were no policy considerations. Mr Macgregor advised that the application, if granted, would be more restrictive than what is currently required in the existing Premises Licence. The Committee was advised that other licensed premises located nearby, had longer operational hours and also offered the sales of alcohol. The Committee was informed that the Applicant was a good operator of a renowned brand.
39. Mr Macgregor explained to the Members that the variation of the Premises Licence in respect to ABV restrictions on spirit mixtures had been undertaken in order to bring parity with other premises. The sales of alcohol on offer at the Premises were for branded goods which were sold at a higher price range than nearby competitors.
40. The Committee was advised that conditions which restricted sales of spirits had been removed from other sites operated by the Premises Licence Holder which is located in Victoria and this area is within the Special Consideration Zone. On that occasion, no objections were received from the Metropolitan Police or any indication that the variation of the Premises Licence for the Victoria site has had a negative effect on the promotion of the four Licensing Objectives.
41. Mr Macgregor confirmed that residents and Environmental Health had withdrawn their submission after discussions with the Applicant. He commented that there had also been extensive consultation with the Metropolitan Police.
42. The Committee was advised that the Premises were not a burden on Responsible Authorities resources and highlighted that no representations had been received from local amenity societies such as The South East Bayswater Residents Association (SEBRA). Mr Macgregor explained that sales of alcohol amounted to a small percentage of overall sales.
43. In response to questions from the Committee, Mr Macgregor confirmed that the Metropolitan Police had been given additional information, including sales and the operational style of Premises. He advised that changes in the operational hours was sought to increase sales following the Covid-19 Pandemic and the rise in footfall.
44. PC Brian Hunter, Metropolitan Police advised the Committee that representations had been maintained in order to promote the Licensing Objectives of the Prevention of Crime and Disorder.
45. He stated that there were no objections to the hours requested for the sale of alcohol and highlighted that these were within core hours. The Police said that there were concerns regarding the variation of Condition 15 of Annex 2 of the existing Premises Licence as this related to 'no self-service' of spirit mixtures.
46. PC Hunter suggested to the Committee that the modifications would allow patrons access to high strength alcohol beverages and allow these purchases

to be via self-served counters. He further submitted that self-served purchases removed elements of controls. The Committee was advised that these types of beverages were attractive to young people.

47. PC Hunter submitted to the Members that the highest strength alcoholic beverages had a volume of 14.9% ABV and that there was a range of 19 of these commodities on offer. He reminded the Committee that the applications were considered on their own merits and the premises in Victoria had been granted on this basis. There were concerns that the grant of this application could set a precedent.
48. In response to question from the Committee, Mr Macgregor advised that alcohol beverages were displayed at the back of the Premises and that all of these purchases are authorised by a member of staff regardless purchased at a counter manned by a person or a self-service machine. He stated that these were usual practise operated by several retail units. The Committee was advised that patrons would be able to self-service when taking alcoholic beverages from shelves.
49. Mr Macgregor continued to explain that the Premises spirits would be required to be stored behind a counter.
50. Following questions from Mr Burnett, the Committee's Legal Adviser, PC Hunter stated that there had been no link to crime and disorder neither at this Premises or the premises situated in Victoria, but the British Transport Police (BTP) had jurisdiction over this locality and he did not receive direct reporting.
51. In response to additional questions from the Legal Adviser, PC Hunter confirmed that BTP and the Metropolitan Police Licensing Department was linked to overall policing. PC Hunter advised that the rationale for objecting to the application stemmed from PC Reaz Guerra and commented that crime statistics are reviewed, and communications are made with the Ward Officer. PC Hunter advised that there were no specific crime and disorder linked to the Premises and commented that statistics on crime are monitored and kept by the BTP.
52. PC Hunter explained at the hearing that it would be difficult to link criminal activities to a premises, as incidents could take place in a different location once alcoholic beverages had been purchased. The Committee were advised that PC Guerra had primarily dealt with the application.
53. In response to questions from the Committee, Mr Macgregor submitted that food, and non-alcoholic beverages were displayed near alcoholic beverages. Alcoholic beverages were kept in a separate display unit and noted that the premises current layout was tested and did not cause any issues regarding the mentioned goods gaining attraction from young people or other persons.
54. In response to the Policy Officer, PC Hunter advised that it was preferred for patrons to have interactions with staff members when purchasing alcoholic beverages and that these exchanges helped to deescalate potential conflicts

where purchases of alcoholic beverages are refused. The Committee was advised that potential conflicts could not be reduced if patrons used self-service counters.

55. The Committee noted that it was widely known that sales of alcohol need to be authorised in self-service counters in retail units and noted that no links had been made regarding these types of sales transactions and crime and disorder.

56. Mr Macgregor in his summary advised that the Applicant offer of sales of alcohol had been in place for a long period and that there was no evidence of breaches of conditions and crime and disorder being linked to the Premises. He commented that a similar application had been granted for the Premises in Victoria and no objections had been raised. He advised that the variation was reasonable and modest and brought the Premises in parity with other retail units. The Committee was advised that self-service counters were widely used at the premises of different operators, and that the alcohol offer at this site was priced higher than leading competitors. Mr Macgregor advised that all condition which had been proposed by the EHO were agreed.

57. The Chair thanked all parties for their submissions.

Summary Decision

The Committee is aware that it has a duty to consider each application on its individual merits and did so when determining this application.

The Committee decided that the Applicant had provided valid reasons as to why the granting of the New Premises Licence would promote the licensing objectives.

In particular but not exclusively, that there was no evidence linking the premises to crime and disorder, the Applicant also operated other sites in more sensitive areas with similar conditions and without adversely affected the Licensing Objectives and that a similar application at a sensitive site in Victoria (SCZ) had not attracted representations from the Metropolitan Police

Having carefully considered the committee papers, additional evidence, Licensing Act 2003, Westminster's Statement of Licensing Policy, the Revised Guidance issued under sec 182 of the Licensing Act 2003 and the submissions made by all the parties, both orally and in writing, **the Committee has decided**, after taking into account all the individual circumstances of this case and the promotion of the four licensing objectives:

m) To grant permission for the **Sale of Alcohol for consumption off the Premises:**

Monday to Saturdays 0800 to 22.30
Sunday 09.00 to 22.30

n) To grant permission for **the premises to open to the Public:**

Monday to Friday 05.30 to 22.30

Saturday 06.00 to 22.30

Sunday 07.00 to 22.30

- o) To grant permission to replace current condition 15 which reads: There shall be no self-service of spirits on the premises, save for spirit mixers of less than 5.5%ABV, with **"Save for spirit mixers, there shall be no self-service of spirits on the premises."**
- p) The varied Premises Licence shall be subject to the existing Mandatory Conditions
- q) The varied Premises Licence shall be subject to the following **conditions consistent with the operating schedule.**

9. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as newsagents/convenience store.

10. Any detail shown on the plan that is not required by the licensing plans regulations is indicative only and subject to change at any time

11. Locations of fire safety equipment and other safety equipment subject to change in accordance with the requirements of the Responsible Authorities or following a risk assessment.

12. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.

(a) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.

(b) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises.

(c) All recordings shall be stored for a minimum period of 31 days with date and time stamping.

(d) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.

13. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale or display of alcohol

14. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises

15. Save for spirit mixers, there shall be no self-service of spirits on the premises

16. No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises except for premium beers, lagers or ciders, sold in glass bottles.

17. 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.

18. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale

19. A record shall be kept detailing all refused sales of alcohol. The record should include:

(a) the date and time of the refused sale and the name of the member of staff who refused the sale.

(b) The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

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

21. Measures will be in place for the safe evacuation of persons with disabilities in case of fire or emergency

22. Staff are trained to ensure that in case of any doubt whether a purchaser is over the age of 18 that they must refuse a sale of alcohol unless valid identification is produced.

23. This training shall be refreshed on an annual basis with copies of training records being made available to the relevant officer of the responsible authority, and/or the police, on request

24. All displays of alcohol will be appropriately ticketed to advise purchasers that it is an offence for those under 18 to purchase alcohol.

25. Prominent notices will be displayed at points of sale advising customers that they may be asked to provide evidence of age.

26. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.

27. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.

28. No miniature bottles of spirits of 20 cl or below shall be sold from the premises

29. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

30. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

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

**The Licensing Sub-Committee
20 July 2022**

5. **INTERIM STEPS W HOTEL, LEICESTER SQUARE, 10 WARDOUR STREET, LONDON W1D 6QF**

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.1 (“The Committee”)

Wednesday 20th July 2022

Membership: Councillor Aziz Toki (Chairman), Councillor Sargent

The Metropolitan Police Service (MPS) have applied for an expedited review hearing of W Hotel, Leicester Square, 10 Wardour Street, London, W1D 6QF

INTERIM STEPS DECISION

Having carefully considered the application for an expedited review and the evidence presented by the Police and the Premises Licence Holder, both verbally and in writing, the Committee has concluded that the Premises are associated with serious crime and serious disorder and it is necessary and proportionate to take the following steps: -

To attach the additional conditions to the premises licence:

A. The sale of alcohol shall be restricted to hotel residents and up to 4 bona fide guests of each resident.

B. Remove Dario Mazzoli as the DPS

In view of the seriousness of this case, it is necessary and proportionate for all the Interim Steps and for this Interim Decision to take **immediate effect**.

Reasons: -

The Licensing Authority having received a valid application for an expedited review under Section 53 A-C of the Licensing Act 2003, from the MPS on 18th July 2022.

This is a five star hotel with associated restaurant, meeting rooms, function rooms and bar areas.

A fight broke out on 10th of July 2022 the bar area of the W Hotel, involving approximately 30/40 customers and this necessitated the Police to be called to break up the fight.

The Committee accepted the evidence presented by the Police that customers inside the Premises were arming themselves with belts and bottles and it appeared that the security were completely overwhelmed and were unable to stop the fight or disperse patrons.

The officers came under attack and used Pava spray and used their batons on the assailants but due to the severity of the violence and after coming under sustained attack, the initial officers made a tactical withdrawal and await further resources to deal with the disorder.

Supporting officers attended and contained the incident.

Security at the premises and witnesses confirmed there was drug use in the toilets, and customers attended wearing ankle tags. The manager was informed and advised that the event should not go ahead.

The number of injuries amounting to GBH and requiring hospitalisation was significant and this is an active investigation with multiple suspects still outstanding.

The event was conducted by an external promotor and had been booked for 200 ticket holders.

Two members of the premises door staff are under investigation for assaults which amounts to GBH. The DPS was present at the premises until 20.30, when he left the night manager and bar manager in charge of the event.

In April 2022 the premises held a similar event resulting in GBH injuries. The police engaged and advised of the risks of holding externally promoted events but felt that the advice was ignored.

The Committee concluded that the incident occurred at a private hire event and it would undermine the purpose of this hearing if private pre-booked events conducted by external promotors were able to take place.

Interim steps have been agreed between representatives for the Metropolitan Police Services and the PLH, namely:

In summary, the Committee is satisfied that the Premises are associated with serious crime and serious disorder and it is necessary and proportionate for the interim steps outlined to be taken and for this Decision to have immediate effect in order to prevent serious crime and disorder occurring and to promote the licensing objectives.

If the Premises Licence Holder is unhappy with the decision, he is entitled to submit a representation against the interim step taken by the Committee. If a representation is received the Licensing Authority will convene a further interim hearing within 48 hours of receipt of the representation. The premises licence holder and chief officer of Police will receive advance notice of this hearing.

The full review hearing will take place within 28 days of receipt of the Police application to review the licence. Details of this hearing will be provided in due course by the Licensing Authority.

Informative:

The Committee were concerned that:

- 1) The PLHs, W Leicester Square Limited had insufficient control over the booking and management of promoted events.
- 2) That there was no radio signal available for the emergency service on the first floor.

The Committee hopes that all injured parties are fully recovered.

The Licensing Sub-Committee
20 July 2022

The Meeting ended at 4.45 pm