



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 1st September, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Robert Eagleton (Chair), Iman Less and Louise Hyams

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. THE GLOBE, 43-47 MARYLEBONE ROAD LONDON NW1 5JY

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

Full Review Decision
Thursday 1 September 2022

Membership: Councillor Robert Eagleton (Chairman) Councillor Iman Less
and Councillor Louise Hyams

Office Support: Presenting Officer - Kevin Jackaman
Legal Adviser - Horatio Chance
Committee Officer - Georgina Wills

**Application for a Review of Premises Licence in respect of The Globe 43-47
Marylebone Road London NW1 5JY 22/06925/LIREVP**

Persons attending the hearing:

Premises Licence Holder

The Premises Licence Holder (PLH) is Greene King Brewing and Retailing Limited and the Designated Premises Supervisor (DPS) is Michael Heneghan.

Legal Representative: Ewen Macgregor Partner and Solicitor of TLT Partners
Ian Tillet (Business Development Manager) Greene King Brewing and Retailing
Limited. Michael Heneghan (Manager of The Globe and DPS) Greene King Brewing
and Retailing Limited.

Environmental Health Service

Sally Fabbricatore

Applicant

Michael Zelouf (**Not Present**)

Cumulative Impact Area

None

Ward

Marylebone

Summary of Application

This is an application submitted by Mr Michael Zelouf for a review of the premises licence in respect of the Globe Public House, 43-47 Marylebone Road, London, NW1 5JY under the Licensing Act 2003 ("The Act"). The Premises operates as a Public House and has been licensed since 2005. The review application was received by the Licensing Authority on the 13 July 2022 on the grounds of Prevention of Public Nuisance. The Premises Licence Holder ("PLH") is Greene King Brewing and Retailing Limited and the Designated Premises Supervisor ("DPS") is Mr Michael Heneghan. The Premises is within the Marylebone Ward but not located in the *West End Cumulative Impact Zone*. There is a resident count of 146. The Premises is held by the PLH under reference number 22/07315/LIPVM and can be seen at Appendix 4 on pages 16-28 of the Agenda Report.

Representations

Three Interested Parties in support of the Review made representations mainly on the grounds of public nuisance and crime and disorder and can be found at Appendix 6 of the Agenda Report. However, following the proposed addition of Model Condition 64 (MC64) to the premises licence the Local Ward Councillor Karen Scarborough withdrew her representation. MC64 states "***No deliveries to the premises shall take place between (23:00) and (07:00) hours on the following day***".

Activities and Hours

The Premises operates as a Public House and currently benefits from the following:-

Performance of Live Music

Monday to Thursday: 09:00 to 23:30 (Ground Floor)

Friday to Saturday: 09:00 to 00:00 (Ground Floor)

Sunday: 09:00 to 22:30 (Ground Floor)

Non-standard Timings:

Playing of Recorded Music: Unrestricted

Anything of a similar description to Live Music or Recorded Music

Monday to Thursday: 09:00 to 23:30 (Ground Floor)

Friday to Saturday: 09:00 to 00:00 (Ground Floor)

Sunday: 09:00 to 22:30 (Ground Floor)

Non-standard Timings: See conditions in Annex 3

Late Night Refreshment

Monday to Thursday: 23:00 to 00:30 (First Floor)

Monday to Thursday: 23:00 to 00:00 (Ground Floor)

Friday to Saturday: 23:00 to 00:30

Sunday: 23:00 to 00:00 (First Floor)

Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit: Unrestricted

Sale by Retail of Alcohol

Monday to Thursday: 10:00 to 00:00

Friday to Saturday: 10:00 to 00:30

Sunday: 10:00 to 23:30 (First Floor)

Sunday: 10:00 to 22:30 (Ground Floor)

The Opening Hours of the Premises:

Monday to Saturday: 07:00 to 00:30

Sunday: 07:00 to 00:00

Preliminary Matters:

1. The Chairman introduced the Members of the Sub-Committee and outlined the procedure to the Parties in attendance. The Chairman advised that the Applicant had withdrawn from the review proceedings following agreement on a Condition regarding deliveries with the PLH. The Chairman advised that the Sub-Committee would consider the original application which was submitted by the Applicant alongside the representation from Interested parties.
2. Mr Jackaman, Presenting Officer, outlined the application to the Sub-Committee. He advised that this was an application for a review of an existing Premises Licence which had been submitted by Mr Michael Zelouf on the grounds of the Prevention of Public Nuisance. Mr Jackaman advised that since the submission of the review the PLH had agreed to minor variations on

their Licence and a new Delivery Condition and following these measures, Mr Zelouf had withdrawn his representation. He advised that the Review will be based on the supporting information that was provided by the Environmental Health Service. There were two representations received and both individuals were not in attendance. The representation from the local Ward Councillor had been withdrawn. The Premises is situated in the Marylebone Ward and is not in any Cumulative Impact Area.

Submissions by the Environmental Health Service

3. Mrs Sally Fabbricatore, Environmental Health, confirmed that the PLH had made a minor application to vary the Premises Licence which resulted in delivery condition times, being amended. Mrs Fabbricatore advised that these amendments were satisfactory, and that representation had been maintained to assist the Sub-Committee.

Submissions by the PLH

4. Mr Ewen Macgregor Solicitor appearing on behalf of the PLH Greene King Brewing and Retailing Limited confirmed that an application for a minor variation on the Premises Licence had been made following agreement with the Applicant for a Condition on deliveries to be adopted. Mr Macgregor advised that the Applicant had withdrawn his representation alongside the Environmental Health, and a local Ward Councillor. Mr Macgregor advised that two residents had made representations, and these were based on similar grounds. He advised that both residents had not previously raised concerns with the Premises. Mr Macgregor advised that Mr Ian Tillett (Business Development Manager) of the PLH and Mr Michael Heneghan, Manager of The Globe and DPS had worked at the Premises for over 7 years and that there were no records of complaints being lodged by either objector.
5. Mr Macgregor advised that the Premises was used as a popular 'meeting place' for football fans and sporting events for several years. He advised that the Premises was located near Baker Street Underground Tube Station and had good experience of managing football crowds. Mr Macgregor advised that the Licence Holder worked closely with the Metropolitan Police Service during sporting events and additional security is provided during these periods. He highlighted that the Metropolitan Police Service had not made any representation or requested for any additional conditions to be added despite concerns being raised about crime and disorder by a resident. Mr Macgregor commented that the issue raised regarding the initial Review had been resolved and this was undertaken upfront. The Sub-Committee were advised that further conditions being imposed on the Licence would be inappropriate.
6. In response to questions from the Sub-Committee, Mr Macgregor stated that during football matches there were 12 security guard presents at the Premises and this number would increase to 15 during major sporting tournaments. All security personnel are SIA qualified. Fencing is put up in the external area of the Premises during matches. He advised that the Metropolitan Police Service were present in the locality during those periods. The Sub-Committee noted that the vicinity attracted large numbers of sport

spectators from various sporting disciplines and these individuals would congregate in the locality before travelling to venues such as Wembley. Mr Macgregor said that the PLH had a good working relationship with the Police.

7. Mr Michael Heneghan advised that the Premises was under a different management in 2017 and stated that there could be between 500 to 750 patrons in the Premises during football matches. It was unclear whether contact with the two residents who made representations had been undertaken. The Sub-Committee noted that there were 146 residents who resided near the Premises and commented that the PLH should provide a contact number to residents for reporting any concerns they may have regarding the running and management of the Premises. Mr Macgregor advised that the Premises operational model had improved since 2018.
8. Mr Ian Tillett said that there were other licensed establishments which sold alcohol in the locality and commented that all anti-social behaviour in the vicinity should not be solely attributed to these Premises. This included littering in the area. Mr Tillett said that it would be made a priority to engage with local residents and build on establishing working relationship with this group. He advised that staff members had in-depth experience of working in the hospitality sector and would explore how to mitigate concerns regarding public nuisance in the locality going forward. Mr Tillett stated that several measures had been put in place to improve operations and these included fencing in the external area, plastic glasses, and increased SIA staff Members.
9. In response to questions from the Sub-Committee, Mr Tillett advised that delivery drivers used the red route and that measures had been put in place to reduce nuisance during these operations. This included using rubber matting to eliminate noise. He advised that the Health and Safety risk had increased since moving deliveries from 05:00 to 07:00 and this was due to increased footfalls during these busy periods. The Sub-Committee noted that some complaints which had been lodged against the Premises had not been substantiated and noted that the Premises could be used as a focal point for these concerns, and these included those which were unrelated to its daily operation.
10. In response to questions from the Legal Advisor to the Sub-Committee regarding conditions, Mr Macgregor advised that Model Condition 24 (MC 24) which required the contact number of the DPS on the Premises to be made available to residents would be accepted. The Legal Advisor commented that the Premises did not have the usual condition imposed on the premises licence which was common for public houses requiring substantial food and non-intoxicated beverages to be available in all parts of the Premises. Mr Macgregor confirmed that food was available at the Premises throughout its operational hours and that proposed MC 41 would not be accepted. The Sub-Committee were reminded that the Premises was primarily a public house, and that MC41 did not address any of the concerns which had been raised by interested parties nor was it requested. He commented that the Condition would be breached if food was not available at certain times. He advised that there was no dancing on the Premises and that food was offered during the

earlier part of the day when sporting matches took place and that the proposed Condition in his view was disproportionate. The Sub-Committee commented that the offer of food would help to mitigate concerns regarding vertical drinking such as anti-social behaviour during match dates.

11. Mr Macgregor advised that a Condition which required a minimum of 12 SIAs door supervisors to be present during the football matches would not be accepted. He advised that the Premises undertook a risk assessment during football matches and sporting events, and this indicated how many SIA door supervisors should be deployed. Mr Macgregor advised that a Condition which standardised this practice would be accepted and reminded the Sub-Committee that between 500-750 patron visited the Premises during sporting events.
12. The Sub-Committee were advised that the Premises had a good working relationship with their SIA Recruitment Agent and that additional personnel was supplied when required. Mr Macgregor said that no representation had been made regarding security. The risk assessment for the Premises would be bespoke and a copy of the document would be made available to staff and responsible authorities. The Sub-Committee agreed that residents and other establishments should be made aware that the Premises had a Risk Assessment. This would reassure interested parties that measures were put in place to address anti-social behaviour and alter current perceptions that all public nuisance in the locality emanated from the Premises.
13. In response to questions from the Sub-Committee, Mrs Fabbriatore advised that Environmental Health had assessed the Review based on the original representation. She commented that the Delivery Condition which had been adopted and the minor variation on the Premises Licence had addressed concerns raised and that no further complaints had been raised regarding deliveries. Mrs Fabbriatore advised that anti-social behaviour regarding the Premises dated back to 2017 and that there was no recent history of complaints being lodged.
14. Ms Fabbriatore said that a contact number for the Manager at the Premises would be welcomed and should be advertised widely. She commented that measures such as using plastic glass cups and placing fencing in the external areal during sporting matches was supported and said that in her view the Premises should be allowed flexibility on how to manage the Premises during these periods. She advised that a risk assessment was best suited to determine the number of SIA staff numbers and examine health and safety risks. Ms Fabbriatore commented that MC41 would usually be included in the premises licence for new public houses. She said that there were different views on what was considered as 'substantial food' and highlighted that the Premises had operated for long periods without any complaints. Ms Fabbriatore commented that it was uncertain whether proposed Conditions would mitigate concerns regarding anti-social behaviour.
15. In his summary, Mr Macgregor advised that he endorsed the comments made by the Environmental Office in that a risk assessment should determine the number of SIAs being deployed. He advised that the number of the duty

manager would be made available. The Sub-Committee were reminded that the Premises had been in operation for several years and did not have a recent history of complaints. Mr Macgregor said that a condition regarding 'substantive food' would be disproportionate and highlighted that the Premises had a good operational model. He advised that it was acknowledged that a good working relationship needed to be developed between residents and sustained.

16. The Chairman adjourned the proceedings temporarily so that the Sub-Committee could make its determination and returned to announce its Decision as specified below.

The Sub-Committee's Decision and Reasons

Review Decision

17. Being mindful of the Home Office Guidance, the Act and having carefully considered the review application, the evidence and the representations made by all the parties, both orally and in writing, the Sub-Committee decided that it was, appropriate and proportionate in order to promote the licensing objectives, in particular the prevention of public nuisance and prevention of crime and disorder licensing objectives after taking into account all the individual circumstances of this case and the promotion of the four licensing objectives to take the following steps: -

- *That the Premises Licence Holder be given a Warning and no further action is to be taken.*
- *That two conditions are now imposed on the Premises Licence namely Model Condition 24 requiring the PLH to provide a direct contact number for the Premises and the requirement for SIA licensed door supervisors is to be risk assessed by the PLH when considering security at the front entrance to the Premises.*

Reasons

18. The Sub-Committee has determined an application for a Review of a Premises Licence under Section 51 of the Act in respect of the above Premises which trades as a Public House. The Review application was submitted by the Applicant on the grounds of the Prevention of Public Nuisance due to deliveries being undertaken by the Premises at specific times of the day causing nuisance to nearby residents over some considerable period of time.
19. The Sub-Committee noted that the Applicant did not attend the hearing as a result of a minor variation being submitted earlier to the Licensing Authority thereby solving the problem with deliveries hence the withdrawal of his representation. However, despite this occurrence the Sub-Committee nevertheless still had a legal obligation under the Act to continue with the hearing and consider the rest of the evidence and hear evidence from those interested parties that had objected to the application.

20. Apart from the problems concerned with deliveries there were other issues raised by local residents surrounding nuisance and the PLH's ability to manage the Premises particularly on match days which could not be ignored by the Sub-Committee and thus needed to be considered. Admittedly, the Local Ward Councillor withdrew her representation as well due to the delivery condition Model Condition 64 (MC64) being imposed on the Premises Licence by way of variation and this was welcomed by the Sub-Committee.
21. Due to the concerns regarding public nuisance in other representations received the Sub-Committee considered that it was best practice for the PLH to actively engage with residents and had imposed a Condition in this respect. The Sub-Committee noted that up to 15 SIAs door supervisors were usually present during matches and that risk assessment would be undertaken to determine the number of staff that are deployed during these busy periods.
22. The Sub-Committee recognised that the proceedings set out in the Act for reviewing Premises Licences represent a key protection for the community when problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. The Act provides the Licensing Authority with a range of powers on determining a review that it may exercise where it considers them appropriate for the promotion of the licensing objectives. In deciding which of these powers to invoke, the Licensing Authority should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response. Each case has to be determined on its own merits, on the balance of probabilities.
23. The Sub-Committee was mindful that the Applicant had reasonable and sufficient grounds for seeking this review despite his withdrawal and as explained in paragraph 19 above was required to hear the review.
24. The Sub-Committee noted that the Premises made available food to its customers and did not consider it appropriate to impose Model Condition 41 (MC41) on the premises licence based upon the business model and undertakings/guarantees given by the PLH in this respect.
25. Without displaying criticism to the Premises, the Sub-Committee was a little surprised that had the PLH engaged proactively with the Applicant the review proceedings may not have come about as it transpired that a minor variation was submitted which dealt with the main source of the problem leading the Applicant to withdraw his representation. As an experienced operator the PLH will know that Review process is only used as a last resort when all else has failed between the parties and so the PLH should have been mindful of this when the Applicant raised his initial concerns with the timings of deliveries so early in the morning to see whether some common ground could have been reached in the first instance by way of compromise.

26. The Sub-Committee would however, stress that the PLH maintains a fruitful dialogue with local residents going forward and with the help of Model Condition 24 now imposed on the premises licence this should help facilitate this process.
27. The Sub-Committee in its determination of the matter had regard to Paragraphs 11.1-11.28 on pages 89 to 94 of the Home Office Guidance when considering the review application as well as paragraphs 2.15 to 2.21 on pages 9 and 10 when it came to the issue of the Prevention of Public Nuisance licensing objective and Paragraphs 2.1-2.6 on pages 6 and 7 when it came to the issue of the Prevention of Crime and Disorder licensing objective. Consideration was also given to Appendix 4 on Pages 138 and 139 of the City Council's Statement of Licensing Policy on Reviews for licensed premises.
28. In all the circumstances of the case and having carefully considered the application for the full review and the evidence presented by all the parties, both verbally and in writing, the Sub-Committee concluded it was appropriate and proportionate to ***Warn the PLH and for two additional conditions to be imposed on the premises licence namely; Model Condition 24 for a contact number of the manager of the Premises is to be made publicly available and for the provisions of SIA Door Supervisors to be risk assessed on match days***, to promote the licensing objectives.

The determination of this Decision does not take effect until the end of the period given for appealing against the reasoned decision, or if the decision is appealed against, until the appeal is concluded.

The Applicant for the Review, the Premises Licence Holder and any Party who has made a relevant representation to the review application may appeal against this Decision to Westminster Magistrates Court, 181 Marylebone Road, London, NW1 5BR, within 21 days of receiving this Decision.

The Licensing Sub-Committee
1 September 2022

The Meeting ended at 12.00 pm