



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 15th December, 2022**, This meeting will be held on MS TEAMS..

Members Present: Councillors Maggie Carman (Chair), Concia Albert and Caroline Sargent

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. AIRE ANCIENT BATHS LONDON, 2-3 ROBERT STREET, WC2N 6BH

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.2 ("The Committee")

Thursday 15 December 2022

Membership: Councillor Maggie Carman (Chair),
Councillor Concia Albert and Councillor Caroline Sargent.

Officer Support:	Legal Adviser:	Steve Burnett
	Policy Officer:	Kerry Simpkin
	Committee Officer:	Georgina Wills
	Presenting Officer:	Jessica Donovan

Other Parties: David Edbring – Director Aire Ancient Baths London Ltd (the Applicant)

**Application for a variation of a Premises Licence for Aire Ancient Baths
London, 2 - 3 Robert Street, London WC2N 6BH - 22/06449/LIPV**

Full Decision

Premises:

Aire Ancient Baths London,
2 - 3 Robert Street,
London WC2N 6BH

Applicant

Aire Ancient Baths London Ltd

Ward:

St James's

Special Consideration Zone:

West End Buffer.

Activities and hours applied for:

1. Recorded Music

Monday to Thursday: from 10.00 until 22.00 **to** 10:00 until 00:00 hours

2. Retail Sale of Alcohol (On Sales)

- Monday to Thursday: from 10.00 until 22.00 **to** 10:00 until 00:00 hours

3. Hours Premises are open to the Public

- Monday to Thursday: from 10.00 until 22.00 **to** 10:00 until 00:00 hours

Summary of Application

This is an application for a variation of a premises licence under the Licensing Act 2003 ("The Act").

The premises currently operates as a spa providing massages, spa baths and other treatments. Alcoholic beverages (wine and champagne) are served to users of the facility who have selected this option as part of a pre-paid package or chosen to add drinks to their treatment on the day.

The premises is currently subject of an existing Premises Licence which allows recorded music and the sale of alcohol:

Mon to Thurs 10.00 to 22.00
Fridays and Saturdays 10.00 to 00.00

The application attracted two residential objections.

There is a resident count of 163.

Summary of Representations

The thrust of those written objections received were on the grounds of prevention of public nuisance. The objectors state that there is already a lot of noise in the area particularly on Fridays and Saturdays, the premises will attract crowds to the area and the shop will attract customers 'hanging' around the front of the Premises.

Policy Position

- SCZ – West End Buffer Zone :

Although all incident rates are well above the borough average, the key local issues that need to be considered by applicants are:

- Robberies.
- Theft.
- Antisocial behaviour on and around public transport.
- Incidents relating to ambulance call outs at night to the locations of licensed premises for intoxication, injury related to intoxication and/or assault

- HRS1 – 10a

Shops (all licensable activities that are provided as ancillary to the primary use of the premises as a shop except the off sale of alcohol)

- Monday to Thursday: 9am to 11.30pm.
- Friday and Saturday: 9am to Midnight.
- Sunday: 9am to 10.30pm.
- Sundays immediately prior to a bank holiday: 9am to Midnight.

- SHP1 –

Applications for a shop outside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
4. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meeting the definition of a shop

SUBMISSIONS AND REASONS

1. Jessica Donovan outlined the application to the Committee. The Committee was advised by Ms Donovan that representations had been received from two interested parties but only the Applicant had attended the hearing.
2. Mr Edbring, Director of the Applicant Company, addressed the Committee and explained that the Premises had a grand opening on the 3rd July 2021 and provide a unique environment for customers to bathe and have a massage in a 'whisper' environment.
3. The Committee was informed that the variation application was submitted as a result of planning permission being granted for the premises to trade Mondays to Sundays until 00.00.
4. The Applicant stated that each customer must book their appointment at the premises and they are restricted to one glass of Cava or fruit juice. Excessive drinking is not promoted, guests do not linger outside, there is no dedicated outside area and they have never had a complaint from the neighbours.
5. Mr Edbring had tried to communicate with the objectors, but the Committee was advised that there was no response.
6. In response to questions from the members, Mr Edbring confirmed that alcohol is served in polycarbonate glasses. He has made this application as a result of demand for this service. They also exercise a 'whisper Policy' where guests are encouraged to speak in hushed tones.
7. The Committee were informed that packages were offered with a maximum group of 4 persons but only 44% of customers actually wanted an alcoholic drink. The operators made use of an incident book and in response to a question from the Legal Adviser, Mr Edbring confirmed that he was willing to reduce the terminal time for the sale of alcohol by 30 min.

DECISION

The Committee has determined an application for a grant of a variation of a Premises Licence under the Licensing Act 2003.

The Committee noted that there were no representations from the Relevant Authorities and that although there were two representations, the operation of the premises was not as a shop and they had been trading under Temporary Event Notices and on Fridays to Sundays until 00.00 without complaint or enforcement action,

The Premises is a Spa operation, and the existing premises licence is also already subject to a condition which restricts the sale of alcohol for consumption on the premises and that supply of alcohol will always be ancillary to a pre-booked spa experience or ordered on the day ancillary to a treatment.

The Committee also notes that there is no outside area at the premises.

The Premises and their customers have never been subject to, or involved in crime and disorder, nuisance or anti-social behaviour.

Having carefully considered the committee papers, and the submissions made by the Applicant orally, **the Committee has decided**, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. To grant permission for:

1. Recorded Music

-

Monday to Thursday: 23:00 until 00:00 hours

2. Retail Sale of Alcohol (On Sales)

-

Monday to Thursday: 10:00 until 23:30 hours

3. Hours Premises are open to the Public

Monday to Thursday: 10:00 until 00:00 hours

2. Subject to the relevant Mandatory Conditions and

3. Subject to the existing conditions consistent with the operating schedule, namely:

9. The supply of alcohol will always be ancillary to a pre-booked spa experience or ordered on the day ancillary to a treatment.

10. All alcoholic drinks served within the spa area will be in polycarbonate or plastic containers.

11. 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

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

**The Licensing Sub-Committee
15 December 2022**

2. GUINEA, 30-32 BRUTON PLACE, W1J 6NL

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.2
("The Committee")

Thursday 15 December 2022

Membership: Councillor Maggie Carman (Chair),
Councillor Concia Albert and Councillor Caroline Sargent.

Officer Support: Legal Adviser: Steve Burnett
 Policy Officer: Kerry Simpkin
 Committee Officer: Georgina Wills
 Presenting Officer: Jessica Donovan

Other Parties: **Felix Faulkner and James Anderson** of Poppleston Allen
Solicitors for the Applicant, Young & Co's Brewery PLC

Jason Wright - Young & Co's Brewery PLC
John - Young & Co's Brewery PLC

Margaret Brierley (Resident and witness)

Ian Watson - Environmental Health

Alun Thomas from T&T Partners on behalf of Tila Ltd, Tim
Jeffries, Harriet Power, Gavin Rankin (witness and local
business), Christopher Holder (witness and local
resident)

Lahiru Jayesekara
Tim Jeffries
Gavin Rankin (witness and local business)
Christopher Holder (witness and local resident)
Harriet Power
Mary Young
Mr Studd (Licensing Consultant)

Richard Brown – on behalf of Mike Dunn

Mike Dunn - Residents' Society of Mayfair and St.
James's

Application for a New Premises Licence - Guinea, 30-32 Bruton Place, London
W1J 6NL – 22/09389/LIPN

Full Decision

Premises:

Guinea,

30-32
Bruton Place,
London W1J 6NL

The Applicant

Young & Co's Brewery PLC (the Applicant)

Ward:

West End

CIZ/SCZ

None

Proposed Licensable Activities and Hours

Films and Recorded Music

Monday to Thursday: 10.00 to 23:30 hours
Friday to Saturday: 10:00 to 00:00 hours
Sundays: 12:00 to 22.30 hours

Sundays immediately prior to a Bank Holiday midday to midnight.
From the end of permitted hours on New Year's Eve through to the start of permitted hours on New Year's Day.

Late Night Refreshment (Indoors)

Monday to Thursday: 23.00 to 23:30 hours
Friday to Saturday: 23:00 to 00:00 hours

Sundays immediately prior to a Bank Holiday 23.00 to midnight.
From the end of permitted hours on New Year's Eve through to the start of permitted hours on New Year's Day.

Retail Sale of Alcohol (On and Off Sales)

Monday to Thursday: 10.00 to 23:30 hours
Friday to Saturday: 10:00 to 00:00 hours
Sundays: 12:00 to 22.30 hours

Sundays immediately prior to a Bank Holiday midday to midnight.
From the end of permitted hours on New Year's Eve through to the start of permitted hours on New Year's Day.

Hours Premises are open to the Public

Monday to Thursday: 10.00 to 00.00 hours
Friday to Saturday: 10:00 to 00:30 hours
Sundays: 12:00 to 23.00 hours

Sundays immediately prior to a Bank Holiday midday to 00.30.
From the end of permitted hours on New Year's Eve through to the start of permitted hours on New Year's Day.

Summary of Application

This is an application for a new premises licence under the Licensing Act 2003 ("The Act"). The Premises currently operates as a traditional pub and restaurant situated in Mayfair.

The Premises is located within the West End Ward. It is not in a Cumulative Impact Zone, or Special Consideration Zone.

The Premises at number 30 Bruton Place has had the benefit of a premises licence since at least September 2005 (22/07754/LIPDPS).

This application is a new licence application to extend the current operation into a neighbouring premises.

The Guinea style of operation will not change. It will merely be an extension of the floor space to offer an additional area for dining.

A pre-application meeting has been undertaken and recommendations implemented from the report

There is a residential count of 103.

The Applicant has provided additional submissions including a proposed outside management policy. The Applicant will also call Mrs Brierley a local resident to give evidence in support of the application.

Mr Thomas of Thomas and Thomas Solicitors representing the objectors as detailed above, also provided additional submissions including a licensing consultant report. He will also be calling various residential businesses and residents to support the objections.

Mr Brown will also rely on his summary detailed in his submissions.

The Applicant submitted 4 additional conditions detailed in an email to address the concerns expressed by the objectors.

The main concerns are centred around waste management, deliveries, the use of the outside area and the Applicant's inability to historically trade the outside area without causing a nuisance and putting customers and members of public's safety at risk.

Policy Considerations

- **HRS1**

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

B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:

- 1.** The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.
- 2.** If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.
- 3.** Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.
- 4.** The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.
- 5.** The proposed hours when any music, including incidental music, will be played.
- 6.** The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.
- 7.** The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.
- 8.** Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.
- 9.** The capacity of the premises.
- 10.** The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.
- 11.** The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.
- 12.** Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.
- 13.** The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.
- 14.** Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding

Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.

C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:

6. Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday: Midday to Midnight.

D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.

Policy PB1(A, C and D)

A. Applications outside the West End Cumulative 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 being within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has taken account of the Special Consideration Zones policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meet the definition of a Public House or Bar in Clause D.

C. The applications referred to in Clause B1 and B2 will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1, and/or,
2. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

3. The application and operation of the venue continuing to meet the definition of a Public House or Bar in Clause D.

D. For the purposes of this policy a Public House or Bar is defined as a premises, or part of a premises that's primary use is the sale or supply of alcohol for consumption on those premises and/or for consumption off the premises for consumption outside the venue.

Submissions

1. The Committee heard submissions from Mr Anderson on behalf the Applicant. Mr Anderson informed the Committee that the principal part of application is to extend the current premises into a gallery for a dining experience and providing additional toilets. In relation to the representations made, four additional conditions have been offered which relates to the outside area.
2. Mr. Anderson accepted that the outside area remains an issue, but customers have been drinking on the public highway for 40 to 50 years. Customers do go outside to drink in a small forecourt and on the road, but the Premises have historically traded in this way without issue. The road has no pavement, and most traffic are delivery vehicles. Mr. Anderson asserted that the new restaurant area would provide extra space for customers and the conditions will give control over patrons drinking in the street.
3. The Committee were informed that the trading history of the Premises is good with the Guinea having traded without complaint. They have a good relationship with residents and the relevant authorities have not expressed concerns. The premise already uses SIA doorman has meeters and greeters to the restaurant area. Door staff requirement for the outside area is unpredictable therefore this should be risk assessed.
4. Mr Anderson advised that the Applicant resists any restrictions to the outside area and emphasised that this is not a Review of the existing licence. The Applicant would resist any restrictions on capacity or to the area being used. He advised that any such restrictions would not be good for Bruton Place and the current situation works. There is no issue relating to nuisance or crime and disorder. He stated that the conditions are a right balance and it is unnecessary to impose further restrictions.
5. Witness, Mrs Brierley, informed the Committee that she was not concerned about the new application or noise. She has lived in the area for 11 years and the customers at the premises have never been rude to her nor has she had any difficulties in passing them.
6. In response to questions from the Committee, Mr Anderson confirmed that there will be additional toilets built and for use by all customers. He also stated that the capacity of the bar is about 40 customers, and the outside customers are managed by the manager and duty manager. The outside area starts to get busy from 17.00 and lasts until about 21.30.

7. Mr Watson of the Environmental Health Services informed the Committee that there are no complaints about the premises associated with nuisance since 2012. The area has never been a hotspot for urination or defecation. He identified the outside area as a narrow road but residents would expect a certain amount of vibrancy when living in that area. The Council Services would normally investigate noise nuisance at licensed Premises after 23.00 but there are no records of complaints.
8. Mr Thomas made his submissions to the Committee stating that Mr Studd, had conducted observations from which he concluded that the situation outside the Premises will get worst if there are no suitable controls. Mr Thomas criticised the Applicant for 'drip feeding' conditions at a late stage of the proceedings, even though they were aware some time ago that the main issue with the application was the outside area.
9. Mrs Power advised that the objector, Mr Holder was concerned about noise and servicing the Premises. However suitable conditions had been agreed. He has also complained about customers from the premises blocking his garage entrance and responding to him with abuse. Drinking customers from the premises block the road and prevent free vehicular access for collections and deliveries and taxis.
10. Mr Rankin notified the Committee that he has a business at Bellamy's Restaurant and the Applicant suggestion that their customers outside their premises is amenable, is not the case. The road is blocked by hostile and intimidating customers. The number customers at times is between 150 to 200. The road is further 'choked' with bags, drinking glasses, briefcases, and customers.
11. Mr Thomas continued and advised the Committee that there has been a lack of engagement by the Applicant, and they have not provided tangible conditions. In light of this, he advised the Committee to add conditions, to restrict the area for consumption of alcohol, restrict the number of people, prevent furniture outside the premises, use SIA registered door staff or alternatively to refuse off-sales.
12. Mr Brown on behalf of Mr Dunn and Mr Dunn then addressed the Committee and identified their concerns as similar to those raised by other objectors. They expanded by informing the Committee that the photographic evidence was taken in November 2022, but the crowds are more significant on a 'Friday night in June'. It was also felt that the Management Plan was imprecise and 'wishy washy' and that the conditions proposed were vague and unenforceable. The Outdoor Policy does not address the extent of the outdoor area and numbers.
13. The Committee was informed that this area is a potential flash point and as this is an application for a new premises licence, all matters adversely affecting the licensing objectives are to be considered.

14. The Committee provided all parties with time to agree conditions or ideas to manage the outside area, after which Mr Anderson stated that the Applicant were willing to restrict the use of the outside area to 22.00.
15. In summary, Mr Brown confirmed that the terminal hour was not the issue, it was the number of customers and demarcation of the area used for consumption of alcohol by customers of the Premises.
16. Mr Thomas summarised and stated that there is no effective control of the outside area at the Premises. He asked for a limit of 50 customers outside the premises at any one time and advised the Committee that a lack of complaints is not a reason to avoid dealing with issues.
17. Mr Watson advised the Committee that the history of the premises is important. There are no complaints.
18. Mr Anderson then addressed the Committee and highlighted the following points:
 - a. The Applicant is willing to prevent refuse collection and deliveries between the hours of 22.00 and 08.00
 - b. Customers do not drive to the Premises so they are not blocking garages. There have been no arguments with taxi drivers reported to the management.
 - c. Mr Thomas is wanting to restrict a business to protect his own clients' business interests.
 - d. There has been no adverse feedback from businesses or residents.
 - e. It is impossible to control the numbers of customers or restrict the ambit of the outside area. It could create a flashpoint and it would not make the road any safer.
 - f. The current situation works, and the landlord of the premises is happy with the situation.
 - g. The Applicant has won awards for their trade, received no complaints, and the premises has not attracted a Review.
 - h. If the premises licence is overly restricted, a business having traded for 350 years would have been ruined.
 - i. The Applicant is happy to limit smokers to no more than 20 after 22.00.

Decision and Reasons:

19. The Committee notes that conditions relating to deliveries and collection of waste has been discussed and the conditions offered alleviates some of the objectors' concerns. However, the main area of concern and which remains a problem relates to the Applicants' use and management of the public highway immediately outside the Premises.
20. The Applicant seeks to increase the size of the existing premises and consequently the overall capacity of the Premises albeit the extension is for restaurant use. The Committee is informed that the Premises has historically traded with customers drinking on the highway.

21. It is also asserted by the Applicant that an increase of 60 covers at the Premises 'will not make the outside area worse'.
22. The Applicant resists any restriction on the capacity of the outside area, further reduction of the terminal time for use of the area or restriction in the size of the area used. The Applicant, by email, proposes an additional four conditions to assist in the management of the area. The Committee has had regard to paragraphs 1.16 and 10.01 to 10.10 of the Revised Guidance (April 2018) issued under section 182 of the Act and the Committee notes that these conditions are weak and lacks clarity.
23. The Applicant confirmed there are between 100 to 150 customers drinking alcohol on the highway during busy periods, that there is no defined area of use, nor has there been any complaints registered with the EH services.
24. There was photographic evidence showing the use of the outside area in Nov 2022 and evidence from a licensing consultant, Mr Studd's observations. Residents gave evidence of customers blocking their access, being abusive and intimidating. The Committee heard evidence that numbers can approach 150 to 200 customers especially in the summer months which 'chokes' the road especially when coats, briefcases and glassware are stored/placed in the road.
25. Save for loosely worded conditions relating to SIA registered door supervisors provided on a risk assessment basis, restriction on use of the outside area until 22.00 and complying with an Outside Management Policy, the Applicant was unable to provide any additional measure to give the Committee confidence that their customers drinking outside the Premises would be adequately managed.
26. It is noted that the road is not used regularly by traffic but never-the-less Bruton Place is a road used for access by pedestrians, residents, taxis and for collections and deliveries. The evidence provided by the objectors is that the Applicant's use of the outside area already adversely affects the licensing objective of the prevention of public nuisance. The objectors give evidence that that Applicant has previously failed to implement controls to ensure effective management of their customers and the prevention of nuisance.
27. It is accepted by the Committee that the area is improving but there has to be the right balance between the existence and operation of licensed premises and its customers with other businesses, residents living in the area, the safety of customers and pedestrians, and the prevention of public nuisance.
28. The Applicant states that the 'current situation works' but the photographic and oral evidence suggests to the contrary.
29. The Committee note that it may impose any conditions as its discretion has been triggered following receipt of relevant representations and it is satisfied as a result of a that, it is appropriate to impose conditions to promote one or more of the four licensing objectives.

30. The Committee has therefore determined this application for a grant of a New Premises Licence under the Licensing Act 2003.

31. Having carefully considered the committee papers, the additional papers and the submissions made by all of the parties orally, **the Committee has decided**, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. **To grant permission for:**

Films and Recorded Music

Monday to Thursday: 10.00 to 23:30 hours
Friday to Saturday: 10:00 to 00:00 hours
Sundays: 12:00 to 22.30 hours

Sundays immediately prior to a Bank Holiday midday to midnight.
From the end of permitted hours on New Year's Eve through to the start of permitted hours on New Year's Day.

Late Night Refreshment (Indoors)

Monday to Thursday: 23.00 to 23:30 hours
Friday to Saturday: 23:00 to 00:00 hours

Sundays immediately prior to a Bank Holiday 23.00 to midnight.
From the end of permitted hours on New Year's Eve through to the start of permitted hours on New Year's Day.

Retail Sale of Alcohol (On and Off Sales)

Monday to Thursday: 10.00 to 23:30 hours
Friday to Saturday: 10:00 to 00:00 hours
Sundays: 12:00 to 22.30 hours

Sundays immediately prior to a Bank Holiday midday to midnight.
From the end of permitted hours on New Year's Eve through to the start of permitted hours on New Year's Day.

Hours Premises are open to the Public

Monday to Thursday: 10.00 to 00.00 hours
Friday to Saturday: 10:00 to 00:30 hours
Sundays: 12:00 to 23.00 hours

Sundays immediately prior to a Bank Holiday midday to 00.30.
From the end of permitted hours on New Year's Eve through to the start of permitted hours on New Year's Day.

2. Relevant Mandatory Conditions to apply

3. That the Premises Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives:

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points shall be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and shall include the external area immediately outside the premises entrance. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

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

11. A Challenge 21 or Challenge 25 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, military ID card, passport or proof of age card with the PASS Hologram.

12. 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, which shall record the following:

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

13. 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.

14. There shall be no drinking outside the premises after 22.00 hours daily.

15. 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.

16. 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.
17. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
18. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
19. 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.
20. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
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. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
23. 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.
24. No licensable activities shall take place 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 first floor 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.
26. Before the premises open to the public, the plans as deposited shall be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed.
27. The manager on duty shall take overall responsibility for customers behaviour outside the premises and shall regularly monitor the conduct of those customers.
28. An External Management Policy shall be in force for the premises and each member of staff shall receive training in it and the policy shall be available for inspection by the Licensing Authority and the Police.

29. No collections of waste or recycling materials (including bottles) from the premises shall take place between (22.00) and (08.00) hours on the following day.

30. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (22.00) hours and (08.00) hours on the following day.

31. No deliveries of bottles, barrels, beer casks or similar, to the premises shall take place between (22.00) and (08.00) hours on the following day.

32. After 22.00, the number of customers smoking, vaping or similar in the outside area shall not exceed 20 at any one time.

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

34. Whenever Bruton Place is being used by customers for the consumption of alcohol outdoors, a minimum of (1) SIA licensed door supervisor per 75 customers on Bruton Place shall be on duty in that area. The registered door supervisor's main responsibility in this area shall be to prevent nuisance and monitor customers outside in accordance with an External Management Policy and as instructed by the Duty Manager.

35. SIA licensed door supervisors must correctly display their SIA licence(s) when on duty so as to be visible.

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

**The Licensing Sub-Committee
15 December 2022**

3. **VANITY BAR AND NIGHTCLUB, BASEMENT TO FIRST FLOOR, 4
CARLISLE STREET, W1D 3BJ**

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.2 (“The
Committee”)**

Thursday 15 December 2022

Membership: Councillor Maggie Carman (Chair), Councillor Concia Albert and
Councillor Caroline Sargent

**The Metropolitan Police Service (MPS) have applied for an expedited review
hearing of Vanity Bar And Nightclub, 4 Carlisle Street, London W1D 3BJ -
22/11860/LIREVX**

The Premises:

Vanity Bar And Nightclub,
4 Carlisle Street,
London
W1D 3BJ

Officers Present:

The Legal Adviser – Steve Burnett;

The Committee Officer – Georgina Wills;

The Presenting Officer – Jessica Donovan

Applicant: Metropolitan Police Services - MPS

Gerald Gouriet – Counsel for the Applicant

Steve Muldoon - MPS

Reaz Guerra – MPS

Premises Licence Holder: Vanity License Ltd - PLH

Gary Grant – Counsel for the PLH

Luke Elford - Solicitor

Manpal Singh Clair – Director of Vanity License Ltd

Lorraine Forman – DPS

Shane Mountier – Assistant Manager

Preliminary Matter:

1. The Chair introduced the Members of the Committee and outlined the procedure to the Parties in attendance. The Members and officers confirmed that they had no declarations of interest to make.

2. The Chair noted that the Committee agenda consisted of the application for summary review, the existing Premises Licence, Sexual Entertainment Venue Licence (SEV), licence history, crime report summary, the supporting statements from the MPS, and a short video footage, emails between MPS and the PLH's solicitor which had been served and circulated to all Parties prior to the application for interim steps.
3. The video footage showed a card transaction between an identifiable customer and a member of staff at the premises. Also present was an identifiable dancer partially clothed.
4. The PLH made submissions under The Licensing Act 2003 (Hearings) Regulations 2005 para 14 that the video footage should be viewed in private.
5. There were no objections from the Applicant.

Preliminary Submissions decision.

The Committee has considered the submissions from both parties and have determined that the viewing of video footage to be used as evidence at the hearing, will be done in private.

It is in the Public Interest to exclude the public under Reg 14 of the Licensing Act 2003 (Hearing) Regulations 2005 from this part of the hearing. The Committee confirmed that they had viewed the footage in private.

The remainder of the hearing will be a public hearing.

Submissions

The MPS consider the Premises are associated with **serious crime and serious disorder** and are seeking the revocation of the licence at the full review, which will take place within 28 days of the Application for the summary Review being received by the Licensing Authority.

Options for the Committee

The Committee may take such interim steps as it **considers necessary** and proportionate for the promotion of the licensing objectives, namely: -

- (a) modification of the conditions of the premises licence (modify, delete or add conditions);
- (b) to exclude the sale by retail of alcohol from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence;
- (e) to take no action

The Committee was informed by Mr Gouriet that the trigger incident for the application for an Expedited Review was an allegation of robbery from a customer

who had attended the Premises on the 26th of November 2022. Investigations relating to that matter are ongoing.

In summary, Mr Gouriet stated that the victim attended the Premises and had a drink at 1:20 AM but thereafter, he remembers nothing. The victim was able to track his movements using Google Maps which showed he left the Premises and spent some 2 ½ hours at a car wash. The victim subsequently regained consciousness near to his home. The Committee advised that the victim checked his bank accounts and found that £3K was taken by Vanity in four separate transactions, £4200 taken by a café, £500 in three transactions by Vanity and £14K by an unknown business during his unconsciousness.

The victim's loss of memory, which he says was as a result of being 'spiked' was assisted by an account given by his friend. That friend stated that both of them attended the Premises and were subsequently separated with one going to the first floor and the other to the basement for private dances. The friend paid for one dance but refused to pay for a second. He asked to see his friend (the victim) but was told that he would have to pay a further £280. He refused and after waiting some time, he then left without his friend.

There have been 11 similar incidents detailed on the Crime Report summary and linked to the Premises. The MPS attended the Premises but when they requested to view CCTV, they allege that although allowed to view snapshots of footage, they were obstructed by the assistant manager and DPS. There was further correspondence between MPS and the solicitors for the PLH but to date, the MPS have not had access to CCTV footage.

Mr Gouriet informed the Committee that whilst viewing a snapshot of the CCTV, they saw a dancer grinding her buttocks only lap of a customer which is in breach of a condition on the Sexual Entertainment Venue licence.

Mr Gouriet submitted that there was a significant risk to crime prevention and a credible threat to public safety and therefore the MPS requests suspension of the Premises Licence.

The Committee was told that the customer seen in the video footage was not the victim and the MPS did not have the times of the credit card transactions.

On behalf of the PLH, Mr Grant submitted that the Applicant is asking the Committee to assume the allegations are true in the absence of evidence.

Mr Grant advised the Committee that the Premises has traded since 2014 without enforcement or review and the SEV has been renewed annually. The Committee noted that Mr Singh Clair had operated London venues for 22 years and is a man of good character, the DPS had been in the industry for 40 years and the assistant manager had been a civil enforcement officer.

Mr Grant explained that suspension of the Premises Licence would have a serious impact on the business at this crucial time and could destroy the business. He advised that the Committee must be satisfied that the MPS use of the Summary Review procedures is appropriate and proportionate, the MPS case is strong and

that there are no lesser measures which could be imposed. Mr Grants view was that the MPS had failed on all three.

The Committee was referred to paragraphs 9.12, 12.2 and 12.7 of Revised Guidance issued under sec 182 of the Licensing Act 2003 and he questioned whether a standard review would be more appropriate given the delay between serving the Review Papers and the trigger incident. The Committee heard from Mr Grant, supported by their expert witness, Mr Bamber, that when some customers attend a SEV premises and later realise how much they had spent, they will report it as a crime to make a claim for compensation from their bank. Furthermore, when customers have too much to drink, they will claim that their drink had been spiked.

The MPS have no medical evidence or witness statements to confirm spiking had taken place at the Premises.

The Committee were advised that in the absence of key information from the MPS, the CCTV footage viewed by the Committee attempts to identify the victim in the trigger incident and shows that when payment is taken, a receipt given which are not the actions of a Premises involved in credit card fraud.

The Committee noted the cost of dances at the Premises and heard that sometimes, customers on leaving the Premises attend brothels where they are subsequently defrauded.

Mr Grant complained about the MPS lack of disclosure, the inappropriate use of their powers, lack of transparency and evidential inconsistency. The MPS also failed to inform the PLH of the other 11 incidents detailed on the Crime Report which dates back to Sept 2021.

Mr Grant advised the Committee of inconsistencies in the offences on the Crime Report and advised that fraud had not taken place at the Premises.

The PLH denied being obstructive when the MPS requested video footage. The request for footage from all cameras, (including cameras covering offices and changing rooms), over 4 days amounting to 540 hours was not seen to be proportionate by the PLH or his legal adviser.

In response to questions from the Committee, it was noted that the dancers were regular and self-employed and the assistant manager and DPS had been working at the Premises for 5 years. The dancers do not take payment and that there is a limit on card payments which normally requires the holder to provide authorisation direct to the bank. Interaction with customers when they are making payment will identify whether a customer is fit enough to remain on the Premises or authorise payment. The DPS confirmed to the Committee that if there was a complaint, then this would be recorded in an incident book. The PLH stated that it was not unusual to spend £3500 and over during an evening at the Premises. Some customers had complained about fraud and reported the matter to their banks. The banks had contacted the Premises and when shown CCTV footage, the banks concluded their enquires with the Premises without blame.

The DPS confirmed that whilst a private dance is taking place, if the customer required a drink, then only the DPS or the assistant manager would collect and deliver the drink to the customer.

Mr Grant on behalf of the PLH requested that the Committee instructed the MPS to serve statements, details of relevant transactions, description of the victim and date and times of the victims' attendance at the Premises within 5 working days.

The Committee's legal adviser, Mr Burnett informed the Committee that there were no powers under the Licensing Act 2003 which gives the Committee authority to compel a party to disclose evidence within a certain period.

INTERIM STEPS DECISION

The Committee concluded that the incident on the 26th November 2022, which has been reported to the MPS, has raised concerns about the Licensing Objectives, in particular protection of the public and the prevention of crime.

The Committee noted that there are a number of similar incidents linked to the Premises to be investigated, which causes extreme concern.

It is the PLH's duty to promote the licensing objectives and to be aware of what is taking place at his/her Premises. The DPS authorises the sale of alcohol and has day to day control of the Premises. The Committee is satisfied that customers' safety is at risk and that serious criminal activities have taken place against customers who have attended the Premises.

The Committee considered that the condition proposed by Mr Grant would not be sufficient to protect customers. Namely that *"All credit card transactions shall take place in full view of CCTV cameras."*

The Licensing Objectives of public safety and the prevention of crime and disorder are not being promoted and the Committee has not been convinced that the Premises is taking sufficient measures to promote the Licensing Objectives.

Having carefully considered the application for an expedited review and the evidence presented by the MPS and the Premises Licence Holder, both verbally and in writing, the Committee has concluded that the Premises is associated with serious crime and serious disorder and it is necessary and proportionate to take the following step, namely to suspend the premises licence.

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

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 MPS will receive advance notice of this hearing.

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

The Licensing Sub-Committee
15 December 2022

The Meeting ended at 6.26 pm