



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 30th March, 2023**, This will be an MS Teams Virtual Meeting.

Members Present: Councillors Robert Eagleton (Chair), Iman Less and Melvyn Caplan

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. LOVEDAY ABBEY ROAD, 41 ABBEY ROAD, NW8 0AA

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

Thursday 30 March 2023

Membership: Councillor Robert Eagleton (Chair),
Councillor Iman Less and Councillor Melvyn Caplan

Officer Support:	Legal Adviser:	Steve Burnett
	Policy Officer:	Daisy Gadd
	Committee Officer:	Sarah Craddock
	Presenting Officer:	Jessica Donovan

Other Parties: Mr Stewart Gibson of SG Licensing on **behalf** of Loveday Abbey Road Limited (the Applicant)
Mr Matt Dodge (Proposed Designated Premises Supervisor)

Environmental Health Service (Ian Watson)

Application for a New Premises Licence for Loveday Abbey Road, 41 Abbey Road, London, NW8 0AA - 23/00635/LIPN

FULL DECISION

Premises:

Loveday Abbey Road,
41 Abbey Road,
London,
NW8 0AA

Applicant

Loveday Abbey Road Limited

Ward

Abbey Road

Cumulative Impact Area (CIA)

N/A

Special Consideration Zone

N/A

Proposed Licensable Activities and Hours

Retail Sale of Alcohol (Both)

Monday to Sunday: from 00.00 until 24.00 (24 Hrs)

Hours Premises are open

Monday to Sunday: from 00.00 until 24.00 (24 Hrs)

Summary of Application

This is an application for a new premises licence under the Licensing Act 2003 ("The Act"). The Applicant is seeking to permit the sale of alcohol on the premises to residents and those guests who visit the residents. The licence is sought for 24 hours a day and is not available to the walk-in public.

The garden area will only be open until 22:00 hours on any day. Off sales is intended to cover any external area used for the consumption of alcohol. No off sales available to be taken away from the premises.

The matter was assessed on its individual merits having regard to the evidence before the Licensing Sub-Committee and the promotion of the licensing objectives.

There is a resident count of 112

Representations Received

- Ms Sally Fabbriatore (Environmental Health Services)
- Ms Theresa Octavio (Resident)

The EH states that the provision of the Supply of Alcohol may cause an increase in Public Nuisance in the area and may impact on Public Safety.

The resident states that this care home is in the middle of a residential area, and granting a license will result in noise, nuisance, disorder, crime and antisocial behaviour in our local streets. Even worse the licence application is requesting alcohol sale permit for 24 hours a day, including sales and consumption in the garden area which is surrounded by private residences.

Policy Considerations

HRS1 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.
2. Whether there is residential accommodation in the proximity of the premises.
3. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.
4. The existing hours of licensable premises in the vicinity.
5. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.
6. The capacity of the premises.
7. The type of use, recognising that some venues are more likely to impact the licensing objectives than others.
8. 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.

C. For the purpose of Clause B, the Core Hours for this premises use type as defined within this policy are:

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

HOT1 B

A. Applications 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 being within the council's Core Hours Policy HRS1.

Hotels:

Monday to Thursday: 9am to 11.30pm.

Friday and Saturday: 9am to Midnight.

Sunday: 9am to 10.30pm.

For the sale of alcohol to guests for consumption in hotel/guest rooms only:
Anytime up to 24 hours.

3. The sale by retail of alcohol, must be an ancillary function to the primary purpose of the venue as a hotel.

4. The application and operation of the venue meeting the definition of a Hotel as per Clause C.

Clause C: For the purposes of this policy a Hotel is defined as a premises that is primarily used as an establishment providing overnight accommodation for customers.

SUBMISSIONS AND REASONS

Ms Donovan outlined the application to the Committee. She advised that representations had been received from the Environmental Health Service. A representation was also received from one interested party however Ms Donovan confirmed they are not in attendance today.

Ms Donovan confirmed that the additional submissions from the Environmental Health Service and the Applicant had been circulated to the Committee.

The Committee were informed that the Premises is located within the Abbey Road Ward and does not fall within the Cumulative Impact Zone or Special Consideration Zone.

Mr Gibson on behalf of the Applicant outlined the application before the Committee. He explained that Abbey Road Loveday is a high-end care home with a capacity of 26 luxury suites. He explained the application is to seek permission for the sale and consumption of alcohol 24 hours a day. Mr Gibson confirmed this is purely for the residents of the care home, their families, and their bona fide guests. The premises including the garden area cannot be accessed by members of the public. Mr Gibson emphasised that residents at the home are continually and carefully monitored by staff and confirmed if a resident is at any kind of risk due to their medical condition, they will not be permitted any alcohol, and this would be detailed in their care plan.

In response to questions from the Committee, Mr Gibson explained that staff numbers are only reduced by a small number during the evenings, to 1 staff member per 2 residents. He also advised that alcohol is being stored in a locked cupboard in the basement kitchen. The alcohol is to be moved into two locked wine fridges on the ground floor. Mr Gibson confirmed that the alcohol can only be accessed by either the front of house staff or the registered nurse on duty.

Mr Ian Watson on behalf of Environmental Health Service (EH) informed the Committee that EH have visited the premises and have met with the DPS to go through the application. Mr Watson confirmed that the majority of their concerns had been satisfied.

Mr Watson stated that there is a representation from a resident who is concerned about noise nuisance. He recognised the garden area of the premises is surrounded on three sides by residential properties. The Premises garden is a private garden with no public access. Mr Watson confirmed the residents will have no access to the garden after 22.00 which will help to alleviate any noise concerns. Mr Watson pointed out to the Committee that condition 14 on page 19 of the Agenda papers refers to a 'terrace'. However, the plan identifies this area as a garden. EH would like this to be suitably amended.

Mr Watson recognised the application states that any alcohol consumed in the garden area will be by way of off sales. However, this area appears to be delineated by a red line. Mr Watson requested that if off sales were being retained then he would request that the red line is removed from the garden area on the plan. He further explained that by removing the red line, this would prohibit the provision of deregulated entertainment in the garden area.

The Legal Adviser, Mr Burnett confirmed Mr Watson was correct and confirmed that if the garden area remains within the red line, then live and recorded music would be permitted until 23.00. Furthermore, sales could be conducted in the garden area. As an option, Mr Burnett advised that if the red line is removed from the garden area, the sale alcohol for consumption in the garden would be on an off-sale basis.

Initially, Mr Gibson, on behalf of the Applicant requested deletion of off sales from the application rather than the removal of the outside area from the redline on the proposed plans. However off sales were retained, as on occasions, a resident may wish to have an alcoholic drink with their guests and family in their rooms.

In terms of the conditions which were discussed these were as follows: -

- Condition 9 – is to be amended so that all managers and staff with involvement with alcohol are fully trained.
- Condition 10 – is to replace reference to the DPS with the Premises Licence Holder.
- Condition 13 – amended to read 'the sale and supply of alcohol shall be limited to residents, their family, bona fide guests or staff members of Loveday Abbey Road limited'.
- A new proposed condition requiring a new plan removing the garden area from the red line boundary.

Unfortunately, Mr Gibson connection to the virtual Committee hearing was terminated due to technical issues. However, Mr Dodge on behalf of the Applicant remained available and confirmed that he was satisfied with the wording of conditions and consented to them being added to the premises licence if granted.

Decision

The Committee has determined an application of a grant of a variation of a Premises Licence under the Licensing Act 2003. The Committee is aware that it has a duty to consider each application on its individual merits and did so when determining this application.

In reaching its decision, the Committee took into consideration that the Applicant had agreed conditions with the Environmental Health Officers. Amended conditions and conditions to be added were agreed during the course of the hearing. These conditions consisted of terms which restricted the sale of alcohol to residents, guests and family, restricted the sale of alcohol to the ancillary use of the Premises trading as a residential home and prevented consumption in the garden after 22.00.

The Committee noted that the application was for the benefit of up to 26 residents, their family and guests. However, it was highly unlikely that all guests, family of each individual resident would be present at the same time.

The Applicant's argument that the proposed restrictions to be applied if the premises licence was granted, would promote the licensing objectives was compelling.

The Committee were assured by the Applicant that there would be supervision of residents for 24 hrs and this is on the basis of one member of staff for every two resident. The Applicant confirmed that they would not allow anything or anyone to put residents at risk and therefore the licensing objectives would be promoted.

The Committee took comfort from a restriction on the use of the garden area for consumption after 22.00. This garden and indeed, the Premises is not available to, nor can it be accessed by uninvited members of the public.

The Committee was therefore satisfied that, in accordance with the Licensing Act 2003, Home Office Guidance, Westminster's Statement of Licensing Policy and on the evidence before it, that it was appropriate and proportionate, in all the circumstances, to **GRANT** the application.

Having carefully considered the committee papers, the additional papers and the submissions made by all of the parties orally, **the Committee has determined**, 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:

Sale of alcohol (on and off sales)

Mondays to Sundays 00.00 to 24.00 (24hrs)

Hours Premises are open

Mondays to Sundays 00.00 to 24.00 (24hrs)

2. Relevant Mandatory Conditions to apply

3. Agreed appropriate and proportionate conditions consistent with the operating schedule:

9. All managers and staff with involvement in the sale of alcohol, the provision of alcohol and the supervision of those consuming alcohol, shall be fully trained in their legal responsibilities with regard to the sale of alcohol, and shall be retrained every six months, with training records kept for inspection by the relevant authorities.

10. The Premises Licence Holder shall keep an up-to-date authorisation sheet which shall show the names of staff members who have been given the authority by a named Personal Licence Holder to sell alcohol on the premises.

11. 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.

Conditions proposed by the Environmental Health and agreed by the applicant so as to form part of operating schedule.

12. The licensable activity authorised by this licence and provided at the premises shall be ancillary to main use of the premises as a residential care home.

13. The sale and supply of alcohol shall be limited to residents, their families, their bona fide guests and staff members of Loveday Abbey Road Limited.

14. The consumption of alcohol in the garden area shall not take place between 22:00 and 07:00 hours.

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

16. A record shall be kept detailing all refused sales of alcohol. The record shall 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.

17. Off sales shall be permitted for consumption only in the garden area and the unlicensed areas inside the premises.

Condition imposed by the Committee and agreed by the applicant so as to form part of operating schedule.

18. The sale of alcohol shall not take place at the premises until a new plan removing the garden area from the ambit of the red line (Licensable Area) has been provided to the Environmental Health Consultation Team and Licensing Authority.

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

**The Licensing Sub-Committee
30 March 2023**

The Meeting ended at 11.14 am

CHAIRMAN: _____ **DATE** _____