

Your ref: **Ref: 19/10048/LIPN**

Licensing Service
City of Westminster
64 Victoria Street
London
SW1E 6QP

07 October 2019

Dear Sirs

39-45 Shaftesbury Avenue

We act for the applicant in respect of the above matter, which is due to be determined by the Licensing Sub-Committee on 10 October 2019.

There is only one relevant representation, from the Licensing Authority, due to the “addition” of a bar use within the cumulative impact area, thus potentially being contrary to PB2 and CIP1.

Introduction

By way of historical context, the premises were acquired as part of Sir Cameron Mackintosh’s purchase of the adjacent Queen’s (now the Sondheim) Theatre and Gielgud Theatre. The premises traded as a late-night bar/nightclub for many years until the previous licence was reviewed, and as a consequence, the current licence (reference 18/12307/LIPDPS) was granted and has remained in force and in use since October 2015.

Because of market uncertainty, the landlord has been advised by their property agents that there is only “appetite” for restaurants with at least some flexibility in relation to bar use during core hours, hence the application.

The proposal therefore is to re-market and re-let the property to a tenant who can enjoy a long tenure in these difficult times. That, Sir Cameron Mackintosh and his theatre management company, Delfont Mackintosh Theatres, believe, will attract considerable refinement to Shaftesbury Avenue and will also be of service and attraction to persons attending both the Sondheim and Gielgud Theatres next door, and the other theatres in the vicinity, where there is currently a lack of appropriate places to eat and drink before and after a theatre show.

Policy

If this was an application for a new licence (even for a restaurant use) beyond core hours, the applicant would need to demonstrate that such use would not add to cumulative impact.

In this case, there is already a permission allowing a restaurant to operate from the premises until 1.00 am, and therefore after core hours.

Policy HRS1 highlights the higher risks of an adverse impact on the Licensing Objectives associated with premises operating after core hours. By reducing the hours of operation to core hours, there must therefore be a reduction of cumulative impact.

This is recognised in paragraph 2.4.7 of the Statement of Licensing Policy which states that *“a reduction on hours of operation might be a reason for an exception to policy”*.

The effect of grant would be to grant a “core hours” licence with the majority of the premises being set aside for dining (in accordance with model condition 66), but with a modest bar area where alcohol could be sold only to persons who are seated and restricted to no more than 25 customers at any time.

The relevant provisions of paragraph 2.4.7 of the Statement of Licensing Policy applies as the existing 1.00 am licence would be surrendered prior to this licence taking effect. The reduction of a 1am use in the Cumulative Impact Area therefore reducing cumulative impact and promoting the licensing objectives.

The premises would still operate as a restaurant, the only differences being:

1. The holding bar becomes a seated bar, with the same capacity; and
2. The hours for licensable activities and opening are reduced from 1.00 am to Core Hours.

Licensing Authority Representation

The Licensing Authority has requested:

- a) A reduction to the start time for the sale of alcohol and recorded music to Core Hours – this is agreed. The opening hours remain as per the application;
- b) The opening hours are reduced at the end of the day to Core Hours. This is not agreed as the predominant use is as a restaurant.

Whilst it is agreed that paragraphs 2.4.5 and 2.5.23 of the Statement of Licensing Policy applies but so does 2.4.7 which constitutes the exception.

We would be grateful if this additional information could be included within the report for consideration prior to the hearing.

Please could you note the attendance of Jack Spiegler of these offices and Caroline Hanson of Delfont Mackintosh who will be able to assist members with any further questions that they may have.

Yours faithfully

Thomas & Thomas Partners LLP

tel: 020 7042 0412

email: athomas@tandtp.com