

LICENSING SUB-COMMITTEE No. 1

Thursday 29th October 2015

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams and Councillor Jan Prendergast

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: 3 representations in support of the application.

3 representations objecting to the application received from Environmental Health, The Metropolitan Police and The Soho Society.

Also Present: Ms Lana Tricker (Solicitor, representing the Applicant), Mr Stroo Olofsson and Mrs Julija Olofsson (Applicant Company), Ms Sally Thomas (Environmental Health), Sergeant Richard Bunch (Metropolitan Police), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing The Soho Society) and Ms Marina Tempia (The Soho Society).

Blade Soho, 26 Frith Street, W1 15/06965/LIPN	
1.	Sale by retail of alcohol (On sales only)
	Monday to Saturday 12:00 to 22:00 Sunday 12:00 to 20:00.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee initially heard from Ms Tricker, representing the Applicant, having already read her written submission dated 23 rd October 2015. She stated that Blade Soho currently operates as a hair salon providing hairdressing facilities on both the ground and basement floors. On the ground floor there are six styling stations plus wash basins and in the basement there are three styling stations plus two wash basins. There is a coffee bar on the ground floor where patrons are served non-alcoholic drinks and could utilise iPads. Ms Tricker explained that her clients were seeking to have a premises licence in

place to also allow the facility to sell alcohol within the venue. It was being proposed that a bar would be built in the basement. The purchase of alcohol would be limited to (a) patrons having a haircut with all alcohol to be served by waiter or waitress service from the basement bar area or (b) members of the 'Blade Precision Club' and up to three guests within a dedicated member's area in the basement. Ms Tricker made the point that it was her understanding that there were no objections to the concept of alcohol being ancillary to customers having a haircut with waiter or waitress service. The concerns related to the sale of alcohol to members in the basement area. There had been representations of support for the application from local businesses and residents.

Mr Olofsson and Ms Tricker described the operation of the members club. The 'Blade Precision Club' was intended as a loyalty scheme for regular customers. It would encourage members to bring their friends and bring new business to the premises. The membership scheme had been in place since 2012 and there would be a two day window between applying for membership and becoming a member. Mr Olofsson informed Members that he was considering introducing pricing for membership and potentially requiring identification for members. Ms Tricker added that the hairdressing salon was located in the West End Stress Area but the proposed hours for on sales was well within the Council's Core Hours policy and would not commence until midday. There was no regulated entertainment. Alcohol would be kept in a locked area in the basement and would not be displayed on the ground floor. Staff would serve the drinks. This was likely to take the form of reception staff covering the two floors. A condition was proposed that the overall capacity would not exceed 30 persons excluding staff and the basement capacity would not exceed 25 persons excluding staff. She made the point that it was highly unlikely that there would be the full capacity of 25 people in the basement given its size, particularly with the hairdressing also taking place on the ground floor.

In response to questions from the Sub-Committee, Ms Tricker and Mr Olofsson advised that a few events had been held in the past under Temporary Event Notices but these had been limited to two or three a year for the last three years. These were promotional events which had involved the playing of music. It was not envisaged that there would be a significant increase in TENs and these were likely to conclude at 22:00 hours. They informed Members that if the current application was granted, the alcohol served would not be cheap and would differ from that available in high street stores.

The Sub-Committee were addressed by Sergeant Bunch on behalf of the Metropolitan Police. He confirmed he had no concerns regarding alcohol being served to those who had or were receiving haircuts. The issue was the creation of a bar in the West End Stress Area with the possibility of crime and disorder and the addition to cumulative impact. He stated that it was a small bar in the basement and the proposed hours for alcohol were restricted. However, he expressed the concern that once the premises licence was granted, there was the potential for the development of the bar area into something other than a membership scheme connected with the hairdressing business.

The Sub-Committee next heard from Ms Thomas, representing Environmental Health. She also advised Members that her key concerns were in respect of the members' bar in the basement with the potential for public nuisance and the adding to cumulative impact in the West End Stress Area. She had proposed conditions to minimise the potential for the licensing objectives being undermined. These included no noise being permitted to emanate from the premises, no self-service of alcohol and the capacity restrictions. She was no longer seeking a condition that there would be no fixed bar at the premises as this was not practical in terms of the operation. Ms Thomas added that a capacity could in theory be placed on the members' bar but introducing a number of different capacities would make it more difficult for the licence holder to manage and enforcement officers to assess. The public safety capacity was 25. The hairdressing stations were fixed on the plan so if there were future plans to have purely a bar in the basement there would need to be a variation application with the hairdressing stations removed from the plan. She informed Members that there had been no complaints associated with the premises.

Mr Brown, representing The Soho Society, confirmed that their concerns related to the members' club in the basement. He stated that The Soho Society's view was that it would be a retrograde step if a bar, albeit with limited numbers, was granted in the West End Stress Area. The proposed hours were within the Council's Core Hours but in policy terms PB1 and STR1 applied. This meant that exceptional circumstances for granting the application had to be put forward by the Applicant. His reading of the Council's consultation on the revised policy was that being a private members' club was not sufficient in itself to bypass the impact of being a bar in the stress areas. Mr Brown made the point that once an application was granted as an exception for less than Core Hours, there was then no presumption against an application to vary the hours within Core Hours. Mr Brown asked whether it was intended that the bar would be used prior to or after having a haircut or was it independent of this albeit to members of the club. He also asked whether it was possible to become a member without being a regular user of Blade Soho. He raised the point that in his view a capacity could operate purely for the bar area, similar to a bar in a restaurant.

Ms Tempia stated that this would be a new bar in the stress area and it was of great concern if there were up to 25 people drinking in the basement. It was a busy area and noise could be caused by patrons at an earlier hour than midnight. She wished to be assured that more people would not be drinking in the streets.

Ms Tricker responded to some of the points that had been raised by objectors at the hearing. There would be a list of members on the premises and the bar would not be available to the public who were not members or their guests. There would be no drinking on the street as the application was for on-sales only and it was not permitted for alcohol to be removed from the premises. She stated that the low capacity had to be taken into account. She did not believe that the hours applied for would lead to dispersal issues and adversely affect residents. It would be necessary for the Applicant, or another operator in the event of the transfer of the premises licence, to make a variation application should they wish to operate the basement purely as a bar. Mr Olofsson made

the point that the members were already hairdressing clients. Ms Tricker advised that it was not intended to have a condition that any customer who wished to become a member should have to have had a certain number of haircuts before they were admitted. She was content for the number of guests of members to be reduced from three to two should Members consider that this would be of assistance in terms of limiting the number of customers in the premises. Ms Tricker clarified that the bar in the basement would only operate when hairdressing was taking place, though members and their guests using the dedicated area would not have to avail themselves of any hairdressing services.

Members of the Sub-Committee considered in reaching their decision that it was being proposed that there would be a bar in the basement in the West End Stress Area. There is a policy presumption against applications for bars in the stress areas and that policy equally applied to members' clubs. The membership scheme proposed was such that membership could easily be obtained by any customer using the premises so it was not considered that club members would behave any differently to members of the public who were not members. The issue was whether or not it was appropriate to allow the operation of a bar at all.

Members were only minded to grant the application as an exception to policy if appropriate hours and conditions were imposed which would prevent cumulative impact. They considered that a terminal hour of 20:00 for on sales Monday to Saturday in addition to Sunday would significantly limit the adverse effects of cumulative impact. The concern about allowing the sale of alcohol beyond those hours was based on the fact that there was the potential for 25 persons to use the basement whilst the premises were still operating as a hairdressing salon and members of the club using the bar area did not have to be served by waiter or waitress service. There was the potential for vertical drinking to take place, albeit that the dedicated area in the basement was very small. It was accepted that there was no intention for the premises to operate that way but the potential existed and that meant there was a potential for the premises to add to cumulative impact. That concern was alleviated by limiting the hours for the sale of alcohol to 20.00 hours.

In reaching this decision, members recognized the point that had been made by Mr. Brown to the effect that, once the application had been granted as an exception to policy, there would no longer be a policy presumption against a further application to vary the licence so as to allow the sale of alcohol within core hours. That did not mean that such an application had to be granted. It would still have to be determined on its merits and it would still have to be demonstrated that it did not add to cumulative impact. The decision to allow the operation of a basement bar until 20.00 was made on the basis that the operation of the bar until that time and subject to the further conditions imposed would not add to cumulative impact. It was considered that the operation of a bar beyond those hours, even in accordance with the conditions, would be likely to add to cumulative impact.

The conditions were further tightened to provide additional clarification as to how the ground floor and basement would operate. These included that on sales would only be provided at the premises at times when both floors of the

	<p>premises are operating as a hairdressers and alcohol would only be sold to and consumed by (a) patrons attending the premises for, and ancillary to, haircuts and hairstyling and/or (b) in the hatched area in the basement area by members of a private club and their bona fide guests (not exceeding 2 guests per member). The Sub-Committee was satisfied with the Applicant's suggestion that no person would be admitted to membership of the private club unless they are customers of the hairdressing salon or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission.</p>
2.	Opening Hours
	<p>Monday to Saturday 10:00 to 22:00 Sunday 12:00 to 20:00.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application. The opening hours relate to those for hairdressing. The hours permitted for on sales were Monday to Sunday 12:00 to 20:00 (see Section 1).</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.	(1) The responsible person must ensure that staff on relevant premises do

not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be

specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if

- the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Additional Conditions

9. The licensable activities authorised by this licence may only be provided at the premises at times when both floors of the premises are operating as a hairdressers.
10. Alcohol may only be sold to and consumed by (a) patrons attending the premises for, and ancillary to, haircuts and hairstyling and/or (b) in the hatched area in the basement area by members of a private club and their bona fide guests (not exceeding 2 guests per member). No person shall be admitted to membership of the private club unless they are customers of the hairdressing salon or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission.

11. A list of the names and addresses of members of the Club shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guests introduced by members. Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the Council.
12. 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 will 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. 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.
13. 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.
14. 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.
15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
16. 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.
17. 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.
18. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
19. 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.
20. 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.

21. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 on the following day.
22. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day
23. 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.
24. No unauthorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
25. A Challenge 21 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.
26. 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 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 or searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
27. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
28. 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.
29. The basement capacity shall not exceed 25 persons (excluding staff) with the overall premises capacity not exceeding 30 persons (excluding staff).
30. There shall be no self-service of alcohol.

31. All drinks served at hairdressing stations shall be done so by waitress/waiter service.
32. No licensable activities shall take place at the premises until the licensing authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority
33. Prior to the Licence taking effect, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the LFEPA, Environmental Health Consultation Team, the Police and the Licensing Authority.