

LICENSING SUB-COMMITTEE No. 1

Thursday 6th July 2017

Membership: Councillor Angela Harvey (Chairman), Councillor Julia Alexander and Councillor Murad Gassanly.

Legal Adviser: Horatio Chance
Policy Adviser: Chris Wroe
Committee Officer: Andrew Palmer
Presenting Officer: Heidi Lawrence

Relevant Representations: Environmental Health.

Present: Mr Robert Botkai (Solicitor, on behalf of the Applicant), Shuxrat Djurakulov (general manager – Bocconcino Properties Limited), Steven Liddell (Acoustics expert, on behalf of the Applicant), Mr Richard Brown (representing Jaleh Zand and Richard Brandt - interested parties) and Mr Anil Drayan (Environmental Health).

	Bocconcino, 19 Berkeley Street, W1J (“The Premises”) 17/04528/LIPV
1.	Performance of Dance (indoors)
	Proposed Hours: Monday and Tuesday 10:00 to 00:30 Wednesday to Saturday: 10:00 to 02:30 Sunday: 12:00 to 22:30 From end of terminal hour on New Year’s Eve to start of permitted hours on New Year’s Day.
	Amendments to the application advised at hearing. An amended set of conditions had been circulated to all parties on 4 July, together with additional documents from the Applicant. It was noted that the Police had previously withdrawn their representation following the agreement of a proposed condition that would limit the capacity on the lower ground floor to 70, with no more than 25 people standing. The Sub-Committee noted that the CCTV condition which had been omitted from the amended set of conditions that had been circulated would still apply.
	The Presenting Officer outlined the nature of the application submitted by Bocconcino Properties Limited, which sought a variation of the current premises licence. The Applicant was seeking to extend the terminal hour for the Sale of Alcohol to 02:30 Wednesday to Saturday (currently 00:30), and to extend the terminal hour for the provision of Late Night Refreshment to 02:30 Wednesday

to Saturday (currently 00:30). The Applicant also sought to add Regulated Entertainment at the Premises from 10:00 to 00:30 hours Monday and Tuesday; 10:00 to 02:30 hours Wednesday to Saturday; and 12:00 to 22:30 hours Sunday, for licensable activities which included the performance of dance and live music and the playing of recorded music. Non-standard timing was also requested from the end of the terminal hour on New Year's Eve, to the start of permitted hours on New Year's Day. In addition, the Applicant sought to remove and replace a number of conditions from the Premises licence.

Mr Botkai addressed the Sub-Committee on behalf of the Applicant, and presented an amended operating schedule which set out new conditions together with those that would remain. The intention was to extend the terminal hour, and allow a maximum of 25 people who had made a previous reservation to remain longer within the bar area in the lower ground floor of the Premises and be able to dance, with the remainder being seated at tables. The Applicant was aware of the cumulative impact in Berkley Street, but considered that the extended hours would enable dispersal to be gradual, and reduce the pressure of customers all leaving the Premises together. It was submitted that the extension would only apply from Wednesday to Saturday, and the ground floor restaurant would be closed to customers no later than 00:30, when the majority of customers would leave. No new customers would be permitted to enter the Premises late at night. Following discussions with Environmental Health, it had been suggested that the capacity could be increased from 127 to 130 over two floors. It was stated that a noise report that had been commissioned in response to the application had also been circulated.

Mr Botkai outlined the proposed conditions that would be attached to the licence, which included provision for there to be a door supervisor from 18.00 until closure. Sales would also be made only to people who were already in the restaurant and had dined during the evening, and music would be controlled by a noise limiter that would ensure no nuisance would be caused to neighbours from noise breakout. A further condition would be included that would not permit the operation of the premises as a night club or disco.

Mr Botkai sought to address the concerns that had been raised by residents, and confirmed that waste would remain within the restaurant until the collection company arrived between 8:00 and 10:00, and that glass would be crushed inside the premises and collected once a week. The Sub-Committee noted that staff were not permitted to congregate or smoke outside of the venue; and that a contact number for residents would be displayed at the front entrance of the premises. Mr Botkai informed the Sub-Committee that issues relating to queues, excessive drinking or loud departures did not apply to the Applicant's Premises.

Mr Liddell outlined to the Sub-Committee the main issues that had been raised in the acoustics report that was commissioned by the Applicant. A survey undertaken outside of the Premises after midnight had established that no sound could be detected while the front door was closed. Only very limited noise had been detected directly outside with the door open, and no vibration had been found.

Mr Botkai confirmed that no live shows were proposed, and that the request for live music had been made to seek flexibility should a pianist wish to play. The Applicant confirmed that they were happy to withdraw the application for live music if required, or to limit its extent.

Mr Dreyan addressed the Sub-Committee, and confirmed that Environmental Health had been generally satisfied with the application which extended beyond core hours, and with the acoustic report and proposed controls of noise breakout from within the premises. He commented on the benefits of an acoustic lobby in containing sound, and suggested a further condition for light wells to remain closed while music was being played.

Although no complaints regarding the current operation of the Premises had been received, Mr Dreyan confirmed that the representations made by Environmental Health reflecting the concerns raised by residents would still however, remain, and he considered that it was a matter for the Sub-Committee to decide whether the proposed variation would add to an already busy area which was causing issues for residents.

Mr Brown addressed the Sub-Committee on behalf of Mr Brandt, who was a local resident, and Ms Zand, who was the Chair of the 17 Berkley Street Residents' Association. Although there were elements of the application that would not cause difficulties, he expressed concerns that the application would fundamentally change the nature of the Premises which already remained open until 00:30, and that the later hours were unlikely to be ancillary to table dining.

Mr Brown suggested that the Sub-Committee would need to consider the possible future operation of the venue, together with the potential impact of the proposed variation on the already deteriorating situation in Berkeley Street. He considered that the relaxation of the designated bar condition with customers being able to stand downstairs, together with the hybrid use as a restaurant with regulated entertainment could render the Premises a nightclub, and had led him to the conclusion that the application should be refused.

Mr Botkai considered that there was a large difference between the application Premises and other Premises nearby which were alcohol led. The Premises had demonstrated that it was well managed, and the proposal was for people who were already in the Premises to have the opportunity to remain. The Applicant considered that the proposed variation was small with each aspect of Policy having been addressed, and asked that permission be granted accordingly.

The Sub-Committee had listened very carefully to all of the submissions, and considered that the application would significantly extend the hours of operation of part of the premises, with the addition of Regulated Entertainment. The Sub-Committee also believed that the proposal would change the nature and character of the operation of the Premises. The Sub-Committee based on the oral and written evidence did not believe that the arguments advanced by the Applicant would in fact promote the Licensing Objectives, and considered that it would be likely to add to cumulative impact in the area. The Sub-Committee in determining the matter refused the application.

2.	Performance of Live Music (indoors)
	<p>Proposed Hours:</p> <p>Monday and Tuesday 10:00 to 00:30 Wednesday to Saturday: 10:00 to 02:30 Sunday: 12:00 to 22:30</p> <p>From end of terminal hour on New Year's Eve to start of permitted hours on New Year's Day.</p>
	<p>Amendments to the application advised at hearing.</p> <p>See Section 1 for further details.</p>
	<p>Decision (including reasons if different from those set out in the report):</p> <p>The application was refused; see Section 1 for further details.</p>
3.	Performance of Recorded Music (indoors)
	<p>Proposed Hours:</p> <p>Monday and Tuesday 10:00 to 00:30 Wednesday to Saturday: 10:00 to 02:30 Sunday: 12:00 to 22:30</p> <p>From end of terminal hour on New Year's Eve to start of permitted hours on New Year's Day.</p>
	<p>Amendments to the application advised at hearing.</p> <p>See Section 1 for further details.</p>
	<p>Decision (including reasons if different from those set out in the report):</p> <p>The application was refused; see Section 1 for further details.</p>
4.	Anything of a similar description (indoors)
	<p>Proposed Hours:</p> <p>Monday and Tuesday 10:00 to 00:30 Wednesday to Saturday: 10:00 to 02:30</p>

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<p>7.</p>	<p>Hours Premises are open to the public</p>												
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