

## APPENDIX 2

### WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 3 ("THE COMMITTEE")

Thursday, 22 October 2020

**Membership:** Councillors: Jacqui Wilkinson (Chairman) Councillor Susie Burbridge and Councillor Maggie Carman

**Office Support:** Legal Adviser: Vivienne Walker  
Policy Officer: Aaron Hardy  
Committee Officer: Cameron MacLean  
Presenting Officer: Kevin Jackaman

**Parties Present:** Mr. Jelle Van Esseveld for the Applicant, Ian Watson for Environmental Health Service, Mr. Richard Brown CAB, Licensing Advice Project for one local resident.

### APPLICATION FOR A VARIATION OF PREMISES LICENCE IN RESPECT OF THE FARMERS CLUB 3 WHITEHALL COURT LONDON SW1A 2EL 20/07368/LIPV

#### FULL DECISION

##### Premises

3 Whitehall Court  
London  
SW1A 2EL

##### Applicant

The Farmers Club

##### Cumulative Impact Area?

The Premises are not within the Cumulative Impact Area

##### Ward

St James's

##### Summary of Application

The Sub-Committee has determined an application for a variation of Premises Licence for the above Premises under the Licensing Act 2003 ("The Act"). The Premises operate a private members club and are not located within the Cumulative Impact Area.

The Premises have had the benefit of a Premises Licence 18/03495/LIPDPS since 2005. The Applicant sought to vary the hours for licensable activities, to update the premises plans, to update the current conditions with model conditions and to extend the terminal hours for Late Night Refreshment, the Sale by Retail of Alcohol and the Opening Hours.

## **Proposed Licensable Activities and Hours**

### Late Night Refreshment (Indoors)

Monday to Sunday 23:00 to 00:00

Seasonal Variations: from the end of permitted hours on New Year's Eve to the start on New Year's Day

### Sale by Retail of Alcohol (On and Off Sales)

Monday to Sunday 07:00 to 00:00

Seasonal Variations: from the end of permitted hours on New Year's Eve to the start on New Year's Day;

### Premises Opening Hours

Monday to Sunday 07:00 to 00:00

Monday to Sunday for residents and their bona fide guests 00:00 to 00:00 hours.

Seasonal Variations: from the end of permitted hours on New Year's Eve to the start on New Year's Day;

## **Representations Received**

- Environmental Health Service (Ian Watson)
- Eight Local Residents

## **Summary of issues raised by Objectors**

- The hours requested for the supply of alcohol and to permit the provision of late-night refreshment will have the likely effect of causing an increase in Public Nuisance in the area.
- The premises are situated in the midst of a residential building with 60 bedrooms dispersed amongst the residents' flats and the level of noise experienced made it impossible to sleep.
- Currently the club is open until 11:00 p.m. This ensures that activities are quiet after 11:00 p.m. for the benefit of the residents in the building.
- The proposed extension of operating hours to 01:30 a.m. would impact the residents' quiet enjoyment of the premises.

## **Policy Position**

Policies HRS1, PB1 and COMB1 apply under the City Council's Statement of Licensing Policy.

## **SUBMISSIONS AND REASONS**

Mr Jackaman, the Presenting Officer, summarised the application to the Sub-Committee. He confirmed that this was an application for a variation of the Premises Licence which included varying hours for licensable activities, updating the Premises Plan and updating the Premises Licence conditions with Westminster City Council Model Conditions.

Mr Van Esseveld who represented the Applicant, Farmer's Club, stated that in relation to the application to vary the premises licence, the club was advised that they did not have the correct licence for the establishment. The Applicant contacted the Council's Environmental Health Service and was advised that the Premises Licence was appropriate but would require updating, following refurbishment of the premises in 2016. In addition, the conditions attached to the licence needed updating.

Mr. Van Esseveld stated that the Applicant was seeking to improve how food and beverages could be served without making major changes to its current business model. The Applicant would like to offer Champagne Breakfasts which were frequently requested on occasions such as weddings and christenings.

The Applicant intended to extend the hours for licensable activities on New Year's Eve in order to dispense with the requirement to apply for a temporary Event Notices.

The Applicant acknowledged that the premises were within a residential building and that it is important to maintain good relations between the club members and residents. Accordingly, it was proposed to amend the application so that the sale by retail of alcohol would end at midnight instead of 01:00 as proposed in the application, except for New Year's Eve/ day when the sale of alcohol would cease at 01:00 hours.

The Applicant offered a number of proposed conditions, Mr Van Esseveld stated it was hoped that these conditions would address concerns about possible noise and nuisance from the terrace area.

In response to a number of questions raised by Members, Mr. Van Esseveld provided the following information: -

- a) The recent changes to the premises had allowed the Applicant to operate more efficiently, including being able to split the main function room into two separate rooms for smaller events. The main purpose of the refurbishment was to accommodate doubling of business since 2014.
- b) Regarding security, anyone entering the club premises would arrive at the Porter's desk at the main entrance to the building where they would be given directions to the Club's reception desk which was open from 07:00 to 23:00 hours.
- c) Access to the terrace area was via the Club's Bar lounge area which operated from 11:00 to 23:00 hours. When the bar and terrace area closed at 23:00 hours the building supporters would patrol the premises to ensure that there were no guests on the terrace area after 23:00 hours.
- d) There had never been any formal complaint about noise from the terrace area, and if there had been complaints, there were very few and would be dealt with informally.
- e) The terrace could accommodate 32 persons at eight tables.
- f) The Applicant would be willing to accept a condition that restricted smoking on the terrace area to no later than 23:00 hours.
- g) The Club's members were in the age range of 50 to 60 years of age. There are a number of members who were under the age of 30 years.
- h) The current licence allowed both on and off sales of alcohol and for club members to buy alcohol to take away with them or to have it delivered to their home address.

- i) Members could bring up to 10 guests to the club without prior notification. In addition, a Member could hire one of the function rooms which could accommodate up to 96 guests.

Mr Van Esseveld referred Members to various plans in the report and described the club's various licensed areas. He also described the process for becoming a member of the Club.

Mr Watson, on behalf of the Environmental Health Service addressed the Sub-Committee and confirmed that he was contacted by the Applicant to whom he gave pre-application advice. Mr. Watson stated that he did not need a club premises certificate to sell alcohol, but he advised the Applicant that he may wish to apply for a variation of the licence.

Mr. Watson confirmed that he visited the premises on 19 August 2019.

Mr. Watson confirmed that because the premises were located within the verge of the Royal Palaces, a licence was issued by the Board of Green Cloth, panel sitting at Buckingham Palace.

Mr. Watson stated that since 2005, such licence was not permitted under grandfather rights. Therefore, it had been necessary for the application for the Premises Licence.

Mr. Watson confirmed that at the meeting with the Applicant they discussed licence conditions for this type of premises.

Mr. Watson described the layout of the premises and the location of the bedrooms, all of which were within the licensed areas.

It was noted that there were a number of objections received from local residents pertaining to the proposed extension of hours, the use of the terrace area, and potential noise by Club Members walking late at night along the building's corridors and communal areas. It was in response to these objections that Mr. Van Esseveld amended the application.

Mr. Brown, representing one resident stated that the objector is a member of the Club who was supportive of the Club's success.

Mr. Brown stated that if the application was granted without amendments to the conditions it would harm the licensing objectives.

Mr. Brown referred Members to the floor plan of the 8<sup>th</sup> floor and particularly that part of the plan which showed the staircase leading to the 7<sup>th</sup> Floor Corridor and private flats. Mr. Brown stated that it was a concern that alcohol was to be available to Club Members 24-hours per day, due to the proximity of the Club's guestrooms on the 8<sup>th</sup> floor, the use by Club Members of the 7<sup>th</sup> floor corridor and access to the 8<sup>th</sup> floor guestrooms.

Mr. Brown confirmed that he had noted that because the bedrooms were included within the licensed areas, any sales of alcohol to residents in their bedrooms would be classed as On Sales.

Mr. Brown also stated that the use of the terrace for consuming alcohol should be reduced. He stated that the proposed 24-hour sale of alcohol to Club Members and their guests was still a matter of contention.

Representations were heard from Mr. White, who is a resident and member of the Farmer's Club. Mr. White stated that there were concerns around the use of the

terrace. He stated that a number of the neighbours are elderly, but there was now a large number of younger members, and any events in the club involving significant numbers of younger members tend to be louder than events involving the older members of the club.

Mr. White stated that his concern was in relation to the potential nuisance to residents adjacent to the terrace. Accordingly, he proposed that the terrace area should be closed at 22:00 hours.

Members also heard representations from Ms. White, a resident of the Farmer's Club.

Ms. White stated that there had been significant changes over the last 20 years. In the past there were notices placed in the bar area reminding Members and their guests to respect the neighbours and not to make noise.

Ms. White explained that she was led to believe that the porters checked the building at 23:00 hours when they locked the communicating door between the Club and the hotel. Also, there are now more meetings and dinners which was good for the Club's commercial interests but hard on the nearby residents.

Ms. White stated that the programme of events for the young farmers could entail late night socialising on the terrace which was equipped with gas fires and umbrellas with guests being provided with wraps to keep them warm whilst outside.

When asked by Members about the start time at 07:00am, Ms. White responded that she was concerned about the proposal to extend the licence to allow the Club to sell alcohol from 07:00am.

She stated that closing the terrace at 22:00 hours would be more acceptable and that she had no issue with the application to extend the hours on New Year's Eve.

Having carefully considered all the submissions made by all parties both orally and in writing, the Licensing Sub-Committee decided to **grant** the application subject to conditions.

In reaching its decision, the Sub-Committee took into consideration all relevant matters which are not limited to the following:

1. The Premises have had the benefit of a premises licence since 2005;
2. The Applicant amended the application in order that the sale by retail of alcohol would end at 00:00 hours instead of 01:00 hours;
3. There has been no formal complaint about noise from the terrace;
4. The Applicant offered a number of proposed conditions in order to address residents' concerns about possible noise and nuisance from the terrace area.

**The application was granted subject to the following conditions in addition to the Mandatory conditions applicable to this type of application**

#### **CONDITIONS IMPOSED BY THE COMMITTEE AFTER A HEARING**

1. The premises shall be a private members club providing licensable activities for its members and their bona fide guests.
2. The supply of alcohol shall only be to members and their bona fide guests.

3. All sales of alcohol for consumption 'Off' the premises shall be in sealed containers only and shall not be consumed on the premises.
4. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
5. Sales of alcohol for consumption in Members' bedrooms shall be by waiter or waitress service only after mid-night.

Notwithstanding this condition members are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

6. 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.
7. 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 are 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 entire 31-day period.
8. 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.
9. 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;
  - (b) Any complaints received concerning crime and disorder;
  - (c) Any incidents of disorder;
  - (d) All seizures of drugs or offensive weapons;
  - (e) Any faults in the CCTV system;
  - (f) Any refusal of the sale of alcohol; and
  - (g) Any visit by a relevant authority or emergency service.
10. 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.
11. All refuse will be properly presented and placed on the street 30 minutes before agreed collection time.
12. All external windows and doors to the terrace shall be closed by 11.00 p.m. and no activities shall take place on the terrace except on New Year's Eve and the morning of New Year's Day.

13. Whenever the premises operate to 00.00 hours the external terrace shall be cleared of patrons and not used for any activity after 23:00 hours, except on New Year's Eve and the morning of New Year's Day.
14. 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.
15. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open for licensable activity after 23:00 hours. This telephone number is to be made available to residents.

**This is the full decision reached by the Licensing Sub-Committee.**

**This Decision takes immediate effect.**