

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 4
("THE COMMITTEE")**

Thursday, 3 December 2020

Membership: Councillor Karen Scarborough (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

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

Parties Present: Ms Caroline Horstmann for the Applicant, Professor Eileen Hogan, Resident and Ms Cathy Courtney, Resident.

APPLICATION FOR A NEW PREMISES LICENCE – 24 UPPER BERKELEY STREET, LONDON W1H 7QH (20/08468/LIPN)

FULL DECISION

Premises

24 Upper Berkeley Street
London
W1H 7QH

Applicant

Temple Guiting Manor Limited

Cumulative Impact Area

The Premises are not located within the Cumulative Impact Area.

Ward

Bryanston and Dorset Square

Summary of Application

The Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("the Act"). The Premises intend to operate as a small luxury boutique hotel with seven bedrooms sleeping sixteen guests. A pantry kitchen area for dining seating 14 people, a small lounge area and a small landing snug with honesty bar, outdoor seating six to eight guests.

Proposed Licensable Activities and Hours

Sale by Retail of Alcohol (On Sales)

Monday to Sunday: 00:00 to 24:00 hours

Hours Premises are open to the Public

Monday to Sunday: 00:00 to 24:00 hours

Representations Received

- Metropolitan Police Service (PC Brian Hunter) (withdrawn)
- Environmental Health Service (Anil Drayan) (withdrawn)
- Professor Eileen Hogan
- Ms Cathy Courtney

Summary of issues raised by Objectors

The objections from the two local residents were on the basis that the granting of the licence will increase noise levels at the rear of the premises.

Policy Position

Policies HRS1 and HOT1 apply under the City Council's Statement of Licensing Policy.

SUBMISSIONS AND REASONS

The Presenting Officer, Mr. Jackaman summarised the application to the Sub-Committee. He confirmed that several representations had been received, including representations from the responsible authorities and residents. After mediation between the parties, the representations by the responsible authorities had subsequently been withdrawn.

Members heard from Ms. Carolyn Hortsman, on behalf of the Applicant, who stated that the premises were recently opened for bookings. The premises comprised a luxury private dwelling and boutique hotel with seven bedrooms sleeping a maximum of fourteen guests. Also, there is a pantry/kitchen in the basement and a dining table that could seat up to fourteen guests; there is a sitting area at the front, a snug at the rear which could seat six guests and a small terrace on the second floor.

Ms. Horstmann stated that the owners of the property had spent two years refurbishing the Grade I listed building. It was the Applicant's intention that the hotel would cater for a range of customers, including corporate clients who may wish to use the premises for small meetings or corporate lunches.

Addressing resident's concerns, Ms. Hortsman stated that the terrace was protected by a party wall and had seating for up to eight persons, or ten to twelve persons if standing.

It was noted that an agreement had been reached the Environmental Health Service that the terrace would close at 23:00 hours. The on-site manager, who lives in the basement of the premises, would be responsible for monitoring noise to ensure that neighbours were not affected.

Ms. Hortsman stated that the terrace was like terraces on several neighbouring properties opposite, some which were higher up and overlooking the Applicant's terrace.

Ms. Hortsman explained that it was essential for the business to be able to offer its guests alcohol for sensible consumption on the premises if it was to compete with other licensed premises in the area, which allowed alcohol to be consumed on terraces and in gardens and which catered for much larger numbers of customers.

In response to a number of questions raised by Members of the Licensing Sub-Committee, Ms. Hortsman provided the following information:-

1. The lounge was located on the ground floor near the entrance. It had been the intention to have a bedroom there, but the plans had changed and this would be a sitting room area meaning there would now only be seven bedrooms in the premises. **(Subsequently, the Applicant has provided the Licensing Authority with a revised plan showing the exact lay out of the licensable area).**
2. The pot washing area shown in the plans included a galley kitchen where the chef would prepare food for guests. There were also fridges in this area. The laundry area shown on the plans had been removed.
3. The kitchen extractor came out at the front of the building near the basement area where there was a fire exit and staff entrance.
4. A full-time house manager who lives on the premises, had already been employed and was presently setting up the premises. There would always be a member of staff on the premises.
5. Alcohol would be stored in the premises' snug on the first floor next to the terrace where there are locked cabinets. Spirits would be stored there and guests would be served from that area. Wines were stored in the basement in refrigerators and were kept under lock and key.
6. A member of staff would serve guests from the wine/drinks list. Alcohol would not be sold after 21:00 hours unless it was part of a dinner. For guests wanting alcohol after that time, there were minibars available in the rooms.
7. On the terrace there are three tables that could seat two persons each, and a bench that could seat two persons. Therefore, the terrace could accommodate up to eight people sitting.
8. If guests wished to smoke, they would do so on the terrace area as it had been agreed with the Police that guests would not be permitted use of the front of the premises as a smoking area.

Ms. Cathy Courtney, a local resident stated she wished the premises well but proposed that its operation should be contained within the walls of the premises.

Ms. Courtney stated that she was concerned about the noise during the day. She stated that she used her study all times of the day, and she required the quiet use of it. She stated that the use of the terrace was noticeable different when used by a single resident compared with its commercial and continual use by hotel guests.

Ms. Courtney explained that the use of the terrace was advertised as being available to guests for their use. As such, it would be unreasonable to ask guests not to make any noise at all. She stated that anyone sitting on the terrace using a laptop for meeting on Zoom, or using their mobile phone, would intrude upon her use of her study room.

In response to questions raised by Members, Ms. Courtney stated that if the use of the terrace was restricted to no later than 21:00 hours, this would be of little assistance to her as she required the use of her study throughout the day.

Representations were also received from Professor Hogan, a local resident who stated that she also wished the premises well, but she strongly objected to the use of the

terrace. She stated that noise was a significant problem which would be made worse if the application was approved.

Professor Hogan stated that if the licence was granted, she could not see why Members could not impose restrictions on serving alcohol and/or the consumption of alcohol on the terrace.

In response, the Chairman of the Licensing Sub-Committee confirmed that Members could impose conditions on the licence.

During the hearing Members of the Sub-Committee advised the objectors that the terrace formed part of the premises, and therefore, patrons and guests were allowed to use the terrace for the consumption of coffee, tea, water or alcohol.

In response to questions raised by Members, professor Hogan stated that imposing conditions on the licence might ameliorate some of the concerns of residents.

This 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 Licence Holder shall ensure that the bar is only used for those paying guests in residence and those onsite for private events and not for members of the public.
2. 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.
3. 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.
4. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
5. The Licence Holder shall keep on the Premises at all times an adequate supply of first aid equipment and associated materials.
6. All systems relating to gas, electricity, boilers, alarms, fire equipment and appliances are to be maintained and inspected by appropriately qualified professional persons in accordance with British Standards and at intervals recommended in national guidance Records are to be kept and available for inspection by authorised officers on request.
7. The Licence Holder shall have in place at all times valid public liability insurance and a copy of the insurance schedule shall be available for immediate inspection upon request by authorised officers.
8. Hotel Guests of residents shall be required to sign-in and out when entering and leaving the Premises and a register shall be kept and made available for immediate inspection by authorised officers upon request.
9. The playing of live or recorded music shall not be permitted outside of the premises at any time.
10. The placing of bottles into receptacles outside of the premises shall take place at such times that will minimise disturbance to nearby properties.

11. No fumes steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
12. 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.
13. The Premises shall only be used by residents and their guests or private hire guests for the purposes of the authorised use.
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. The use of the external terrace area shall cease by 21.00 each day and shall be limited to 8 persons seated at any one time.
16. The sale and consumption of alcohol on the terrace shall only be to persons who are seated and be by waiter or waitress service only.
17. The mobile number for the manager at the premises shall be publicly available at all times the premises are open. This mobile number is to be made available to residents and businesses in the vicinity.
18. The number of persons permitted on the premises at any one time (excluding staff) shall not exceed 30 persons.
19. The Licence Holder shall ensure that there is a member of staff present on the premises at all times.
20. 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.
21. 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.
22. 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.
23. 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. It must be

completed within 24 hours of the incident and 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, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

INFORMATIVE

If the Licence holder fails to comply with the Licence Conditions, an application for a review of the Premises Licence can be made.

This is the Full Decision reached by the Licensing Sub-Committee. This Decision takes immediate effect.