

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 4
("The Committee")

Thursday 26 August 2021

Membership: Councillor Karen Scarborough (Chairman) Councillor Louise Hyams and Councillor Rita Begum

Application for a New Premises Licence in respect of 17th And 18th Floors Development Site At 31 London Street, 9 Winsland Mews And 128-144 Praed Street London 21/00850/LIPN

Summary Decision

The Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premise proposes to operate as a rooftop bar and restaurant on the 17th and 18th floors. The application follows pre-application advice. The Premises is located within the Hyde Park Road but is not within the West End Cumulative Area Zone nor Special Consideration Zone. There is a resident count of 28.

The Committee noted that 6 similar applications to be operated as restaurants went before a Licensing Sub-Committee on the 19 August 2021 in respect of the same development site. These applications were not considered binding on the Committee's overall decision making but were nevertheless helpful in ascertaining the background history to each application and when looking at matters.

The Committee noted that what had been applied for by the applicant in respect of this application was effectively a template for a premises licence due to many unknowns because tenants had yet to be found for the Premises. It was acknowledged and accepted that this would be subject to change at some stage in the future by a new operator most likely through a variation application process.

The Committee noted that the applicant had not engaged with the South East Bayswater Residents' Association (SEBRA) and took a dim view of this without being too critical. Whilst there may have been very little to consult upon the Committee considered it was however, incumbent upon the applicant to have engaged with all relevant stakeholders as a matter of good practice particularly with such a large-scale development. SEBRA holds a key function within the local area as an active resident's association and its views need to be properly considered as well as those other parties who also objected to the application.

It was apparent to the Committee during the hearing that there were still many contentious unresolved issues and if the applicant had engaged right from the outset this may have allayed some of the fears SEBRA had displayed towards the application and may have assisted the negotiation process and the matters raised at the hearing. The Committee considers it vital for the applicant to foster a fruitful and meaningful dialogue going forward with SEBRA especially as the applications are likely to be revisited in a different guise once operators have been found.

The Committee noted that the applicant was granted planning permission for the development site on the 29 March 2019. Whilst the Committee recognises that Planning and Licensing are entirely two distinct functions with differing aims, objectives and outcomes there is sometimes a degree of overlap. It was decided that a similar condition should be imposed on the Premises Licence whereby the practical workings of Conditions 34-37 on the Planning Consent are translated into a similar condition on the Premises Licence in so far as they relate specifically to licensing thereby requiring the applicant to comply with matters such as dispersal, operational and servicing management plans together with a public realm strategy to ensure the promotion of the licensing objectives.

The Committee based on the evidence before it decided it was appropriate and proportionate to grant core hours for the licensable activities applied for and those reasons will be explained fully in the Full Decision.

Applicant

Great Western Developments Limited

Summary Decision

The Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, **the Committee has decided**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives: -

1. To grant permission for **Late Night Refreshment (Indoors)** Monday to Thursday 23:00 to 23:30 hours Friday to Saturday 23:00 to 00:00 hours Sunday N/A
2. To grant permission for **Live Music, Recorded Music (Indoors and Outdoors)** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 00:00 hours Sunday 09:00 to 22:30 hours
3. To grant permission for the **Sale by Retail of Alcohol (Indoors)** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 00:00 hours Sunday 09:00 to 22:30 hours
4. To grant permission for the **Opening Hours of the Premises:** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 00:00 hours Sunday 09:00 to 22:30 hours
5. To grant permission for Seasonal Variations: Sundays immediately prior to a bank holiday: 09:00 to 00:00 hours.
6. That the Licence is subject to any relevant mandatory conditions.

7. That the Licence is subject to the following additional conditions and Informative imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing

8. 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 and will include the external area immediately outside the premises entrance(s). 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.
9. A staff member from the premises who is conversant with the operation of the CCTV 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.
10. Signs will be located at the exits to the building to remind occupants that they should ensure that local residents are not disturbed by any licensable activity at the premises.
11. Signs will be provided reminding occupants that alcohol should only be supplied to persons over the age of 18.
12. The number of persons permitted in the licensed areas of the premises at any one time shall not exceed (x persons) excluding staff.
13. 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.
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. 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.
16. 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.
17. The Premises Licence Holder shall ensure that table service is to be available at all times.
 18. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
 19. After 00.00 hours all customers entering the premises shall have their ID scanned on entry, save for when a biometric scanning system is in place. The details recorded shall include a live facial image capture of the customer and capture the photographic identification produced. The details recorded by the ID scanner system shall be made available to the Police and the local authority upon request.

The above requirement is subject to the following exceptions, namely (i) any persons attending the premises to be seated for a table meal and (ii) that a maximum number of (***No. TBC**) guests per night may be admitted at the Managers discretion without necessarily photo ID being scanned and recorded. The admission of such guests however shall be in accordance with the following procedure:

- (i) The DPS shall approve in writing the names of a maximum of three managers other than him/herself who are authorised to sign in such guests.
- (ii) A legible record (the signing in sheet) of those guest's name shall be retained on the premises for inspection by the licensing authority and Police for a period of 31 days. The name of the DPS approved manager authorising the admission will also be recorded by that manager,
- (iii) Guests shall be required to produce some form of ID such as a bank card (or emailed electronic photo ID) and ID scan entry with a live photo shall be created.
- (iv) Where there are appropriate reasons for a guest not to be able to produce ID and be subject to ID scan, the Approved Manager may still permit entry. In such circumstance he shall also record the reasons for this in the signing in sheet.

Notwithstanding (a) above, patrons who are attending a pre-booked private event at the premises do not need to have their ID Scanned on entry and instead a written guest list shall be held at reception for the event, and will be retained for 31 days after the event for inspection by the police and responsible authorities upon request.

20. On Thursdays to Saturdays after 21.00 there shall be a minimum of 1 SIA door supervisor stationed at the ground floor entrance to the restaurant/terrace lifts and for the rest of the week the need for SIA door staff shall be risk assessed by management of the premises licence holder.
21. All door supervisors will correctly display their SIA licence when on duty at the premises.
22. All SIA door staff on duty at premises shall be equipped with Body Worn Video, capable of recording audio and video in any light condition as per the minimum requirements of the Westminster Police Licensing Team. 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. BWV must be activated at an early stage during any incident involving conflict.
23. Patrons shall be greeted by a member of the staff at the reception areas on the 17th floors (as marked on the plans submitted) before being directed to the relevant area of the premises.
24. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as The Terrace areas.
25. There shall be no entry or re-entry (excluding persons exiting to smoke) to the premises after 01:30 hours.
26. In the event that an assault is committed on the premises (or appears to have been committed) the management, on notification of such assault or apparent assault, will immediately ensure that:
 - a. The police (and, where appropriate, the London Ambulance Service) are called without delay.
 - b. All reasonably practicable efforts are taken to detain any suspect(s) pending the arrival of police.
 - c. All reasonable practicable efforts are taken to preserve the crime scene so as to enable a full forensic investigation to be carried out by the police, unless otherwise notified by them.
 - d. Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
27. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
28. The supply of alcohol shall be by waiter or waitress service or to customers seated at the bar. No more than 25% of the available floor space in the internal bar area, nor more than 50% of the external terrace areas shall be available for vertical drinking.

29. The Premises Licence Holder shall at all times comply with policies relating to dispersal, an operational management plan, servicing plan and public realm strategy as shall be amended from time to time. Such copies of these documents shall be made readily available to the Responsible Authorities upon request.
30. No licensable activities shall take place at the Premises until the capacity of the Premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.
31. 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 for residents and businesses in the vicinity.
32. The Premises Licence Holder shall ensure that there is no dedicated dance floor at the Premises.
33. There shall be no admittance to the Premises by patrons after 23:00 hours.
34. Substantial food and non-intoxicating beverages including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
35. The Premises shall not operate a home delivery service.

INFORMATIVE

36. **The Premises Licence Holder is strongly encouraged to consult with SEBRA regarding the various aspects of conditions 34-37 of the Planning Consent dated 29 March 2019. This is to ensure that SEBRA are fully involved in the process and can voice their views notwithstanding Condition 29 imposed on the Premises Licence**
37. **The Premises Licence Holder is strongly encouraged for all members of staff to undertake online Counter-Terrorism training with close consultation with the Metropolitan Police Service who can offer advice and assistance where necessary.**
38. **The Premises licence holder is strongly encouraged to engage with SEBRA, residents and businesses to facilitate regular meetings to discuss issues directly affecting them regarding the running and management of the Premises including any issues specifically connected to public nuisance.**

This is the Summary Decision reached by the Licensing Sub-Committee. The fully reasoned decision will be sent to all parties as soon as possible. The date for appealing the decision will not start until the full reasoned decision has been sent to the Parties.