

Town Clerk's Office
Ian Thomas
Town Clerk & Chief Executive



TO :

The applicant and all those making representations

Email: Raquel.pinto@cityoflondon.gov.uk

Date 16/04/2024

Sent via email

Dear relevant parties,

Applicant: Bloomsbury Leisure Holdings Limited, Basement of Tavistock Hotel, Bedford Way, London, WC1H 9EU
Premises: Tokyo Hit, Ground Floor & Basement, 165 Fleet Street, EC4A 2AE
Date / time of hearing: 10th April 2024, 10:00am
Venue: Committee Room 3, 2nd Floor, West Wing, Guildhall, London, EC2P 2EJ

I am writing to inform you of the decision of the Licensing (Hearing) Sub-Committee taken on 10th April 2024 in relation to the above-mentioned application. The Sub-Committee's decision is set out below.

The Sub-Committee comprised of Deputy John Fletcher (Chair), Ceri Wilkins and Brendan Barns. The Sub-Committee heard representations from other persons, mostly all against the granting of the Licence on the basis that the sale of alcohol on and off the premises, and various entertainment and late-night refreshment, would undermine the licensing objectives in respect of prevention of public nuisance.

The Sub-Committee was addressed by Piers Warne (TLT LLP, Applicant's Representative) Jon Dalton (Applicant). Claire Callan-Day made representations of behalf of the Responsible Authority, for the Environmental Health Department. Alderwoman Martha Grekos, Henrika Priest CC, Michael Hudson CC, Mr Toby Brown, and Mr Jeremy Simmons made representations against the granting of the premise license. Ms Andreea Irimia made representations for the granting of the premise license.

The Chair opened the discussion by inviting the Applicant to address the Hearing. The Sub-Committee noted that an email from the Applicant's Representative had been circulated to all parties prior to the hearing. This contained proposals to amend the operating hours (within these hours the ceasing of hours of alcohol would be determined) and offering further conditions, which would strike a balance between the commercial needs and protecting

residents, whilst considering the concerns raised. The additional conditions contained the drawing up of a noise management plan and a risk assessment plan, having a dispersal plan in place with door supervision, the exit from the premises to St Dunstan's Court to only be used in an emergency, and finally a complaints log to be in place (available to officers) and for a contact number to be made available to nearby residents. The Applicant also added that they were happy to remove the provision of off-sales from the application.

Applicant Representations

The Applicant's Representative also advised that conversations were had with the Responsible Authority (Environmental Health) prior to the hearing and further conditions were being offered relating fumes, steam and odours, and noise generated on the premises, to assure the responsible authority that that action was being taken to ensure the licensing objectives would be upheld. The Applicant's Representative highlighted that there were no representations from the Police which evidenced that the conditions proposed in the application would not undermine the promotion of the licensing objectives, particularly the prevention of crime and disorder.

The Sub-Committee noted that the Applicant was an experienced license holder who had other businesses and fully understood the resident's right to having a quiet environment. The Applicant however was confident that the application put forward to the Sub-Committee would not undermine the licensing objectives. The Applicant's Representative argued that that other premises in the nearby area had similar later hours. Furthermore, it was noted that most of the residents lived to the north of Fleet Street, and came from Bolt Court, which was not immediately adjacent to the building. It was also noted that the ground floor was mostly underground with windows partially visible to the building. There were wide seals which would assist with noise attenuating measures to soundproof which would be part of the planning application when it was submitted, and a way to prevent noise outbreak.

The Applicant's Counsel addressed the main concern regarding public nuisance and people nuisance. The plan of the premises showed that there was space inside to accommodate any queues if they were to happen. It was explained that during peak and busy periods, pre-booking was the system which patrons would use and therefore this would mean that people would arrive for their slots, which would allow for a steady entrance. Smokers would be managed at the front entrance on the Fleet Street which would be covered in the risk management plan. It was also highlighted that the nature of the people attending the premise was different to that of a pub. This was done via booking a slot, in which you partook on the activity and eat and drank in this time. It was done on a timed schedule, meaning that there

would not be a mass of people on the pavements. Furthermore, it was also noted that the pre-booking nature of the premise meant that there would not be a mass dispersal but rather a gradual dispersal linked to the slots booked, and having the risk assessment which included door staff, would assist with the dispersal. There were also good transport links in the area running later into the evening which too would further assist with dispersal.

The Sub-Committee noted that capacity of the premises at peak of trading would be 250 plus staff. The business model for the premise was for corporate business, predominantly during the week and families and parties in the weekend, which allowed for flexibility and would cater to all. Walk-ins would be permissible where members of the public could come into the premises to partake in activities and the bar if slots were available. This remained a 90% pre-booked system with occasional walk-ins. The Applicant's Representative assured that with regards to concerns of enabling drinking further via the walk-in function, the Applicant was experienced in this. Servicing people whilst intoxicated was against the law and there was training for the team to be able to spot this and vet members of the public at the entrance.

Overall, The Applicant was confident the application with the amended hours and additional conditions would ensure that the licensable objectives would be held. The door exiting to the street which faced resident had a condition attached so that it would only be used during an emergency. Dispersals would be done away from the residential area and would not affect residents north of the premise, and although the paragraph 2.27 of the Revised guidance issued under section 182 of Licensing Act 2003, states that once people are away from the premise, they are responsible for their own behaviour, if staff were to see this behaviour, they would take action. The Applicant noted that determination was evidence based and proportional, and considered risks, so long as they are appropriate and proportionate. It was also noted that the review mechanism was a mechanism in which to keep the Applicant held to account. The Applicant welcomed and extended the invitation for Environmental Health to input into the management documents once they were done and subject to the application being granted. The revised hours were made as a genuine attempt to collaborate with residents whilst considering the nature of the operation. With regards to egress and means of access it was noted this would all be done from Fleet Street. The Good Code of Practice has been adopted by this application and by the Applicant who has a run several premises in the City and is aware of how to adopt this. Therefore, on this basis, it was asked that the application be granted as per the amendments.

The Sub-Committee then noted a representation in favour of granting the premise license. Representations were made from another business representative, where they wanted to address the concerns raised by residents regarding public nuisance. The premises was intended for well-behaved individuals who worked around the area that wanted to enjoy

themselves or celebrate milestones. Drawing from their experience of managing a business in the area, it showed overall that customers were respectful and had amended their behaviours. There had not been any instances where they had dealt with drunken or violent behaviour. The area had once been vibrant, there had been proof that balance between residents and businesses working together on keeping area vibrant was once achieved and they believed this could once again be brought back, and that a new sense of community could be created. They believed that Tokyo Hit would make all the arrangements to ensure that licensing objectives were met.

Opposing Representations

The Chair invited those making representations to set out their objections against the application.

The Sub-Committee noted a representation from the Responsible Authority, who raised concerns over the granting of the license as it was presented would risk giving rise to public nuisance. It was argued that the character of the area was due consideration. The area was comprised of pedestrian areas which were extremely quiet, particularly at nighttime. People noise like talking or shouting would stand out and be detrimental to the area. It was acknowledged that whilst the dispersal was mainly on Fleet Street, it was reasonable that some dispersal could happen into the residential courts. The late terminal hour was a risk again ambient hours, as noise from staff would impact those who would likely be sleeping at this stime. It was acknowledged that conditions were offered so that the door to St Dunstan's Court was used in emergencies only. Concerns remained as they had no sight of noise management plan, there were no guarantees that the noise attenuation measures would be put in place, just the Applicant's intention. Further, there was no information on shutters or noise insulation, or information regarding fumes from the kitchen as to whether they would constitute a nuisance or not. It was overall argued that all the risks above would be harmful to the wellbeing, with later hours disturbing neighbours. By having an earlier terminal hour of midnight, this would be preferable to mitigate public nuisance.

The Sub-Committee also considered the representations from several residents and Members of the Court of Common Council of who were opposing the granting of this license. Concerns were raised over the lack of communication between the applicant and the residents and the slight reductions to operating hours which did not consider residents' concerns. It was stated that the Applicant did not consult with Members of the Court of Common Council nor residents prior to the application being submitted, and the only contact that was received was an email sent prior to the hearing. It was therefore asked that this was taken into account when making a decision as to the validity of assurances given by

the Applicant. Furthermore, The Applicant supplied limited information, and missed vital information which was required under the City's Statement of Policy to be accompanied with all applications. It was felt that the Applicant did not follow the Code of good practice as their operating schedule did not present them as being good neighbours, given the late terminal hours. It was also noted that there was no risk assessment, no plan to mitigate and manage public nuisance.

The residents main concern remained crime and public nuisance. The City's Statement of Policy refers to the reasonable expectation that their sleep will not be unduly disturbed between the hours of 23.00 and 07:00. By having the late terminal hours this would be impacted. Other concerns raised were the obstruction of alleyways with people using the alleyways to smoke/vape or as shortcut into nearby streets to obtain public transport. The noise emanating from drunken patrons leaving the premises would disturb residents sleep, and other risks such as public urination which was a key concern that residents faced in the alleyways and courts and the overall safety of the area were raised. It was noted that although the applicant provided additional conditions which sought to try to mitigate nuisance, no amount of noise management plan can truly help mitigate nuisance. Given the context of the area, the smallest of groups of people can make noise which and once they are out of the premises it was difficult to control.

It was their view that the conditions offered by the applicant would not mitigate public nuisance and crime. There were no other testimonials to given from other venues to support they were a responsible business. There were minimal litigations offered such as CCTV and on dispersal, which would not reduce the risk of nuisance. The concern remained the operating hours, although they were shown other premises with the same hours none were to the scale of this premise, and although amendments were proposed this was not enough to stop any public nuisance.

It was also felt that the conditions and amendment to the operating hours supplied by the applicant prior to the hearing, did not consider the concerns raised by residents and the responsible authority. It was also added that not only residents deserved to have their area respected, but local businesses too. The Sub-Committee was encouraged to be mindful of community present today when making their decision and to continue to create better a place for residents and businesses. The aim was not to prevent businesses from coming and investing into the area, but to encourage businesses which fit into the context of the area and comply with the licensing objectives.

Finally, the surrounding area was a conservation area although not listed, this meant that residents who lived here were not able to have double glazing in their properties to shield

from exterior noise. These properties were also unable to have air conditioning which meant that during the summer periods, residents have their windows open and are therefore susceptible to noise. It was therefore asked that this risk was taken into consideration. (Ps

Overall, given the risks posed by those making representations, the issue of the usage of alleyways, the noise emanating from patrons leaving late in the evenings which would impact residents' ability to sleep it was asked that the application was not granted. If the application was to be granted, then it was asked that mitigations surrounding the operating hours be made to an earlier closing time of 10:30pm.

Deliberation

The Sub-Committee retired to carefully consider the application, on the representations submitted in writing and orally at the hearing by those making representations and the applicant. It was evident that the most relevant licensing objectives requiring the Sub-Committee's consideration was the prevention of public nuisance.

The Sub-Committee wanted to ensure that a balancing act was taken into consideration, one where it encouraged business whilst balancing the context of the area and the residents within it. The main consideration that the Sub-Committee debated was public nuisance, particularly noise, as they were satisfied that the other licensing objectives were not threatened. The Sub-Committee took into consideration that the City's Licensing Policy accepts that there is some degree of impact as *the "policy of the City Corporation to strike a fair balance between the benefits to a community of a licensed venue, and the risk of disturbance to local residents and workers"*, which is also reflect in the Licensing Act 2003. The Sub-Committee deliberated as to what evidence was there to show that the granting of the license would not adversely impact the licensing objectives.

The Sub-Committee accepted that for those who smoked, there would be a designated area at the front of the premise which would be staffed, and staff could therefore point people to this and assist in their dispersal. The Sub-Committee also accepted the Applicant's assurances that the primary activity of the premise was golf and bowling, and that drinking and eating was ancillary to that, and that this was not primarily a drinking establishment. The Sub-Committee agreed the premises' booking system would allow for a gradual flow of patrons and although the capacity was around 250 people it was unlikely that at any given time, they would be outside the premise. Considering the premises plans and the evidence at the hearing, the Sub-Committee was also satisfied that the space in the premises could accommodate patrons inside, therefore mitigating any noise nuisance outside.

The Sub-Committee noted that the distance between the premise and the residential areas and noted residents' concerns over the use of the alleyways. The Sub-Committee was persuaded by the claims of the Applicant that it was unlikely that customers that would attend the venue, would behave in the anti-social ways that concerns the objectors. There was only speculation, but no hard evidence submitted, that suggested otherwise. The Sub-Committee also noted that on the issues raised surrounding crime, there were no police representations.

The Sub-Committee had extreme sympathy and agreed with residents regarding the expectation that their sleep will not be unduly disturbed between the hours of 23:00-07:00. The Panel noted that the amended hours proposed by the Applicant. However, the Sub-Committee felt that to safeguard residents' wellbeing and their sleep, a further amendment to the terminal licensable hours was needed, as per the table shown below. The Panel also felt that further conditions were necessary in order to ensure that the licensable objectives were met. The Sub-Committee agreed that the supply of alcohol off the premises would be detrimental to residents and therefore agreed this would not be permitted. Further conditions regarding walk-ins were also added to the decision below. The Sub-Committee also agreed to the conditions offered by the Applicant at the hearing pertaining to noise and odours, and those conditions offered via email.

The Sub-Committee had confidence in the City of London Corporation's robust licensing oversight. It was felt that the additional conditions attached to the application alongside the amended operating hours, that a fair balance has been achieved. Furthermore, there was also a robust review mechanism in place which would ensure that the Applicant follows the conditions of the license awarded to them, whilst providing residents with means to hold the Applicant to account.

Overall, the Sub-Committee saw no evidence which suggested that the opening of this premise to 01:30 would further exacerbate nuisance. Given the number of other outlets in area with similar operating hours, the nature of the premise which had drinking ancillary to golf and bowling and given the conditions already attached to the application by the Applicant, the police and by the Sub-Committee itself, therefore it could not justify the refusal of the application.

In reaching its decision, the Sub-Committee was mindful of the provisions of the Licensing Act 2003 ('the Act'), in particular the statutory licensing objectives, together with the guidance issued by the Secretary of State in pursuance of the Act and the City of London's own Statement of Licensing Policy dated 2022.

In determining what constituted a public nuisance, the Sub-Committee relied upon the common law definition of ‘public nuisance’ as: *‘one which inflicts damage, injury or inconvenience on all the King’s subjects or on all members of a class who come within the sphere or neighbourhood of its operation. The character of the neighbourhood is relevant to determination of the question of whether a particular activity constitutes a “public nuisance”’.*

DECISION

The Sub-Committee determined that the license should be granted as set out below:

<u>Activity</u>	<u>Proposed licence hours</u>
Supply of alcohol for consumption on the premises only	Mon – Wed 10:00-00:00 Thurs – Sat 10:00-01:00 Sun 10:00-23:00
Films, Live Music (e), Recorded Music (f), Similar to (e) (f) (g)	Mon – Wed 10:00-00:00 Thurs – Sat 10:00-01:00 Sun 10:00-23:00
Late Night Refreshment	Mon – Wed 23:00-00:00 Thurs – Sat 23:00-01:00
Opening Hours	Mon – Wed 10:00-00:30 Thurs – Sat 10:00-01:30

	Sun 10:00-23:30
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The Sub-Committee had regard to the conditions that parties had agreed upon in advance of the hearing. The Committee however felt that further conditions were necessary to ensure that the licensing objectives were met.

The Sub-Committee therefore agreed that the following conditions should be attached to the premises licence:

1. The premises shall install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points, will be covered enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall always be present on the premises when they are open to the public. This staff member shall be able to show the police or Licensing Authority recordings of the preceding two days immediately when requested. **(MC1)**
2. Promoted events will not be held at the premises. A promoted event is an event where the musical entertainment is provided at any time by a person or persons other than the licence holder, and one or some of them are not an employee of the licence holder, and the event is promoted to the general public independent of the licensee. **(MC2)**
3. An incident log shall be kept at the premises and made available on request to the Police or an authorised officer of the City of London Corporation. The log shall record the following with the date and time of the incident/refusal:
 - (a) all crimes reported to the venue
 - (b) all ejections of customers
 - (c) all refusals of entry
 - (d) all refused sales of alcohol to persons under the age of 18, or appearing under the age of 25 without valid ID
 - (e) any incidents of disorder (disturbance caused either by one person or a group of people)
 - (f) any seizures of drugs or offensive weapons. **(MC4)**

4. Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly **(MC18)**
5. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours. A copy of the policy shall be retained on the premises and made available for inspection by a police officer and/or authorised officer of the licensing authority on request. **(MC17)**
6. Loudspeakers shall not be located in the entrance lobby or outside the premises. **(MC21)**
7. A Challenge 25 Scheme shall operate to ensure that any person attempting to purchase alcohol who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age ID must bear a photograph, date of birth and a holographic mark or an ultraviolet feature, or be in any other form specified by the Home Office as being acceptable for age verification of sales of alcohol. **(MC31)**
8. A noise management plan ('The Plan') will be drawn up and implemented to ensure that there is no noise escape from the premises that would likely cause a public nuisance. The Plan will include details of noise attenuation measures in place to prevent noise escape, in particular into the Johnson Court. The Plan will also include details of any noise dampening measures built into the design to direct and/ or limit music levels at the premises to ensure music is unlikely to cause a public nuisance. The Plan will be made available to the Responsible Authorities on request.
9. A risk assessment will be drawn up and implemented. Where required by the risk assessment door supervisors will be provided at the time and in the numbers required by the risk assessment.
10. Prominent signage shall be displayed at all exits from the premises advising customers that no drinks are permitted outside at any time.
11. The exit from the premises on St Dunstan's Court will be used in an emergency only and will not be used as general entrances or exits from the Premises.
12. The licence holder shall make available a contact telephone number to nearby residents and the City of London Licensing Team to be used in the event of complaints arising.
13. A complaints log ('The Log') will be maintained at the premises and all complaints from local residents recorded therein. The Log will record the following:

- a. Date and time of complaint
- b. Name of person dealing with the complaint and if known the name of the complainant
- c. Nature of the complaint
- d. Any action taken following the complaint

A copy of The Log will be made available to the Responsible authorities on request.

14. 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.

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. All windows and external doors shall be kept closed at any given time when regulated entertainment takes place, except for the immediate access and egress of persons.

17. There shall be no new walk-ins permitted an hour prior to the latest terminal hour for licensable activities.

18. Customers 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. **MC14**

The Sub-Committee has considered all representations made and found that the conditions above are suitable for this Licence, in order to promote the licencing objectives. The Committee also noted the concerns raised regarding anti-social behaviour and noise nuisance. It was encouraged that residents engage with the Licensing Team with any concerns regarding this on: licensing@cityoflondon.gov.uk and log a formal complaint. Further information can also be found here: [Disturbed by noise in the Square Mile? - City of London](#).

If any party is dissatisfied with this decision, they are reminded of the right to appeal which must be commenced within the period of 21 days beginning with the day on which the party was notified of this decision. Any party proposing to appeal is also reminded that under

s181(2) of the Licensing Act 2003, the Magistrates' Court hearing the appeal may make such order as to costs as it thinks fit.

Yours sincerely,

Raquel Pinto
Clerk to the Licensing (Hearing) Sub Committee

Useful Numbers/Websites:

An 'Out of Hours' noise response service is available 24 hours a day by telephone:
0207 6063030

The City's Environmental Health Team can be contacted at:
publicprotection@cityoflondon.gov.uk

The City's Licensing Department can be contacted on: licensing@cityoflondon.gov.uk
[Licensing Policy and Code of Good Practice for Licensed Premises](#)