



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Wednesday 22nd November, 2023**, This is a Virtual Teams meeting..

Members Present: Councillors Iman Less and Karen Scarborough

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. 4 GREEK STREET, W1D 4DB

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 1
("The Committee")

Wednesday 22 November 2023

Membership: Councillor Iman Less (Chair) and Councillor Karen Scarborough

Officer Support Legal Advisor: Horatio Chance
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Kevin Jackaman

Others present: Niall McCann Keystone Law Solicitors representing Samocca
Assets Ltd Mr Chaim Aziz (Managing Director)

Application for a New Premises Licence - Shadow Licence 4 Greek Street
London W1D 4DB 23/04566/LIPSL

FULL DECISION

Premises

Shadow Licence
4 Greek Street
London
W1D 4DB

Applicant

Samocca Assets Limited

Ward

West End

Cumulative Impact

West End Cumulative Impact Zone (WCIZ)

Special Consideration Zone

N/A

Activities and Hours applied for

Live Music (Indoors)

Monday to Sunday 09:00 to 02:00

Seasonal variations: Private entertainment - Unrestricted Hours

Playing of Recorded Music (Indoors)

Monday to Sunday 00:00 to 00:00

Seasonal variations: Private entertainment - Unrestricted Hours

Performance of Dance (Indoors)

Monday to Sunday 09:00 to 02:00

Seasonal variations: Private entertainment - Unrestricted Hours

Anything of a similar description to that falling within (e), (f) or (g) Monday to Sunday 09:00 to 02:00

Monday to Sunday 09:00 to 02:00

Seasonal variations: Private entertainment - Unrestricted Hours

Late Night Refreshment (Indoors)

Monday to Saturday 23:00 to 02:30
Sunday 23:00 to 02:00

Seasonal Variations: Sunday before Bank Holidays: 23:00 to 02:30

Sale by Retail of Alcohol (On the Premises)

Monday to Saturday 10:00 to 02:00
Sunday 12:00 to 00:30

Seasonal Variations: Sunday before Bank Holidays: 12:00 to 02:00

The Opening Hours of the Premises:

Monday to Saturday: 09:00 to 02:30
Sunday: 09:00 to 02:00

Seasonal Variations: Sundays before Bank Holidays: 09:00 to 02:30

Summary of Application

The Sub-Committee has determined an application for a Shadow Premises Licence in respect of 4 Greek Street London W1D 4DB under the Licensing Act 2003 ("The Act") under the same terms, conditions and plans as Premises Licence (23/04544/LIPDPS).

The Premises benefits from two Premises Licences. The first Premises Licence (21/10072/LIPVM) was granted in full by a Licensing Sub-Committee in October 2013. Officers granted under delegated powers in October 2020 an application

for a shadow licence (23/04544/LIPDPS) which was made on the same terms, conditions and plans of 21/10072/LIPVM.

In July 2023, the landlord transferred licence number 23/04544/LIPDPS to a Mr Elliott Dennis Rogers so he was able to use this licence. As both premises licences are on the same terms and conditions only a copy of premises licences 23/04544/LIPDPS can be found at **Appendix 2** of the agenda report.

During consultation, the Applicant agreed an amended model condition MC97 with the Licensing Authority. This can be found at **Appendix 5**.

The Premises are located within the West End Ward and West End Cumulative Impact Zone. There is a presumption to refuse the application unless an exception to policy is made. The matter was assessed on its individual merits having regard to the evidence before the Licensing Sub-Committee and the promotion of the licensing objectives.

A written submission was produced by the solicitors acting for the Applicant and this can be found on Pages 3-6 of the additional agenda papers. Representations were received from the Licensing Authority and a local resident.

There is a resident count of 47.

Representations Received

- The Licensing Authority (Karyn Abbott) (**Withdrawn**)
- Andy Vining Flat 4A Greek Street London W1D

Summary of Representations

- *The premises is located within the West End Cumulative Impact Area and as such various policy points must be considered, namely CIP1, HRS1 and MD1.*
- *The application is made by the freeholder of the premises for a 'shadow' licence of 20/08314/LIPN. The Licensing Authority has reviewed the application against Licence number 20/08314/LIPN and the application has been made on the exact terms and conditions as the current issued licence.*
- *The Licensing Authority encourages the applicant to consider Westminster's model condition 97 below.*
- *The shadow licence will not take effect when the current licence is in operation, or it lapses, is surrendered or revoked. Should the applicant consider model condition mc97 it will allow the Licensing Authority to consider this application as a genuine application for a shadow licence. The Licensing Authority looks forward to receiving submissions from the applicant in due course to access the application further.*
- *Please accept this as a formal representation. Following agreement of a further condition, the Licensing Authority withdrew their representation on 28th September 2023.*
- *The agreed condition appears at Appendix 5.*

- *I object to the transfer of any shadow or premises licence relating to 4 Greek. I live alone immediately above the bar in flat 4A and have been here for many years with a number of different owner/ operators running the bar downstairs.*
- *The leasehold of the bar has been transferred in the last year to a new owner who is probably Samocca. Since that transfer I have experienced the following problems:-*
- *Late night noise going on to 2 am with staff and cleaners still there at 3am in the morning I think it must be the new bar owner who has moved the front door on Greek Street which leads to my flat so that it is now next door to the entrance to the bar. This means I have to walk through a lot of smokers and aggressive drunk people and also have to pass next to the bouncers who have been extremely intimidating.*
- *After the leasehold was transferred it seems that the new owners were unhappy that I was still living in 4A Greek Street. I suspect that the leasehold of the whole building would have a higher value if I was not there. I have CCTV cameras in my flat and outside in the common hall areas leading on to Greek Street for my own protection and safety. Those cameras have been working for many years. The landlord's agent Chaim Aziz of Estate Office tried to remove the camera in the downstairs hall using an umbrella and I have the evidence on video to prove this.*
- *A few days before 20th April 2023 the same landlord's agent used false pretences to book a stay at the other flat 4B in the building which is rented out at some times with Air b&b. False names and details were provided and after they obtained access with ex-military men they refused to leave the flat. The locks were changed by them without permission. The tenants of flat 4B were illegally evicted by the landlord's agent and there is a court case ongoing. I was in flat 4A at the time of this deceit and was terrified for my own safety. On 20th April 2023 I was at the flat alone when Russell Taylor turned up with the landlord's agent, Chaim Aziz, and three other men. Russell Taylor described himself as one of the operators of the bar downstairs and as owning venues in London including Rocket Leisure Ltd. They questioned my paperwork and right to stay in my flat. I was then taken into my living room while three other people made it clear they wanted me to vacate the flat. One of them said he would get me "by the scruff of the neck for £500" and get rid of me. I have done nothing wrong and this cannot be right that a drink licence is given to such people.*
- *In the last few months, I have had many harassing text messages and threats from the same landlord's agent and Russell Taylor. I know that everyone connected with the new leasehold owners and the landlord's agent want to get rid of me. I have looked at my cameras and seen them discussing how to get me out as they stole the CCTV cameras and failed to realise that the cameras, they removed continued to record and down load their plots and plans as they were still connected to the wifi.*
- *I do not think that the building complies with fire regulations. I have photographic evidence of this. There are 2 fire exits which evacuate in to the communal stair way of the 2 flats 4A and 4B Greek street which the bar downstairs use as a dumping ground for rubbish blocking stair ways which the only way for the occupants of the flats to escape if there is a fire. The fire alarm and fire extinguishers have not been maintained and serviced in this*

resident area which directly impacts the fire escapes from the bar and falls under someone such as Samocca to maintain.

- The notice for the licence was applied for on 7th July 2023 but when it went up at the premises on 18th July, I took a photo of the form. It was immediately removed by a member of the staff from within the premises and has not to my knowledge been put back up. Is this not a legal requirement?*
- As the date to make a representation about the drink licences is approaching could someone, please contact me to help me. I am severely dyslexic so had to have help to type this letter. I need to talk to someone from your department on the telephone urgently. I am in constant fear of being wrongfully evicted from my flat by persons or a company that has applied to your department at Westminster Council for drink licences. I have significant long term health issues and the worry is affecting my mental health. Westminster Council should not give drink licences to any person or company that has behaved in such a threatening manner.*

Policy Position

Policies CIP1, HRS1 and MD1 apply under the City of Council's Statement of Licensing Policy ("SLP").

Policy CIP1

A. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment, other than applications to:

1. Vary the hours within Core Hours under Policy HRS1, and/or
2. Vary the licence to reduce the overall capacity of the premises.

C. Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.

D. For the purposes of this policy the premises types referred to in Clause A are defined within the relevant premises use policies within this statement.

Policy HRS1

A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.

B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:

1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.
2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.

3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.

4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.

5. The proposed hours when any music, including incidental music, will be played.

6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.

7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.

8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.

9. The capacity of the premises.

10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.

11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.

12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.

13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.

14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.

6. Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday: Midday to Midnight.

D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

Note: The core hours are for all licensable activities but if an application includes late night refreshment then the starting time for that licensable activity will be 11pm.

Policy MD1

A. Applications outside the West End Cumulative Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.

2. The hours for licensable activities being within the council's Core Hours Policy HRS1.
 3. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
 4. The applicant has taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.
 5. The application and operation of the venue meet the definition of a music and dance premises or similar entertainment in Clause D.
- B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:
1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1, and/or,
 2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.
- C. The applications referred to in Clause B1 and B2 will generally be granted subject to:
1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
 2. The operation of any delivery services for alcohol and/or latenight refreshment meeting the Council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
 3. The application and operation of the venue continuing to meet the definition of a music and dance premises in Clause D.
- D. For the purposes of this policy a music and dance premises is Defined as a premises whereby the primary purpose of the venue is to:
1. Provide regulated entertainment in the form of music, either in the form of live performances or recorded, to customers.
 2. Provide regulated entertainment in the form of music, either as live performances or recorded, and provide facilities for the provision of dance.
 3. The sale by retail of alcohol may be provided as either a considerable element of the operation of the premises or ancillary to the provision of regulated entertainment.
 - a. Examples of venues that would fall within this policy are night clubs or bars that provide music and dancing.
 - b. De-regulated entertainment (as set out in the glossary will not be subject to this policy)

SUBMISSIONS AND REASONS

The Presenting Officer Kevin Jackaman introduced the application to the Sub-Committee. He advised that this was an application for a shadow licence under the Act in respect of 4 Greek Street London W1D 4DB. The application has been made by Samocca Assets Limited represented by Niall McCann Solicitor. The Applicant has applied for a shadow licence on the same terms, plans and conditions as the current existing licence. Full details can be found on pages 2-3 of the agenda report. Representations have been made by the Licensing Authority however following agreement of a condition this was later withdrawn. A representation was also made by a local resident but they are not in attendance today. The Premises is situated within the West End Ward and falls within the West End Cumulative Impact Zone.

Mr Niall McCann appearing on behalf of the Sub-Committee addressed the Sub-Committee and advised that this was an application for a shadow licence with the Applicant being the freeholder of the building as landlord.

Mr McCann confirmed the following matters:

- A shadow licence was granted by the Licensing Authority in 2020 under delegated authority by officers which then became operational due to the tenant falling behind with their rent.
- The rationale for the application is a protection mechanism so that the Applicant as landlord has the necessary protection in place if the current licence lapses for whatever reason.
- These types of applications are usually granted by delegated authority as we are not adding to the current permitted hours, and it is only adding continuity if the current licence lapses.
- We are of the view that the four licensing objectives will be promoted should the application be granted.
- Referring to the resident one objector we feel that if he had genuine concerns then he should have raised them in the first instance with the tenant and then the freeholder or the relevant authorities but none of this has been done. He was directed to the Westminster Licensing Project for assistance which he declined; he has not responded to us.
- In terms of the application this is on exactly the same terms as the existing licence save for one additional condition. There is to be no additional use or impact of granting the application.

Mr McCann said that it has been established in case law that a premises can have more than one licence in operation at anyone time. He therefore requested that the Sub-Committee grant the application accordingly.

Conclusion

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so for the purposes of determining this application.

The Sub-Committee noted that the Applicant is the freehold owner of the Premises which is currently trading as Louche Soho, a live music venue and bar which has the benefit of a premises licence with a closing time of 02.30 hours. Given this terminal hour and the location of the Premises within the West End Cumulative Impact Zone, a premises licence is an asset which the Applicant is seeking to protect by applying for a Shadow Premises Licence which is common practice for landlords.

The Sub-Committee had regard not only to the written and oral evidence but also to the requirements of the Act, The Guidance issued under section 182 of the Act and the City Councils SLP in the main policies CIP1, HRS1 and MD1.

It was noted by the Sub-Committee that only the Licensing Authority initially objected from the Responsible Authorities but later withdrew their objection after agreeing a condition and so the remaining representation was that of a local resident.

The Sub-Committee noted the Applicant had tried to contact the local resident concerning the matters raised in the representation which in the main were of a landlord & tenant nature and therefore subject to private law. However, those issues that concerned licensing matters were duly considered when looking at the promotion of the licensing objectives.

The Sub-Committee considering the evidence before it and the arguments advanced by McCann in his submissions to the Sub-Committee considered Paragraph D20 on page 28 of the SLP and all other relevant parts of the SLP.

Paragraph D20 states:-

“The Licensing Authority may consider granting applications for licences that duplicate the terms and conditions of the current operational licence for that same premises but are issued to the landowner, or other person with an interest in the property and that the licence has no affect by condition. These ‘Shadow Licences’ are normally sought by the landowner to protect the interest of their property due to the Policy to refuse certain new applications. A Shadow Licence will, in the event that a licence lapses, is surrendered or is revoked the property own can look to market the property with the licence. The holder of the Shadow Licence would in those circumstances need to apply to the Licensing Authority to vary the licence to remove any conditions preventing the use of that licence. At that point the Licensing Authority will consider whether the operation of the premises is likely to be an exception to policy. It will be for the Shadow Licence licensee to demonstrate that they are an exception within the applications operating schedule”.

The Sub-Committee using its discretionary powers concluded that Paragraph D20 of the Policy had been met by the Applicant on the basis that this was an application for a shadow licence identical to the existing Premises Licence in terms of hours and conditions. Therefore, the Sub-Committee could see no real justification for rejecting the application. The Sub-Committee would request that the Licensing Authority should be informed of who eventually takes over the shadow licence.

Having carefully considered the matter, the individual circumstances of the case and the need to promote the licensing objectives, the Sub-Committee decided to **grant** the application for a shadow licence. The Sub-Committee was persuaded that the application met the policy requirements under the SLP and that an exception had been proven with valid reasons given by the Applicant.

The Sub-Committee arrived at this decision based upon the merits of the application and the various safeguards and measures the Applicant is to implement in the running of the Premises that will uphold the promotion of the licensing objectives.

In reaching its decision, the Sub-Committee concluded that the application was suitable for the local area that the conditions attached to the licence would alleviate the residents’ concerns and were appropriate and would promote the licencing objectives.

The Sub-Committee has imposed all the conditions with a slight variation to Model Condition MC97 as specified below in condition 41.

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

1. To grant permission for **Live Music (Indoors)** Monday to Sunday 09:00 to 02:00 **Seasonal variations:** Private entertainment - Unrestricted Hours
2. To grant permission for **Recorded Music (Indoors)** Monday to Sunday 00:00 to 00:00 **Seasonal variations:** Private entertainment - Unrestricted Hours
3. To grant permission for **Performance of Dance (Indoors)** Monday to Sunday 09:00 to 02:00 **Seasonal variations:** Private entertainment - Unrestricted Hours
4. To grant permission for **Anything of a similar description to that falling within (e), (f) or (g) (Indoors)** Monday to Sunday 09:00 to 02:00 **Seasonal variations:** Private entertainment - Unrestricted Hours
5. To grant permission for **Late Night Refreshment (Indoors)** Monday to Saturday 23:00 to 02:30 Sunday 23:00 to 02:00 **Seasonal Variations:** Sundays before Bank Holidays: 23:00 to 02:30
6. To grant permission for **Sale by Retail of alcohol (On and Off Sales)** Monday to Saturday 10:00 to 02:00 Sunday 12:00 to 00:30 **Seasonal Variations: Sundays before Bank Holidays: 12:00 to 02:00**
7. To grant permission for the **Opening Hours for the Premises** Monday to Saturday: 09:00 to 02:30 Sunday: 09:00 to 02:00 **Seasonal Variations:** Sundays before Bank Holidays: 09:00 to 02:30
8. That the Premises Licence is subject to any relevant mandatory conditions.
9. That the Premises Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions attached by the Committee after a licensing hearing

10. A noise limiter must be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the

Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

10. The premises shall install and maintain a comprehensive CCTV system as per the requirements of a Metropolitan 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. 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.
11. 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 is 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.
12. The first floor windows shall be kept shut except in an emergency.
13. On any evening where the premises or part of the premises are open for the purpose of music and dance, alcohol shall not be sold or supplied to persons entering that part of the premises except to:
 - (a) Persons who have paid a minimum admission fee of at least £5.00 Monday to Thursday and £7.00 Friday and Saturday for music, dancing and entertainment, such charges not to be credited against consumables; or
 - (b) Persons who have paid a minimum annual admission fee of at least £150 payable in advance for music, dancing and entertainment (not to be credited against consumables). A list of all persons who have paid an annual admission fee will be held at reception for inspection by the relevant authority; or
 - (c) Persons attending a private function/event booked at least 24 hours in advance, where the functions organiser's name and address is to be kept at reception for inspection by Police.
 - (d) Artistes or persons employed on the premises.
 - (e) Bona fide guests of the management not to exceed 10% of capacity, a list of whom shall be kept at reception for inspection by relevant authorities; or
 - (f) Persons taking full table meals a list of whom are held at reception for inspection by the relevant authorities.
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. Non alcoholic beverages, including drinking water, shall be available during the whole of the permitted hours in all parts of the premises where alcohol is provided.
16. The premises shall join the local pub watch scheme or other local crime reduction scheme approved by the police, and local radio scheme if available.

17. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
18. Loud speakers shall not be located in the entrance lobby or outside the premises building.
19. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
20. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
21. 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.
22. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised forms of photographic identification cards, such as a driving licence, passport or proof of age card with PASS Hologram.
23. No unauthorised advertisement of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree or other property, or be distributed to the public.
24. 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
 - (c) Any complaints received
 - (d) Any incidents of disorder
 - (e) All seizures of drugs or offensive weapons
 - (f) Any faults in the CCTV system or searching equipment or scanning equipment
 - (g) Any refusal of the sale of alcohol
 - (h) Any visit by a relevant authority or emergency services
25. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used upon 10 days prior written notice being given to the Licensing Authority where consent has not previously been given.

- o Dry ice and cryogenic fog
 - o Smoke machines and fog generators
 - o Pyrotechnics including fireworks
 - o firearms
 - o lasers
 - o explosives and highly flammable substances
 - o Real flame
 - o Strobe lighting.
26. There shall be no striptease, or nudity and all persons on the premises shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
 27. The summary of the premises licence that the premises is actually operating under shall be prominently displayed at the reception of the premises so officers attending can be aware of which licence is in operational effect without speaking to a member of management.
 28. The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
 29. On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the where the existing terminal hour for the activities and/or closing hour for the premises ends after 02.00
 30. The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.
 31. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed:
Ground Floor - 160 persons
First Floor - 100
 32. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
 33. 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.
 34. All emergency exit doors shall be available at all material times without the use of key, code, card or similar means.
 35. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.

36. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
37. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
38. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flameretarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
39. The certificates listed below shall be submitted to the Licensing Authority upon written request.
 - a) Any permanent or temporary emergency lighting battery or system.
 - b) Any permanent or temporary electrical installation.
 - c) Any permanent or temporary emergency warning system.
40. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.
41. The shadow licence will not take effect when the current licence is in operation until the current licence lapses is surrendered or revoked and an application has been approved for a minor variation to remove this condition.

This is the Full Decision of the Licensing Sub-Committee which takes effect forthwith.

**The Licensing Sub-Committee
22 November 2023**

2. 15 OLD BURLINGTON STREET, W1X 1RL

LICENSING SUB-COMMITTEE NO. 1 ("The Committee")

Thursday 22 November 2023

Membership: Councillor Iman Less (Chair) and Councillor Karen Scarborough

Officer Support Legal Advisor: Horatio Chance
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Kevin Jackaman

Others present: Mr Marcus Lavell (Counsel, Keystone Law), Mr Aaron Miller and Mr John Comon (Applicant Company), PC Dave Morgan (Metropolitan Police Service), Mrs Ayesha Bolton (Environmental Health Service), Mr Richard Brown (Solicitor, Westminster Licensing Project) representing local residents.

Application for a New Premises Licence in respect of 15 Old Burlington Street London W1X 1RL 23/04863/LIPN

FULL DECISION

Case Summary

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act") in respect of 15 Old Burlington Street London W1X 1RL ("The Premises"). The Premises intends to operate as a lounge and restaurant. The Premises has had the benefit of a premises licence since 2015. The current premises licence (22/08753/LIPDPS) can be viewed at **Appendix 4** of the agenda report.

A full licence history and Temporary Event Notice history for the premises appears at **Appendix 5**.

The Applicant has submitted the following documents:

- ***A copy of a mediation email for an interested party which can be seen at Appendix 3.***

The Premises are located within the West End Ward and the West End Buffer. There is no policy presumption to refuse applications for a restaurant premises outside of the West End CIZ provided that they do not undermine the licensing objectives. The Applicant is required to demonstrate the requirements contained in paragraphs D47 and D48 on page 55 of the SLP (*Robberies, theft, ASB on around public transport and incidents relating to ambulance call outs at night to the locations of licensed premises for intoxication injury related to intoxication and/or assault*).

The matter was assessed on its individual merits having regard to the evidence before the Licensing Sub-Committee and the promotion of the licensing objectives. Representations were received from the Environmental Health Service, Metropolitan Police Service and two local residents all citing concerns regarding public nuisance and crime and disorder.

There is a resident count of 2.

Premises

15 Old Burlington Street
London
W1X 1RL

Applicant

Tokyo Industries (Mayfair) Limited

Ward

West End

Special Consideration Zone

West End Buffer

Activities and Hours

Live Music, Recorded (Indoors)

Monday to Sunday 10:00 to 03:00

Seasonal Variations: All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On the day British Summer Time commences: one additional hour following the terminal hour

Late Night Refreshment (Indoors)

Monday to Sunday 23:00 to 02:30

Seasonal Variations: All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On the day British Summer Time commences: one additional hour following the terminal hour.

Sale by Retail of Alcohol (On and Off the Premises)

Monday to Sunday 10:00 to 02:30

Seasonal Variations: Off sales of alcohol are to cease at 23:00 daily. All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On the day British Summer Time commences: one additional hour following the terminal hour.

Opening Hours Premises are Open to the Public

Monday to Sunday 10:00 to 03:00

Seasonal Variations: All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On the day British Summer Time commences: one additional hour following the terminal hour.

Representations Received

- Metropolitan Police Service (MPS) (PC Dave Morgan).
- Environmental Health Service (EHS) (Sally Fabbriatore).
- Two Local residents.

Summary of objections

- *The provision of the Supply of Alcohol may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.*
- *The provision of regulated entertainment may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.*
- *The provision of Late Night Refreshment may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.*
- *The non-standard timings may cause an increase in Public Nuisance in the area. The applicant did seek pre-application advice, 23/02688/PREAPM. Further information and proposed conditions have been provided, which are being considered. Further conditions are proposed below in order to protect the Licensing Objectives:*
- *The granting of the new Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the area and may impact on Public Safety.*
- *With reference to the above, I am writing to inform you that the Metropolitan Police Service as a Responsible Authority are objecting to this application on the basis that if granted, it would undermine the Licensing Objectives, namely The Prevention of Crime and Disorder and Protecting Children from Harm.*
- *The hours sought are beyond those of Westminster Council's Core Hours policy and the venue is situated within the West End Buffer Special Consideration Zone.*
- *The application also describes the venue as a 'Lounge and Restaurant' but it is noted that no restaurant conditions have been offered.*
- *The Police have concerns that the venue could potentially become a vertical drink led venue which in turn could increase the levels of Crime and Disorder and anti-social behaviour in the area.*
- *To move forward, I would encourage that the applicant considers reducing the hours sought and/or submits further conditions to ensure that the venue will not impact negatively on the emergency services or the local area.*

- *The Metropolitan Police Service provided further submissions on 09 November 2023 which can be found at Appendix 2.*
- *This is an application for a restaurant and lounge where the proportion of lounge to restaurant is quite high. The licence seeks a terminal hour of 3am, well beyond core hours. There is no restaurant condition at all and there is no condition relating to service being by waiter/ress service to customers being seated. There is no explanation as to how they intend to overcome WCC policy on hours and public nuisance. On a minor note, there is no condition barring the taking of drinks and glass containers outside by smokers. There is a very real risk of public nuisance arising from this application and RSMSJ wishes to object to it being granted.*
- *I'm resident at Lower Ground Floor, 22-23 Old Burlington Street W1S 2JJ. And I just became aware that the applicant: tokyo industries(Mayfair) limited (15 Old Burlington Street) is trying to extend their working hours until 3 am Monday to Friday and until 2.30 am on weekends. My concern about it is the constant noise caused by their clients, who aren't allowed to park in the street to begin with but they do it anyway and often do car racing at really late night when are exiting the place. I've been living in the property for almost 2 years and since the restaurant (MIRO) has opened its doors there has been a lot of changes in the street. Their clients don't seem to respect the residents of the street. With constant noise!*

Policy Considerations

Policies SCZ1, HRS1 and RNT1 apply under the City Council's Statement of Licensing Policy ("SLP").

Policy SCZ1

A. In addition to meeting the other policies within this statement, applications within a designated Special Consideration Zone should demonstrate that they have taken account of the issues particular to the Zone, in question as identified within the 2020 Cumulative Impact Assessment, and should set out any proposed mitigation measures in relation to those issues within their operating schedule.

B. For the purpose of Clause A, the designated Special Consideration Zones are:

- West End Buffer
- Queensway/Bayswater
- Edgware Road
- East Covent Garden
- Mayfair
- Victoria

Policy HRS1

A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.

B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:

1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.
 2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.
 3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.
 4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.
 5. The proposed hours when any music, including incidental music, will be played.
 6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.
 7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.
 8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.
 9. The capacity of the premises.
 10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.
 11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.
 12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.
 13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.
 14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.
- C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:
6. Pubs and bars, Fast Food and Music and Dance venues
- Monday to Thursday: 10am to 11.30pm.
Friday and Saturday: 10am to Midnight.
Sunday: Midday to 10.30pm.
Sundays immediately prior to a bank holiday:
Midday to Midnight.
- D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.

Policy RNT1

Policy RNT1 applies A. Applications outside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities being within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meeting the definition of a restaurant as per Clause C.

B. Applications inside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
5. The application and operation of the venue meeting the definition.

SUBMISSIONS AND REASONS

1. The Presenting Officer Kevin Jackaman introduced the application to the Sub-Committee.
2. Mr Marcus Lavell Counsel appearing on behalf of the Applicant addressed the Sub-Committee. He advised that although this application was for a New Premises Licence it was in effect an extension to the existing Premises Licence as the Applicant had already been trading in the Premises for over a year.
3. He stated that the key changes were the later hours until 03:00 hours and the removal of the Council's model restaurant condition MC66. He explained that MC66 did not apply to the entire Premises but to the hatched black area on the licensing plans which was the only area that was governed by the requirement that all alcohol must be ancillary to the provision of a substantial table meal.

4. He emphasised that the Premises was a food focused Premises and employed a two-star Michelin executive chef, although customers were free to either dine or just simply enter the Premises and consume alcohol until 01:00 hours.
5. Mr Lavell confirmed that the Applicant wished to extend the trading hours to 03:00 hours which was an extension of 1.5 hours and to free up the need to have a particular section of the Premises dedicated solely to alcohol being sold ancillary with food. He emphasised instead that alcohol would be sold throughout the Premises as it was being done already which would give customers the additional freedom to have people sitting in amongst diners so that those who wanted to drink without dining could do so anywhere and those who wanted to dine could do so and enjoy the regulated entertainment.
6. Mr Lavell highlighted that the Premises was dedicated to offering a substantial supply of high-quality food products and meals as well as providing a place for people to drink whilst also being entertained.
7. Mr Lavell referred to the Additional Information Pack that contained the Applicant's comprehensive dispersal policy and the additional conditions that had been proposed following discussions with the Responsible Authorities. He explained that the Applicant had made a commitment to staff training, that there was a requirement that the supply of alcohol shall be by waiter/waitress service to seated persons except for corporate events (usually held mid-week) and that substantial food and non-intoxicating beverages would be available in all parts of the Premises as the Council's Model Condition 41 would be attached to the Premises Licence.
8. He advised that the Applicant needed flexibility during these difficult times and that the additional trading hours and flexibility to allow people to stand for the purposes of prebooked events was important for the continuation of the business.
9. Mr Lavell confirmed that the Premises was located within the West End Buffer Zone and not in the West End Cumulative Impact Zone. He outlined that there were only two residents or residential units located near to the Premises and that it was effectively in the middle of a commercial area. He explained how SIAs played an important role in dispersing patrons at the end of the night by pointing them in the direction of local transport which included the three tube stations within short walking distance or a pre-booked Uber or taxi.
10. He highlighted that there had been eight temporary event notices (TENs) operated during the year and a couple last year allowing the Premises to operate up until 03:00 hours and to perfect, refine and trial the extended operating hours before the Sub Committee today. He confirmed that no complaints had been received from residents or by the Environmental Health Service.
11. Mr Aaron Miller appearing on behalf of the Applicant Company addressed the Sub-Committee. He gave a history of the Premises and confirmed that it was a highly experiential restaurant with excellent chefs and that the purpose of

the application was to allow the business to push towards offering high end corporate hospitality into the later hours to local businesses. He echoed Mr Lavell's arguments that the grant of the application would give more flexibility in terms of their offer to customers.

12. In response to questions from the Sub Committee, Mr Lavell advised that there was no intention to change the operational capacity of 180 patrons. He stated that the events held with the TENs had been a mixture of private parties, corporate events and effectively to just remain open later into the night. He confirmed that the Applicant was happy to explore a last entry condition to prevent the Premises becoming a late-night destination venue, however, he emphasised that the application was geared around allowing the Applicant to have as much flexibility as possible to make the most of all business opportunities.
13. Mr Lavell confirmed that the smoking area was by the door entrance on the public highway and would be supervised by the SIAs. He advised the number of SIAs on duty depended on whether it was during mid-week/the weekend and/or the event(s). He emphasised that the Premises employed effective front of House Management staff which also helped with the dispersal of patrons. He confirmed that the operating schedule did contain a condition outlining that alcohol would be served by waitress/waiters except for persons attending prebooked events.
14. Mr Lavell advised that the Premises was already a late-night venue that did not have a history of noise nuisance or crime and disorder and therefore wanted more flexibility to be allowed to open 1.5 hours later due to the Premises unique location in the West End Buffer Zone. He advised that the Applicant was prepared to provide a commitment to a greater presence of SIAs on the street which contributed to making the area safer for the community. He further advised that the Applicant was content to close at 02:00 hours unless a corporate event was being held at the Premises and that 70% of patrons purchased dinner and 30% just purchased drinks.
15. Mrs Ayesha Bolton appearing on behalf of the EHS addressed the Sub-Committee. She advised that the EHS had maintained their representation because they still had concerns regarding the application. She confirmed that the Applicant had sought pre-application advice and during the pre-application advice the Applicant had offered to mirror the conditions on the existing Premises Licence, i.e., that Model Condition (MC66) would remain on the Premises Licence and that the majority of the Premises would still be operated as a restaurant.
16. Mrs Bolton advised that the EHS were concerned that the Premises would become a late-night drink-led establishment. She confirmed that the EHS had already suggested a last entry condition to be attached to the Premises Licence and advised that it was the Sub-Committee to determine whether this application should be granted.
17. PC Dave Morgan appearing on behalf of the MPS addressed the Sub-Committee. PC Morgan advised that the MPS had maintained their

representation on similar grounds to the EHS and that the granting of this application would likely cause an increase in the crime and disorder in the area, thereby undermining the crime and disorder licensing objective.

18. He advised that the MPS were concerned regarding the increase in hours as they went beyond the Council's Core Hours Policy for restaurants and because of the change of use of the Premises operation model. He explained that it was essentially a restaurant turning into a late-night bar where patrons could attend to drink alcohol without consuming a meal which had the likely effect of increasing crime and disorder and anti-social behaviour in the area.
19. PC Morgan stated that although crime was not as high as in the West End Cumulative Impact Zone it was still above the borough average and so the MPS considered that any sort of Premises licence like this had the potential to increase the crime figures in the area. He explained that the longer a Premises remained open serving alcohol the more intoxicated people become and therefore there was more chance of them becoming victims of crime which caused potential problems for all the emergency services.
20. PC Morgan outlined that late night drinking venues where patrons did not need to consume a meal were the highest generating crime venues. He advised that the MPS welcomed condition 27 which stimulated patrons needed to be seated save for pre-booked corporate events, however, these corporate events could be any type of event as it was essentially a free room to rent – for instance a DJ could be hired and if a pre-booked event was booked for every weekend this could essentially mean that there could be vertical drinking until 03:00 hours every weekend.
21. PC Morgan advised that there were lots of dark empty streets in Mayfair and there was the potential for customers to become targets in these quieter streets. He emphasised that the MPS did not believe that granting this application would promote the licensing objectives.
22. Mr Horatio Chance, Legal Advisor to the Sub-Committee, asked Mr Lavell what the rationale was for not submitting a Variation to the existing Premises Licence. Mr Lavell replied stating that considered it best practice to apply for a New Premises Licence when the application needed a full consideration of the Premises plans and a full consideration of the conditions to be attached to the Premises Licence. He confirmed that if this application was granted the Applicant would agree to a surrender condition being included on the Premises Licence.
23. Mr M. D, local resident, advised that the combination of the significant extension of hours and a weakening of the restaurant conditions caused the residents real concern regarding both public nuisance and crime and disorder. He outlined how he had found on google that the Premises described itself as: *'a self-proclaimed club: A late night party restaurant where dancing is fervently encouraged and where patrons were encouraged to let loose and enjoy a soundtrack of pumping electronic music'*. He added there was also mention of bottomless drinks which made it sound more like a late-night drinking venue than a food led Premises.

24. Mr Lavell in answer thereto advised that there was always lots of PR spin to entice people to visit premises and as stated previously the Premises had hosted some corporate events and private parties under the TENs. He outlined that the Premises did offer a bottomless brunch offer during the daytime but not late at night, however, the offer was restricted to a set time and the speed at which the alcohol was provided effectively limits it to a specified number of flutes of champagne over the two-hour experience.
25. Mr Richard Brown appearing on behalf of the residents addressed the Sub-Committee. He advised that the residents would be content if the Premises Licence was granted on the same terms as the previously one which was in fact a very generous licence in terms of operating hours until 01:00 hours. He outlined that initially the Premises Licence had been granted to Core Hours, so the Applicant had already been granted an extension and this was now a further extension of what sometimes was referred to as a 'creep of hours.'
26. Mr Brown advised that there were three elements to the application; two of which that had already been discussed by the Responsible Authorities but also the addition of Live Music to 03:00 hours which was not currently on the Premises Licence. He advised that the Premises had been closed from June onwards and that the TENs did not demonstrate how the Premises would affect the area if it were permanently open until 03:00 hours.
27. Mr Brown explained that he did not accept Mr Lavell's submission that the advertisement on google was just a PR spin and even if it were people would visit the Premises with the expectation of what was advertised being available at the Premises. He further outlined that the condition stated event, not corporate event, and therefore every single person coming to the Premises could have pre-booked events and therefore be allowed to vertically drink alcohol instead of being seated at a table.
28. Mr Brown considered that the operation of the Premises could become completely different to how it was currently operated. He echoed the concerns of the MPS regarding patrons being vulnerable to robberies and anti-social behaviour when leaving the Premises in the early hours of the morning.
29. Mr Chance discussed the wording of the agreed proposed additional conditions (if the application were granted), with all parties.
30. During his summing up Mr Brown advised that all parties had raised the same concerns regarding the removal of Model Condition (MC66) from the Premises Licence and changing the operation of the Premises which would have a huge impact on the public nuisance and public safety in the area. He emphasised that the Council's Model Condition MC66 should remain on the Premises Licence.
31. During his summing up PC Morgan advised that the extra hours and the change of operation style were a serious concern for the Police.

32. During his summing up, Mr Lavell advised that the Premises was operated well and did not cause the Responsible Authorities concern and therefore under the Licensing Act the operator could look to operating later because it did not cause anyone concern. He outlined that the Premises would not suddenly start causing trouble by being open longer and that the very nature of TENs provides evidence that the Premises could operate effectively until 03:00 hours.
33. He further explained that it was a good faith application to allow a good operator to trade later and have more flexibility to make his business successful in the current difficult climate. He emphasised that the Premises was not located in the West End Cumulative Impact Zone and there was no history of crime and disorder and that the SIAs would ensure that patrons dispersed quietly.

Reasons and Conclusion

34. The Sub-Committee has determined an application for a grant of a New Premises Licence under the Act. The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining this application. The Sub-Committee had regard not only to the written and oral evidence but also to the Act, the Revised Home Office Guidance issued under section 182 of the Act and the City Council's SLP, in particular policies HRS1, RNT1 and SCZ1.
35. In this connection regard was had to the Revised Home Office Guidance at Paragraph 9.38 on page 80 which states "***In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to***":
 - The steps that are appropriate to promote the licensing objectives.
 - The representations (including supporting information) presented by all the parties.
 - This Guidance.
 - Its own statement of licensing policy.
36. The Premises proposes to operate as a lounge and restaurant falling within Policy RNT1 under the City Councils SLP where there is no presumption to refuse the application provided it is not contrary to other existing policies such as policies HRS1, CD1, PS1, PN1, CH1 and SCZ1.
37. This was a difficult application for the Sub-Committee to consider due to the competing interests of both the operator and local residents and inbuilt complexities associated with the application mainly on policy grounds and the negative effect granting such an application would have within the West End area.
38. The Sub-Committee did not doubt the Applicant to not be a good operator and there was no evidence before it that would suggest otherwise. However, what

the Sub-Committee had to consider first and foremost in the decision making process was whether the character, style and nature of the Premises would effectively change due to the removal of Restaurant Model Condition (MC66) relating to the black hatched area on the premises plan.

39. The Sub-Committee concluded that with this specific condition being removed entirely from the Premises Licence (even with suggestion of an earlier terminal hour) would still result in a material change of the Premises operation itself.
40. It was the Sub-Committee's considered view overall that the Premises required model condition (MC66) to be retained based on the evidence presented by the parties who had objected to the application so that it operated properly as a restaurant and was not a drink led premises.
41. The Sub-Committee having carefully considered the matter and the evidence on its individual merits decided that the Applicant had not demonstrated justification to allow for a later terminal hour of 03:00 hours.
42. Whilst the Sub-Committee appreciated that there was no presumption to refuse an application for a restaurant premises outside of the West End CIZ it does not automatically follow that for every restaurant premises application that comes before a Sub-Committee it will be granted because there are always exceptions to this rule coupled with the discretionary powers exercised by that Sub-Committee.
43. Moreover, each case must be considered on its individual merits and the persuasive factors and arguments advanced by all parties that led the Sub-Committee to reach its conclusion on the matter were considered in some great detail but the overall Decision taken was that in this case, it was on balance appropriate and proportionate to keep the hours at 01:00 as per the existing premises licence rather than extending the terminal hour until 03:00.
43. The key issue for the Sub-Committee to consider was whether granting the application would have a negative impact in the West End area and thus fail to promote the licensing objectives and whether the application met the requirements of policies CD1, PS1, PN1 and CH1. Extending the terminal hour would be contrary to these policies and fail to promote the licensing objectives.
44. Dealing specifically with Policy PN1. Clause A on page 32 provides that the "Licensing Authority will not grant applications that do not promote the prevention of public nuisance licensing objective". Paragraph B goes on to state that "when considering Clause A, the Licensing Authority will apply the criteria and take into account any relevant considerations as set out below."
 - ***"The potential for nuisance associated with the style, characteristics and activities of the business to be carried out at the premises and the potential steps which would be taken to reduce the risk of nuisance occurring. This will particularly apply in areas of residential***

accommodation and where there is residential accommodation in proximity of the premises.”

45. Paragraph 2 deals with the “Considerations” the SLP speaks to and states *“Whether Operating Schedules contain adequate measures to prevent noise and vibration, whether airborne or structure borne, generated from within the premises, outside it or from an open site, that may cause disturbance to people in the vicinity. Regard will be had to disturbance of people whether at home, at work, staying in, or visiting the vicinity. However, stricter conditions will be imposed on premises licences in areas that have denser residential accommodation or have residential accommodation close to them. See Appendix 11” (Guidance on Noise).*
46. Paragraph 3 states “Applicants will be expected to have included measures in their Operating Schedules that make adequate provision to limit noise and vibration, eating, drinking and smoking outside their premises and other environment impacts” with reference to some 22 bullet points which include the following:-
- *Restrict noise emissions to below levels that could affect people in the vicinity going about their business, at work and when at home both while relaxing and while sleeping.*
 - *Minimising and controlling noise from customers arriving at the premises, or open-air site outside it and departing from it including noise and other nuisance caused by customers transportation and how dispersal is managed.*
 - *Identifying whether people standing or sitting outside the premises are likely to cause obstruction or other nuisance.*
 - *Identifying whether the premises are under or near to residential accommodation.*
47. Paragraphs C12 to C21 on pages 33 and 34 sets out the “Reasons for Policy PN1” which the Sub-Committee had regard to.
48. Paragraph C12 includes in its wording:-
- “Public Nuisance could include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may include, in appropriate circumstances, a reduction of the living and working amenity and environment of persons in the vicinity of licensed premises”** which is wholly pertinent to this application.
49. Paragraph C13 states:-
- “Westminster has a substantial residential population and the Council as the Licensing Authority has a duty to protect it from nuisance. In certain areas, the increased concentration of entertainment uses, and the longer hours of operation have adversely affected local residents. Commercial occupiers of premises also have a legitimate expectation of***

an environment that is attractive helps sustain their businesses. The role of the Council as Licensing Authority is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of residents and other users of the City including, businesses, workers, shoppers and visitors. It will need to satisfy itself that adequate measures to prevent public nuisance are in place and will be maintained.”

50. The Sub-Committee when considering the issue of public nuisance had regard to the Revised Home Office Guidance issued under s.182 of the Act in particular Paragraphs 2.20 and 2.21 on pages 9 and 10 which reads as follows:-

Paragraph 2.20

“The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.”

Paragraph 2.21

“Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.”

51. Having heard the evidence from all parties the Sub-Committee concluded that granting this application would change the *character, style and nature* of the Premises resulting in it becoming a drink led premises even though food would be on offer although customers are not required to eat should they chose not to do so. The driving force to not extend the terminal hour beyond 01:00 was the testing of the various policy considerations weighed up against the evidence and whether it met the promotion of the licensing objectives which it is specifically designed to achieve and do under section 4 of the Act.
52. The Sub-Committee heard direct evidence from both the MPS and EHS as to why MC66 should be retained. Those arguments advanced by the Responsible Authorities held water and were highly persuasive. It was noted that the Applicant had obtained pre-application from the Council’s EHS and

the professional advice from officers was that MC66 should be retained in order to preserve the character, nature and style of the Premises.

53. Similarly, the MPS had grave concerns regarding the removal of the condition on the grounds of crime and disorder. It was feared that the Premises could become a destination venue and would be attractive to people on a night out where alcohol would longer be required to be served subject to a substantial table meal (in the hatched area on the premises plan) and as a result the Premises would effectively become drink led and with a later terminal hour of 03:00 and advertised as such making it even more attractive for customers who may wish to frequent the Premises.
54. In view of paragraph 53 above the Sub-Committee considered the MPS evidence on pages 63-66 at Appendix 2 of the agenda report to be overwhelming. In summary the MPS expressed concerns regarding the following matters:-
- Alcohol being served without a substantial table meal may increase the risk of intoxication and the vulnerability levels of the customers and potentially will allow them to become the victims/and or perpetrators of crime and disorder and may increase Anti-Social behaviour in the area.
 - The Premises sits within the West End Buffer Consideration Zone and as per the SLP the levels of incidents in this area are higher than the borough average.
 - The current levels of alcohol related Assaults, Sexual Assaults, Robberies and Public Order within the West End and its surrounding areas are now higher than at pre-covid levels.
 - Customers leaving the Premises may be drawn into the CIZ and into areas where there are even higher crime levels which may result in them becoming victims of crime.
 - The impact on Police resources when they are already stretched.
55. The Sub-Committee noted that the Applicant had used the TENS regime under the Act for the extend hours applied for and whilst no problems had occurred during these time periods the Sub-Committee considered this to be only a snapshot in time only and not indicative of a premises licence that could be granted in perpetuity. When considering this aspect of the application the role of the Sub-Committee is to consider what the long term affects this could have for the area globally and the promotion of the licensing objectives.
56. The Sub-Committee decided that the potential for noise nuisance and crime would result in having a negative impact on the area. The Sub-Committee was not convinced that even with a dispersal plan in place for a later terminal hour the Premises would be able to deal with the numbers attending the Premises effectively and efficiently on any given night and the potential for nuisance for those residents living in surrounding streets and the concerns the MPS had expressed with crime and disorder. Whilst the Sub-Committee recognised that there was a very low residential count, there are nonetheless still residents living within the vicinity that could be disturbed by nuisance by

customers leaving the Premises at a later terminal hour particularly if the Premises became a known destination venue with drinkers.

57. The Sub-Committee realises that it has a duty to strike the right balance when considering the business needs of the Applicant along with those parties that had objected to the application (who are effectively considered Experts in their respective fields and local knowledge of licensed premises operating in the area) and therefore well acquainted with the many issues surrounding nuisance and crime and disorder.
58. The Sub-Committee took the view that the right balance has been struck when considering the needs of those residents who objected to the application as well as the Responsible Authorities who expressed their views and the negative impact granting such an application would have on the area as a whole.
59. The Sub-Committee will of course appreciate that the Applicant will be disappointed with this Decision to not increase the terminal hour for licensable activities and does not doubt them to not be a good operator but after careful consideration and a proper analysis of the application together with the proposed offered conditions to mitigate the concerns of all parties objecting the Sub-Committee in its considered opinion concluded for the reasons outlined above that the public nuisance licensing objective and crime and disorder licensing objective would be seriously undermined and so did not consider it appropriate to increase the terminal hour as applied for.
60. It was apparent to the Sub-Committee that the Applicant had shown themselves to be a responsible operator that would run the Premises well but the overriding concern was that with the complete removal of Model Restaurant (MC66) and a later terminal hour of 03:00 this would result in a complete change in the operation of the Premises and morph into sometime different. Whilst the Premises would still have the ability to serve food the Sub-Committee considered the emphasis would instead be on the selling of alcohol because there would be no compulsion for customers to purchase food when alcohol is sold whereas retaining the condition would naturally preserve the status quo.
61. The Sub-Committee acknowledges and agrees that none of the issues complained off in the West End Buffer Consideration Zone are the Applicant's fault, and there is no evidence to suggest that the Applicant would be anything other than a responsible operator. However, the Sub-Committee cannot simply ignore the evidence before it when it comes to determining whether the Premises should in fact be granted a late licence when selling alcohol and therefore has to considered the character, nature and style of the Premises in the West End Buffer Zone and the likely adverse consequences for the area highlighted by the MPS when it came to crime and disorder which was the true crux of the matter despite the undertakings given by the Applicant in the daily management and running of the Premises and the safeguards they planned to have in place when considering the effects of the West End Buffer Consideration Zone for a later terminal hour.

62. To grant the application beyond Westminster core hours would undoubtedly give rise to problems regarding nuisance and crime and disorder within the West End Buffer Consideration Zone and therefore undermine the promotion of the licensing objectives. In this respect the Sub-Committee considered the Home Office Guidance at Paragraph 9.43 on page 81 which states “**The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve**”.
63. The Sub-Committee when considering the application and the interests of all the parties concerned thereunder had due regard to the Council’s Public Sector Equality Duty contained under section 149 of the Equality Act 2010 along with Article 1 of the First Protocol (Protection of Property) and Article 8 (Right to respect for family and private life) under the Human Rights Act 1998.
64. The Sub-Committee concluded that the conditions imposed on the Premises Licence which are considered appropriate and proportionate will mitigate the concerns of those parties who had objected to the application and have the desired effect of promoting the licensing objectives. The Premises is to be food led and can only operate as a restaurant in the hatched black area due to Model Condition (MC66) being retained. The Sub-Committee welcomed the Premises Dispersal Policy now in place for the Premises and the provision for two SIA staff after 23:00 when the Premises is open until 01:00 which will promote both the public nuisance and crime and disorder licensing objectives.
65. Having carefully considered all the committee papers, additional papers, submissions made by the Applicant and the oral evidence given by all parties during the hearing in its determination of the matter the Sub-Committee therefore decided to **Grant** the application to 01:00 hours with the offered conditions, after taking into account all the individual circumstances of this application and the promotion of the four licensing objectives:-
1. To grant permission for **Recorded Music (Indoors)** Monday to Saturday 10:00 to 01:00 Sunday 12:00 to 22:30 **Non-standard Timings**: These hours to be extended from the end of permitted hours on New Year’s Eve until the start of permitted hours on New Year’s Day.
 2. To grant permission for **Late Night Refreshment (Indoors)** Monday to Saturday 23:00 to 01:00 **Non-standard Timings**: These hours to be extended from the end of permitted hours on New Year’s Eve until the start of permitted hours on New Year’s Day.
 3. To grant permission for the **Sale by Retail of Alcohol (On and Off the Premises)** Monday to Saturday 10:00 to 01:00 Sunday 12:00 to 22:30 **Non-standard Timings**: These hours to be extended from the end of permitted hours on New Year’s Eve until the start of permitted hours on New Year’s Day.
 4. To grant permission for the **Opening Hours of the Premises** Monday to Thursday 10:00 to 00:00 Friday to Saturday 10:00 to 00:30 Sunday 12:00 to 23:00

5. That the Licence is subject to any relevant mandatory conditions.
6. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing with agreement of the Applicant:

7.
 - (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
 - (b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
 - (c) 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.
 - (d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
 - (e) Viewing of recordings shall be made available immediately upon the request of Police or authorized 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. 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.
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. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers

from the Environmental Health Service and access shall only be by persons authorised by the Premises licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be affected without prior knowledge of an authorised officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

12. Loudspeakers shall not be located in the entrance lobby or outside the front of the premises.
13. A direct telephone number for the duty manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
14. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
15. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
16. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
17. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 and 07:00 hours on the following day.
18. 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.
19. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
20. 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.
21. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
22. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.

23. A copy of the premises' dispersal policy shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council.
24. The premises licence holder shall ensure that any patrons smoking outside the premises do so on an orderly manner and are supervised by SIA Licensed Staff so as to ensure that there is no public nuisance or obstruction of the public highway.
25. On days when the premises are open for licensable activity beyond 01.00 hours, from 23:00 there shall be at least 2 SIA licensed door supervisor on duty at the entrance of the premises at all times whilst it is open for business. Additional door supervisors shall be risk assessed against the licensable activity proposed.
26. There shall be no admittance or re-admittance to the premises after 01.00 hours except for patrons permitted to temporarily leave the premises (e.g. to smoke, make a phone call).
27. When the premises trade licensable activity beyond 01.00 hours all patrons shall be off the premises 30 minutes after the terminal hour for licensable activity.
28. Off sales of alcohol are to cease at 23:00 daily.
29. There shall be no glassware taken from the premises at any time.
30. A 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.
31. In the area hatched black on the submitted plans, the premises shall only operate as a restaurant
 - (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - (iv) which do not provide any takeaway service of food or drink for immediate consumption,
 - v) which do not provide any takeaway service of food or drink after 23.00, and
 - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.For the purpose of this condition "Substantial Table Meal" means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at counter or other structure which serves the purposes

of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

32. All front of house staff shall undertake (and receive refresher training every 12 months) training on the Welfare and Vulnerability Engagement (“WAVE”) and Ask for Angela initiatives,
33. The supply of alcohol shall be by waiter/waitress service to seated persons only, save for persons attending pre-booked events.
34. No licensable activities shall take place at the premises until the Environmental Health Consultation Team has determined the capacity of the premises and the Licensing Authority has replaced this condition on the licence with a condition detailing the capacity so determined. In any event the capacity of the premises shall not exceed 180 persons (excluding staff).
35. Before the premises open to the public, the plans as deposited will be checked by the Environmental health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where there are minor changes to the premises layout during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
36. 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.
37. No licensable activities shall take place at the premises until premises licence 22/08753/LIPDPS (or such other number subsequently issued for the premises) has been surrendered and is incapable of resurrection.

This is the Full Decision of the Licensing Sub-Committee which takes effect forthwith.

**The Licensing Sub-Committee
22 November 2023**

3. SIX SENSES HOTEL - WHITELEYS, 1 REDAN PLACE, W2 4SA

WCC LICENSING SUB-COMMITTEE NO. 1 ("The Committee")

Thursday 22 November 2023

Membership: Councillor Iman Less (Chair) Councillor Karen Scarborough

Officer Support Legal Advisor: Horatio Chance
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Kevin Jackaman

Others present: Mr Craig Baylis, Mr Andrew Wong and Mr Marcus Lavell (Solicitors, Keystone Law), Mr Richard Luffingham (Applicant's Representative and Project Manager), Mr Nick Yarnell (General Manager), Ms Alesha Bolton (Environmental Health Service), Mr Richard Brown (Solicitor, Westminster Citizens Advice) representing SEBRA and Mr John Zamit (SEBRA).

Application for a New Premises Licence in respect of Six Senses Hotel Whiteleys 1 Redan Place London W2 4SA 23/04380/LIPN

FULL DECISION

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act") in respect of Six Senses Hotel Whiteleys 1 Redan Place London W2 4SA ("The Premises"). The Premises intends to operate as a five-star hotel.

The Applicant has produced a further written submission way of a supporting bundle containing witness statements, various policies and plans together with revised conditions on pages 7-76 of the additional papers.

The Premises are located within the Bayswater Ward West End Ward and the Bayswater/Queensway SCZ. There is no policy presumption to refuse applications for a hotel premises outside of the West End CIZ. However, the Applicant is required to demonstrate the requirements contained in paragraphs D49 and D50 on page 56 of the SLP (Elevated levels of noise nuisance at night, illegal waste, incidents relating to ambulance call outs at night to the locations of licensed premises for intoxication, injury related to intoxication and/or assault, serious violent crimes and robberies at night).

There is a resident count of 225.

Premises

Six Senses Hotel

Whiteleys
1 Redan Place
London
W2 4SA

Applicant

Whiteley Devco Limited

Ward

Bayswater

Cumulative Impact Zone

N/A

Special Consideration Zone

Bayswater/Queensway SCZ

Activities and Hours

Late Night Refreshment (Indoors and Outdoors)

Monday to Sunday 23:00 to 05:00

Seasonal Variations: All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. An additional hour to the standard and non-standard times on the day when British Summertime commences.

Sale by Retail of Alcohol (On and Off the Premises)

Monday to Sunday 00:00 to 00:00

Seasonal Variations: Off sales of alcohol are to cease at 23:00 daily. All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. An additional hour to the standard and non-standard times on the day when British Summertime commences.

Live Music, Recorded Music, Plays, Exhibition of Films, Performance of Dance, Anything of a similar description of music and dance (Indoors)

Monday to Sunday 00:00 to 00:00

Seasonal Variations: All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. An additional hour to the standard and non-standard times on the day when British Summertime commences.

Opening Hours Premises are Open to the Public

Monday to Sunday 00:00 to 00:00

Seasonal Variations: All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. An additional hour to the standard and non-standard times on the day when British Summertime commences.

Representations Received

- Environmental Health Service (EHS) (Sally Fabbriatore).
- Metropolitan Police Service (MPS) (PC Tom Stewart) (**Withdrawn 8 September 2023**).
- John Zamit Chair of South East Bayswater Resident Association (SEBRA).
- Sam Ross Bayswater Residents Association (BRA).
- Councillor Ellie Ormsby (Bayswater Ward).

Summary of Representations

- *The hours requested for the Supply of Alcohol will have the likely effect of causing an increase in Public Nuisance within the area and may impact on Public Safety.*
- *The hours requested to permit the provision of late-night refreshment will have the likely effect of causing an increase in Public Nuisance in the area.*
- *The hours requested to permit the provision of regulated entertainment will have the likely effect of causing an increase in Public Nuisance and may impact on Public Safety within the area.*
- *The seasonal variations may have likely effect of causing an increase in Public Nuisance in the area.*
- *The applicant has provided additional information with the application which is being addressed but further conditions may be proposed by Environmental Health in order to protect the Licensing Objectives.*
- *The granting of the Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the area and may impact on Public Safety.*
- *I am writing on behalf of the Commissioner of the Metropolitan Police Service ("The Police") to make representations opposing the grant of a premises licence application for 1 Redan Place, London, W2 4SA. Following consideration of the application and how it may affect the Licensing Objectives, I wish to make the following representations: The proposed licensable activities are likely to undermine the following licensing objectives: The Prevention of Crime and Disorder
Considering the scale and proposed operation as a hotel the Police would like to meet with the applicant and their representative to discuss the application in further detail. Following a site visit and agreement of proposed conditions.*
- *I am writing on behalf of the South East Bayswater Residents' Association (SEBRA) to make a relevant representation strongly objecting to this application on the basis of the likely impact on the licensing objective of 'prevention of public nuisance'.*

- *The premises is a major and important redevelopment of the former Whiteley's building. The premises is situated within the Queensway/Bayswater Special Consideration Zone.*
- *The footprint of the premises is substantial, taking a prominent position at the north end of Queensway on the west side, with Redan Place wrapping around the northern and western sides of the building. The south side of the building is on Porchester Gardens. A gate at the Porchester Gardens end of Redan Place is closed at 10pm (to 8am daily) and restricts access to Porchester Gardens from Redan Place/Queensway after that time. There is significant residential accommodation in the vicinity of and facing the premises. There are a number of residential flats in two blocks opposite the main entrance to the hotel on Redan Place (north side) and on Redan Place to the west is a very large block of flats. There are large residential blocks on Queensway. Porchester Gardens has a block of flats and some small houses opposite the premises and the hinterland of the surrounding area is predominantly residential. We understand that there will be subsequent applications for other units of the overall development on Queensway, including three large restaurants.*
- *SEBRA hopes that the hotel premises will be a genuinely world-class addition to the area. We are also very keen to ensure that the correct balance is struck between the legitimate aspirations of the applicant and the legitimate needs of residents. The Six Senses hotel is expected to have approximately 100 rooms. The development as a whole will have 153 residential units (of which none are permitted to be serviced apartments). We note that by proposed condition 1, the licensable activities authorised under this licence shall remain ancillary to the main use of the premises as a hotel. A hotel is defined in Westminster City Council's Statement of Licensing Policy 2021 as 'a premises that is primarily used as an establishment providing overnight accommodation for customers'.*
- *We understand why a hotel wants a 24 hour provision of alcohol for hotel residents – e.g. for minibars. However, we do not understand the purpose behind applying for all forms of regulated entertainment either at all (e.g. plays) and/or to these hours (e.g. live music) even if only for hotel residents, and ask for more detailed information on this. Members should be aware that Redan Place is closed to through traffic from 10pm to 8am. This impacts on dispersal from the premises, as all vehicles have to enter and exit via Queensway after 10pm. In particular, there needs to be a comprehensive plan to manage taxis/uber etc traffic dropping off and picking up from the premises. Is there any intention for hotel services to be utilised on apps such as Deliveroo before 11pm? What are the indicative capacities for the different public areas of the hotel? We are not in favour of non-standard timings on New Year's Eve or BST.*
- *We are very happy to continue an ongoing dialogue with the applicant and will send this representation to them so that such dialogue can continue in a timely manner.*
- *I am writing on behalf of the Bayswater Residents' Association (BRA) to object to this application on the basis that it will likely create a public nuisance as it currently stands. We support the comments and proposed amendments made by our fellow amenity society SEBRA and would be prepared to withdraw our objection if they are accepted by the applicant.*

- *Please could it be registered that I am in support on SEBRA's objections / concerns to this application as per the above.*

Policy Considerations

Policies HOT1, HRS1 and SCZ1 apply under the City Council's Statement of Licensing Policy ("SLP").

Policy HOT1

A. Applications outside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities being within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The sale by retail of alcohol, regulated entertainment and late night refreshment must be an ancillary function to the primary purpose of the venue as a hotel.
5. The applicant has taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.
6. The application and operation of the venue meeting the definition of a Hotel as per Clause C.

C. For the purposes of this policy a Hotel is defined as a premises that is primarily used as an establishment providing overnight accommodation for customers.

Policy HRS1

A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.

C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:

4. Hotels

Monday to Thursday: 9am to 11.30pm.

Friday and Saturday: 9am to Midnight.

Sunday: 9am to 10.30pm.

Sundays immediately prior to a bank holiday: 9am to Midnight.

For the sale of alcohol to guests for consumption in hotel/guest rooms only: Anytime up to 24 hours.

Policy SCZ1

In addition to meeting the other policies within this statement, application within a designated Special Consideration Zone should demonstrate that they have taken into account of the issues particular to the Zone, in question as identified within the 2020 Impact Assessment, and should set out any proposed mitigation measures in relation to those issues within their operating schedule.

B. For the purpose of Clause A, the designated Special Consideration Zone are:-

- West End Buffer.
- Queensway/Buffer.
- Edgware Road.
- East Covent Garden.
- Mayfair.
- Victoria.

SUBMISSIONS AND REASONS

The Presenting Officer Kevin Jackaman introduced the application to the Sub-Committee. He advised that this was an application for a New Premises Licence in respect of Six Senses Hotel Whiteleys 1 Redan Place London W2 4SA. The application has been brought by Whiteley Devco Limited (represented today by Craig Baylis of Keystone Law). Full details can be found at page 92 of the agenda report. Representations were received from the Environmental Health Service (Ayesha Bolton). A representation was received from the Metropolitan Police Service however following agreement of conditions, this was subsequently withdrawn on the 8 September 2023. There has also been three representations from interested parties and in attendance today are Mr John Zamit of SEBRA represented Mr Richard Brown. The Premises are located within the Bayswater Ward West End Ward and the Bayswater/Queensway SCZ.

Mr Craig Baylis Solicitor appearing on behalf of the Sub-Committee addressed the Sub-Committee. He advised that the hotel would be operated by the world renowned Six Senses brand and the total investment would be around £1.2 billion because the project was not just a hotel but also consisted of 19 retail units and 139 private residential apartments within the Whiteley site.

Mr Baylis stated that the Premises was scheduled to open Summer 2024 with a total of 109 keys (rooms) and a total guest capacity of 220. He added that a strong supporting element of the marketing was that living at the Whiteley came with an abundance of amenity which was located within the building itself.

Mr Baylis explained that lots of collaboration and discussion with the interested parties and Responsible Authorities had taken place prior to the hearing and that there was now agreement on everything except for point five of the seven points contained in the additional information circulated to all parties yesterday afternoon. He confirmed that the Applicant was in agreement with the interested parties regarding all the other points which included: vehicles accessing or egressing via Queensway between 22:00 hours and 08:00 hours, 03:00 hours would be the nonstandard timing for New Year's Eve rather than 02:00 hours, the removal of the reference to British summer time, serving the building, a designated smoking area and serving alcohol only to the public.

Mr Baylis advised that out of the 139 private apartments the only apartments which could be sublet were 14 apartments known as Hotel Apartments. These apartments all had direct access via the common parts into the hotel's first floor. He explained

that for these specific 14 apartments the owners could request the hotel to lease the apartments out for up to 90 days a year and that during this time the hotel managed the apartment for the owner and the guests were included as actual guests of the hotel. He advised that this allowed the apartment owner to create a revenue stream from their property and effectively increased the capacity of the Hotel to a total of 254 guests up to 90 days of the year. He added that in practice it was unlikely that all the apartments would be incorporated into the Hotel at the same time. He emphasised that as guests of the hotel, the hotel management staff would check them in and out as well as manage their behaviour, resulting in there being no difference in operation or effect to the other 109 hotel rooms.

In response to questions from the Sub Committee, Mr Baylis confirmed that when the 14 apartments were sublet the guests would have the same access to all the facilities within the hotel as the other paying hotel guests. He added that the owners of the other apartments did have direct access to the hotel facilities and had to access them like other members of the public. He explained that the public would be able to access the restaurant and bar facilities like any other hotel. He offered that there was some confusion on the operation of the 14 apartments but confirmed that they were private residential apartments which had the option of being sublet back to the hotel on a temporary basis to become hotel rooms.

Mr Horatio Chance Legal Advisor to the Sub-Committee sought clarification from the Applicant in relation to the three month option to exercise and queried whether this was a mandatory requirement that will be enforced and taken up every occasion.

In answer to Mr Chance's questions Mr Baylis confirmed that there is no requirement on any of the 14 apartment owners to give up their apartment, however, the Applicant is happy to provide a condition binding those owners to comply with the licensing conditions if an apartment is let out to hotel guests during the 90 day period so they become bound by the licensing conditions.

Mrs Ayesha Bolton appearing on behalf of the EHS addressed the Sub-Committee. She advised that representation had been made so that the EHS could remain part of the overall discussion in order to help assist the Sub-Committee in its decision making. Mrs Bolton said that she did not have any major concerns with the application and was of the opinion that the development was good for the area.

Mrs Bolton advised that Mr Ian Watson the previous case officer who has now retired from the Council's employ gave pre-application advice to the Applicant where conditions have been agreed.

Mr Richard Brown representing SEBRA advised that it was an important application as it detailed the operation of a new flagship hotel which was part of a much wider development consisting of 19 retail outlets and 139 residential apartments. He confirmed that SEBRA was very supportive of businesses as well as protecting amenity for residents and that Mr Baylis had accurately summarised the rationale behind the points in the additional papers. There are many residents in close proximity. Opposite the main entrance of the hotel is resident accommodation. SEBRA were keen to look at deliveries and servicing due to the level of residents.

Mr Brown outlined that SEBRA was not keen on the condition allowing the 14 apartments to be sublet back to the hotel for reasons of practicality and enforceability where an area was only sometimes part of a Premises licence. He advised that there was no reference to 90 days and/or 90 days as mentioned as the maximum sublet period in any of the proposed conditions. He referred to the Planning Permission which stated that hotel accommodation should be used for hotel purposes only which meant that if the accommodation was part of the hotel it could also not be residential and if the accommodation was residential, it could not be part of the hotel.

He added that the concept of these 14 apartments were confusing as to how they worked in practice. He highlighted that SEBRA was not keen on the general concept of these 14 apartments as they would have the benefit of the hotel facilities for 20 hours a day.

Mr Baylis advised that the Applicant was content to insert the 90-day limitation into the relevant condition(s) and emphasised that the 14 apartment owners were under no compulsion or requirement to sublet their apartments back to the hotel. He added it was simply an arrangement whereby the 14 apartment owners could get themselves a little revenue stream by allowing the hotel to temporarily convert them back to hotel rooms under their complete control.

Mrs Bolton advised that from a licensing point of view the Council had a strong team of City Inspectors who made sure that Licenced Premises were complying with the conditions attached to their Premises licence.

Mr John Zamit, Chair of SEBRA addressed the Sub-Committee. He advised that the hotel and development was a welcome addition to the regeneration of the Queensway area. He outlined that it was SEBRA's aim to improve the area for residents, visitors and businesses and he was grateful that the Applicant had been willing to negotiate with residents on what they considered would be best for the area in terms of what should and should not be included in the development.

Mr Zamit advised that in the original planning permission affordable housing was included in the plans which was a good thing for the area, however, now this had since disappeared, and the apartments were being kept by the owner to make money instead of providing homes for local people. He considered that the use of these 14 apartments was vague and there was nothing in the planning permission that referred to these 14 units being part of the hotel for 90 days each year. He emphasised that he was not really interested in the condition at all because he believed it was wrong to allow these flats to be part of the hotel at any time and that they should be residential only. He believed that this was a lost opportunity for much needed housing for local people and this part of the application should be refused.

In response to questions from the Sub Committee, Mr Baylis advised that none of the residential apartments could be let as Airbnb, and it was only the specific 14 apartments that were able to be 'leased' back to the hotel for a specific length of time. He confirmed that the apartments would then be subject to all the conditions attached to the Premises Licence which included a condition saying that residents of the hotel could have no more than four guest. He emphasised that once the

apartment was leased back and under the control of the hotel it needed to comply with hotel's conditions, rules and regulations.

Mr Chance discussed the wording of the agreed proposed additional conditions (if the application were granted), with all parties.

Mr Brown in his summing up agreed that Westminster City Council did have good City Inspectors however Westminster consisted of 4000 licensed Premises and with the best will in the world it was extremely difficult to inspect all Premises as a matter of routine. He advised that that no one wants a Review of the Premises Licence and rather 'prevention was better than cure' in terms of reference to a Review hearing.

Mr Zamit in his summing up advised that the development would enhance the Queensway area, however, the area desperately needed accommodation for residents. He was disappointed, therefore, that the affordable housing element of this application had been discarded and profit/money placed first and above the needs of the community.

Mr Baylis in his summing up emphasised that there had been collaboration and discussion with SEBRA regarding the development which the Applicant was grateful for and had integrated into the final development. He advised that the operators were serious good ones who would comply with the conditions and promote the licensing objectives.

Conclusion

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining the matter.

The Sub-Committee had regard not only to the written and oral evidence but also to the requirements of the Act, The Home Office Guidance issued under section 182 of the Act and the City Councils SLP in the main policies HRS1, HOT1 and SCZ1.

The Premises are to operate as a Hotel under Policy HOT1 and so there is no policy presumption to refuse an application of this type provided that the licensing objectives are not undermined and that the requirements under Policy SCZ1 of the SLP namely the Queensway/Bayswater SCZ have been taken into account by the Applicant.

The Sub-Committee noted and welcomed that the Applicant had listened to those who had objected to the application and had amended the proposed conditions particularly when working with SEBRA.

The Sub-Committee having carefully considered the matter and the evidence before it decided to **Grant** the Premises Licence with the licensable activities and hours applied for. It noted the various undertakings and commitments given by Mr Baylis on behalf of the Applicant into the daily running of the Premises and the robust management practices the Applicant was to employ as well as the many offered conditions which would have the desired effect of promoting the licensing objectives. The Sub-Committee welcomed that the Applicant had obtained pre-application advice from the Councils EHS and had worked well with the Responsible Authorities

and engaged effectively with residents in reaching agreement regarding the set of comprehensive conditions now imposed on the licence.

The Sub-Committee noted the concerns SEBRA expressed regarding the 14 apartments that could potentially be let out on a 90 day period but the Sub-Committee has quite rightly ensured that if this is the case then the necessary safeguards are in place by the Applicant requiring that any hotel paying guest are bound by the licensing conditions and accordingly this requirement has been conditioned on the licence as specified in condition 37 below.

The Sub-Committee noted the concerns of SEBRA in relation to the lack of affordable housing on the development site but this is a planning issue and does not fall within the remit of the Sub-Committee powers under the licensing regime as its primary concern is the promotion of the licensing objectives under the Act when considering the licensable activities applied for by the Applicant.

The Sub-Committee considers that the conditions it has imposed on the premises licence regarding CCTV by way of security, the capacity of the Premises to be determined and set by the Council's EHS, that licensable activities shall be ancillary to the main function of the premises as a hotel, all hotel restaurants and bars are to be closed to non-residents between Midnight and 08:00 hours, and that there is to be a restriction of alcohol in open containers for consumption Off the Premises, deliveries and collections of waste to the Premises within permitted hours so as to prevent nuisance, the various works conditions applying to the basement right through to the ninth floors requiring again that the works are to be signed off by the Council's EHS before any licensable activities can take place at the Premises and the inclusion of Model Condition 41 requiring that Substantial food shall be made available in all parts of the Premises where alcohol is sold for consumption on the Premises to be appropriate and proportionate and will have the overall effect of promoting the licensing objectives, in particular the prevention of public nuisance and crime and disorder licensing objectives.

The Sub-Committee concluded that the Applicant had demonstrated that the requirements contained in paragraphs D49 and D50 on page 56 of the SLP had been met when it considered policy SCZ1 and that those matters relating to ***“Elevated levels of noise nuisance at night, illegal waste, incidents relating to ambulance call outs at night to the locations of licensed premises for intoxication, injury related to intoxication and/or assault, serious violent crimes and robberies at night”*** were sufficiently addressed in the application.

The Sub-Committee concluded based on the evidence and the agreement by the EHS that they were content with the application, together with the offer of conditions would ensure the application would not undermine the licensing objectives. In reaching its decision, the Sub-Committee concluded that the conditions attached to the licence would mitigate and alleviate the residents' concerns of the parties who had objected and were appropriate, proportionate, enforceable and would promote the licensing objectives.

The Sub-Committee wishes the Applicant every success in this venture which will no doubt boost the area's local economy and provide local jobs given the highly significant financial investment ploughed into the development site by the Applicant.

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

1. To grant permission for **Late Night Refreshment (Indoors and Outdoors)** Monday to Sunday 23:00 to 05:00 **Seasonal Variations/Non-standard Timings**: All licensable activities shall be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day to 03:00.
2. To grant permission for the **Sale by Retail of Alcohol (On and Off the Premises)** Monday to Sunday 00:00 to 00:00 **Seasonal Variations/Non-standard Timings**: All licensable activities shall be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day to 03:00
3. To grant permission for **Live Music, Recorded Music, Exhibition of Plays, Performance of Dance, Anything of a similar description of music and dance** Monday to Sunday 00:00 to 00:00 **Seasonal Variations/Non-standard Timings**: All licensable activities shall be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day to 03:00
4. To grant permission for the **Opening Hours of the Premises** Monday to Sunday 00:00 to 00:00 **Seasonal Variations/Non-standard Timings**: All licensable activities shall be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day to 03:00
5. That the Licence is subject to any relevant mandatory conditions.
6. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing with agreement of the Applicant:

7. Licensable activities authorised under this licence shall remain ancillary to the main use of the premises as a hotel.
8. The hotel's ancillary restaurant(s) and bar(s) must be closed to members of the public as set out in Condition 20 of Planning Permission 19/02449/FULL (copy attached to this application): "The hotel's ancillary restaurant(s) and bar(s) must be closed to non-residents of the hotel between the hours of 24.00 (midnight) to 08.00 hours."
9. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the hotel where alcohol is sold or supplied for consumption on the premises.

10. There shall be no sales of alcohol hot food or hot drink for consumption 'Off' the hotel premises after 23:00 hours save for up until 00:00 hours, sales to any serviced residences or apartments within the Whitely development.
11. There shall be no sales of alcohol in open containers for consumption 'Off' the hotel premises, except to persons seated at lawfully placed tables and chairs outside the boundary of the premises, or to the residences or apartments.
12. The hotel shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points of the hotel 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. 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.
13. A staff member from the hotel who is conversant with the operation of the CCTV system shall be on the hotel premises at all times when the hotel is 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.
14. A Challenge 25 scheme shall be operated at the hotel where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, military ID card, passport or proof of age card with the PASS Hologram.
15. The requirement and number of SIA door supervisors after 21.00 hours shall be risk assessed by the premises licence holder, such risk assessment shall be kept at the hotel for a minimum of 21 days following the occasion.
16. An incident log shall be kept at the hotel, 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
 - c. any complaints received regarding crime and disorder
 - d. any incidents of disorder
 - e. any faults in the CCTV system
 - f. any refusal of the sale of alcohol
 - g. any visit by a relevant authority or emergency service
17. No noise generated on the hotel 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.

18. The hotel's external doors (excluding bedrooms) at shall be kept closed after 23.00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
19. A noise limiter must be fitted to the hotel's musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be affected without prior knowledge of an authorised officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
20. A direct telephone number for the management team at the hotel shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
21. Notices shall be prominently displayed at all hotel exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
22. The approved arrangements at the hotel, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
23. The means of escape provided for the hotel shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
24. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
25. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
26. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
27. During the hours of operation of the hotel, 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.

28. All waste from the hotel shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
29. No waste or recyclable materials from the hotel, including bottles, shall be moved, removed, or placed in outside areas between 20.00 hours and 07.00 Monday to Saturday (on Sundays, this shall be done only between 10.00 and 16.00 hours) in line with the Operational Waste Strategy.
30. No collections of waste or recycling materials from the hotel (including bottles) from the premises shall take place between 20.00 hours and 07.00 Monday to Saturday (on Sundays, this shall be done only between 10.00 and 16.00 hours) in line with the Operational Waste Strategy.
31. With the exception of fresh produce and papers (to be delivered only through the main entrance of the hotel), no deliveries to the hotel shall take place between 20.00 hours and 07.00 Monday to Saturday (on Sundays, this shall be done only between 10.00 and 16.00 hours).
32. All hotel glass crushing is to take place within the hotel building.
33. No licensable activities shall take at the hotel 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.
34. Before the hotel opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the hotel layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
35. After 23:30 Customers of the Hotel facilities will exit via Redan Place.
36. All Hotel Rooms and residential Apartments within the Whitely development are to be serviced by the Hotel via internal accessways only.
37. In the 14 apartments shown edged red and coloured yellow on the licence plans, said apartments will only be considered part of the licensed premises for a period of not less than 90 days in any given year that the owners of said apartments have exercised fully their option to include their apartment as part of the Hotel premises and for the avoidance of doubt those guests shall be bound in all respects by the licensing conditions imposed on Premises Licence number 23/04380/LIPN (or such other number subsequently issued for the premises. The licence holder shall keep a written record of the exercise of such options which record shall be made available on request to an authorised officer of the City Council or the Police.
38. There shall be no use of food delivery services, to customers outside from the premises, such as Deliveroo.

39. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall not be permitted to take drinks with them.
40. Between the hours of 22:00 and 07:00, patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area on the highway, defined on the Ground Floor plan of the Premises, outlined in blue, so as to not obstruct the operation of doors into/out of the premises, and any doors to neighbouring residential premises.
41. The supply of alcohol shall be by waiter or waitress service only, save for to customers seated at the Ground Floor bar, who may be served by staff working at the bar.
42. Alcohol on the ground floor (including the courtyard) shall only be consumed by patrons seated at tables, save for the lounge areas detailed on the attached plan, where alcohol shall only be consumed by seated patrons.
43. Guests of hotel residents shall be limited to 4 guests per hotel room.
44. All vehicles accessing or egressing from the premises shall do so via Queensway between 22:00 and 08:00, save for in circumstances where access or egress via Redan Place onto Queensway is not possible e.g. by roadworks.
45. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are properly supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
46. All servicing should take place via the dedicated loading bay on Redan Place provided for that purpose, save for fresh produce and papers (to be delivered only through the main entrance of the hotel).
47. The Premises shall have policy on protecting children from child sexual exploitation. The policy shall include training for all staff on the signs and indications of child sexual exploitation as well as the reporting of suspicious activity to the appropriate authorities.
48. Appropriate signs/posters shall be displayed in a prominent position highlighting the signs of child sexual exploitation.
49. This licence will have no effect with regard to the Basement 3 until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
50. This licence will have no effect with regard to the Basement 2 until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's

Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.

51. This licence will have no effect with regard to the Basement 1 until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
52. This licence will have no effect with regard to the Basement 1M until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
53. This licence will have no effect with regard to the Ground Floor until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
54. This licence will have no effect with regard to the First Floor until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
55. This licence will have no effect with regard to the Second Floor until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
56. This licence will have no effect with regard to the Third Floor until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
57. This licence will have no effect with regard to the Fourth Floor until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation

Team.

58. This licence will have no effect with regard to the Fifth Floor until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
59. This licence will have no effect with regard to the Sixth Floor until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
60. This licence will have no effect with regard to the Seventh Floor until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
61. This licence will have no effect with regard to the Eighth Floor until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
62. This licence will have no effect with regard to the Ninth Floor until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team.
63. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority

This is the Full Decision of the Licensing Sub-Committee which takes effect forthwith.

**The Licensing Sub-Committee
22 November 2023**

The Meeting ended at 3.00 pm