



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (1)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 1st October, 2020**, This was a virtual meeting.

**Members Present:** Councillors Heather Acton (Chairman), Susie Burbridge and Maggie Carman

#### 1 MEMBERSHIP

1.1. There were no changes to the Membership.

#### 2. DECLARATIONS OF INTEREST

2.1. There were no declarations of interest.

#### 3.1. 41 GREAT TITCHFIELD STREET, W1

At the Applicant's request, the application was withdrawn.

#### 3.2. ASIA COLLECTIVE, 55 REGENT ST, W1

**Membership:** Councillors Heather Acton (Chairman), Susie Burbridge and Maggie Carmen

**Legal Officer:** Horatio Chance

**Policy Officer:** Aaron Hardy

**Committee Officers:** Tristan Fieldsend & Cameron MacLean

**Presenting Officer:** Kevin Jackaman

#### APPLICATION FOR A NEW PREMISES LICENCE 20/06120/LIPN

**Present:** Mr Jeremy Bark, Bryan Cave Leighton Paisner (BCLP) Solicitors (representing the Applicant), Leanne Catterall, The Crown Estate Commissioners (Applicant), PC Brian Lewis (representing the Metropolitan Police Service), and Daisy Gadd (representing the Licensing Authority).

**Representations:** Representations were received from the Metropolitan Police Service and the Licensing Authority.

**Applicant:** The Crown Estate Commissioners  
**Ward:** West End  
**CIA<sup>1</sup>:** West End

### **Summary of Application**

The application was for a new premises licence to operate as an Asian themed Food Hall/Court offering a wide range of Asian cuisines, including the sale of alcohol. There would be a seated area, a delicatessen area, a café and a small dedicated Karaoke area. As this was a new premises application, there was no premises licence history.

### **Proposed Activities and Hours**

#### Films (Indoors)

Monday to Thursday: 11:00 hours to 23:00 hours  
Friday & Saturday: 11:00 hours to 00:00 hours  
Sunday: 12:00 hours to 21:00 hours

#### Live Music (Indoors)

Monday to Thursday: 11:00 hours to 23:00 hours  
Friday & Saturday: 11:00 hours to 00:00 hours  
Sunday: 12:00 hours to 21:00 hours

#### Recorded Music (Indoors)

Monday to Thursday: 11:00 hours to 23:00 hours  
Friday & Saturday: 11:00 hours to 00:00 hours  
Sunday: 12:00 hours to 21:00 hours

#### Anything of a Similar Description to that Falling Within Licensing Categories (e), (f) or (g)

Monday to Thursday: 11:00 hours to 23:00 hours  
Friday & Saturday: 11:00 hours to 00:00 hours  
Sunday: 12:00 hours to 21:00 hours

#### Late Night Refreshment (Indoors)

Tuesday to Thursday: 23:00 hours to 23:30 hours  
Friday & Saturday: 23:00 hours to 00:30 hours

Seasonal Variations/Non-Standard Timings: alcohol may be sold or supplied for consumption off the premises prior to 11 pm but not afterwards (save for partially consumed and re-sealed bottles of wine).

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

Monday to Thursday: 08:00 hours to 23:30 hours  
Friday & Saturday: 08:00 hours to 00:30 hours

#### Hours Premises Are Open to the Public

Monday to Thursday: 07:00 hours to 00:00 hours  
Friday & Saturday: 07:00 hours to 01:00 hours  
Sunday: 10:00 hours to 22:30 hours

### **Representations Received**

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<sup>1</sup> Cumulative Impact Zone

Metropolitan Police Service (PC Reaz Guerra)  
Licensing Authority (Angela Seaward)

### **Summary of Issues Raised by Objectors**

The Metropolitan Police Service (MPS) raised concerns that the application, if granted, would undermine the Licensing Objectives; add to existing problems of crime and disorder in the area; and that there was insufficient detail within the operating schedule to promote the Licensing Objectives.

The Licensing Authority raised concerns about how the Premises would promote the Licensing Objectives; On- and Off-Sales of alcohol on Mondays until 23:30 hours without provision for late night refreshment; insufficient detail about the proposed operation of the Food Hall and provision for customers who do not wish to be seated; and how it was proposed to manage the Karaoke area without ancillary food or waiter/waitress service.

### **Policy Position**

The Premises was located within the West End Cumulative Impact Area and, as such, various policy points had to be considered, namely CIP1, HRS1 and PB2. The Applicant had to demonstrate how the Premises would not add to the cumulative impact in the West End cumulative impact area (CIA).

#### Policy CIP1

It was the Licensing Authority's policy to refuse applications in the CIA other than applications to vary hours within the Core Hours under Policy HRS1. Applications for other licensable activities in the CIA were subject to other policies and must demonstrate that they would not add to the cumulative impact in the CIA.

#### Policy HRS1

Applications for hours within the Core Hours would, generally, be granted. Applications for hours outside Core Hours would be considered on their merits, subject to other relevant policies.

#### Policy PB2

It was the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within the Core Hours under Policy HRS1.

### **SUBMISSIONS**

The Sub Committee considered an application by the Crown Estate Commissioners ("the Applicant") for a new premises licence in respect of Asia Collective, 55 Regent St, London W1V 4DY.

#### **Introduction by Mr Kevin Jackaman, Senior Licensing Officer**

Mr Jackaman introduced the report, noting that additional submissions had been made by the Applicant and that these had been circulated to Members of the Sub Committee.

#### **Submissions on Behalf of the Applicant**

On behalf of the Applicant, Mr Bark, made the following submissions.

- (a) The essence of the application was that it was a unique concept comprising a food hall and food court in a prime location which had previously been occupied by traditional retail units which had not proved successful.
- (b) Careful consideration had been given to an appropriate use for the site and, after a lengthy process, *suis generis* planning approval had been granted to the use of this location as a food hall/court.
- (c) Pre-planning advice had been sought and several meetings had taken place with various parties and a set of conditions had been agreed and subsequently revised in response to further consultation.
- (d) It was acknowledged that there were a few policy implications associated with the application and it was proposed to submit the application for the Sub Committee to consider in the light of those policy considerations and submissions by the various parties.
- (e) It was proposed that it was noteworthy that there were no objections to the application by Environmental Health and it was suggested that this might be attributed to the proposed conditions.
- (f) There had been an error in the application in that Late-Night Refreshment from 23:00 hours to 23:30 hours on Mondays had been omitted. If the Sub Committee was minded granting the application, the applicant would seek to include the provision of Late-Night Refreshment on Mondays by way of a variation to the licence.
- (g) The application for Regulated Entertainment was solely in relation to the Karaoke area on the mezzanine floor which would have its own set of conditions.
- (h) Referring to the basement area and the premises facade that opened onto Piccadilly Tube, it was noted that there were two “grab-and-go” food premises (a noodle bar and a sandwich shop) which did not need to be licensed but were part of the food hall/food court concept.
- (i) There was also a coffee shop which did not require a licence, and which would probably be the main entrance to the premises, opening at 7.00 am. When the coffee shop closed, the basement level Piccadilly entrance would become the main entrance.
- (j) As agreed with the Police, each of the entrances would have security staff present whenever the entrances were open.
- (k) Regarding the proposed conditions relating to the sale of alcohol, in particular, Condition 4, it was noted that the sale of alcohol would be ancillary to the sale and consumption of food on the premises thereby correlating the licence application with the planning permission.

[Mr Bark then briefly referred to a few the other proposed conditions detailed in the application].

- (l) In keeping with the concept of a Food Hall and Court, there would be about eight stalls and/or kitchens all under one operator creating the feel of an Asian market, and that the stalls and kitchens would change from time to time to offer different types of Asian cuisine to keep the concept fresh.

- (m) In addition to the security officers at the entrances, there would be several “Meet and Greet” personnel to assist customers who would place their orders at the food stall before taking a seat and collecting their order when it was ready. Waiter/waitress service would be available for customers to place orders for drinks. Customers would also be able to place orders using an app.
- (n) There was an area away from the main entrances where vertical drinking would be permitted and which offered a degree of flexibility during events and to accommodate customers who preferred to drink whilst standing, the Asian theme being further enhanced by the offer of Asian themed cocktails.
- (o) The Coffee area on the ground floor would be an Asian coffee venture embracing the concept of sustainability and would be run by a renowned operator.
- (p) Accessibility and affordability were key to the concept with a range of price points for the various cuisines on offer.

Ms Leanne Catterall, Lead Retail Asset Manager for the Crown Estate, Central London Portfolio, made the following submissions.

- (a) She summarised the importance placed by the Crown Estate on finding suitable tenants for their West End properties and proactively managing those properties for the benefit of all through the imposition of appropriate leasehold and licensing terms and conditions.
- (b) Successive retail units had operated from these premises but had not been successful and the premises had been vacant for the previous 18 months. In summer 2018, the location had been identified as a possible site for a high-quality Food Court and planning permission had been granted for such use in January of this year.
- (c) It was proposed that the site would become a destination for users of, and visitors to, the West End, drawing and connecting workers and shoppers from both Regent Street and St James. It was proposed that a wide variety of customers would be attracted to the Food Hall and Food Court thereby contributing to the vitality of the West End.
- (d) In developing the proposals, significant consultation had taken place with local Ward Councillors, Council Officials, Transport for London (TfL), and British Transport Police.

In response to a question by the Chairman, Ms Catterall confirmed that the site had not previously been used as a restaurant/food led venture.

- (e) Maximal Concepts had been selected as the preferred operator because of its track record of developing, delivering and managing Food Hall concepts in addition, Asia Collective understood the importance of London’s West End as a global destination and, in keeping with the Crown Estate, Asia Collective emphasised the importance of sustainability.
- (f) It was proposed to invest £10 million in the site which would deliver new jobs and contribute to the regeneration of Piccadilly.

Concluding the submissions, Mr Bark made the following points.

- (a) There had been significant pre-application discussions and consultation with various parties regarding the proposals, including dispersal measures which were reflected in the proposed conditions.
- (b) The proposals had been developed with the necessary safeguards in mind, noting that the site was just within the Cumulative Impact Area (CIA).

In response to several questions by Members, Mr Bark provided the following information.

- (a) Regarding the Karaoke area and the inclusion of vertical drinking, Mr Bark referred Members to Condition 29 (Conditions Relating to the Karaoke Area) in the supplementary papers. He stated that there was seating available in this area which could be either be pre-booked or, if it was free, booked at the time while visiting the premises.
- (b) It was possible to have food in the Karaoke area and there would be waiter/waitress service for customers wishing to order alcohol. In addition, the area would always be supervised.
- (c) It was anticipated that customers who wished to have a meal and then go to the Karaoke area would pre-book the area. It was noted that the area contained two seating areas, each seating 15 persons.

#### **Submissions on Behalf of the Metropolitan Police Service**

On behalf of the Metropolitan Police Service (MPS), PC Bryan Lewis made the following submissions.

- (a) The Police objections were based primarily on policy issues. It was noted that the premises were very close to an area that was traditionally one of the busiest areas in Westminster and, therefore, there was a possibility of adding to existing risk factors in the area.
- (b) Those bars where the sale of alcohol was not ancillary to the consumption of food were not within the parameters of the Council's policies.
- (c) There was a concern about whether drinkers in the Karaoke area could take their drinks from that area to another area; and the provision to be made for people wishing to smoke.
- (d) It was also a concern that, on Fridays and Saturdays, alcohol could be consumed until 1.00 am.

In response to the concerns raised by the MPS, Mr Bark stated that –

- (a) It would be possible for patrons to walk from the Karaoke area to another area as it was intended that they should be able to experience the combined atmosphere of different areas within the premises.
- (b) There would be 155 Members of Staff, of which 75 would be front of house. Approximately 55 front-of-house and 60 back-of-house Members of Staff would be on duty at peak times. Therefore, the premises would be very well supervised in terms of staff numbers.
- (c) If any patron left the Karaoke area whilst carrying a drink, they would be stopped by a Member of Staff who would offer to bring their drink over to them once they were seated. Alternatively, customers could ask a waiter/waitress to bring their drink to them once they were seated.

- (d) Smokers would be directed to designated smoking areas and would be prevented from taking their drinks with them when going to the smoking areas. It was not anticipated that there would be significant numbers of customers wishing to use the designated smoking areas.

In response to a question by the Chairman, Mr Bark stated that discussions had taken place with various authorities regarding the location of designated smoking areas and the numbers that might be permitted in these areas and that this would be the subject of further discussions.

### **Submissions on Behalf of the Licensing Authority**

On behalf of the Licensing Authority, Ms Daisy Gadd, Senior Practitioner for Licensing, made the following representations.

- (a) Referring Members to Paragraph 2.3.2 of the Council policy, Ms Gadd noted that the policy was not to refuse applications with hours longer than core hours, but to determine each application on its merits, noting the matters that should be taken into consideration when considering such applications.
- (b) The area of concern was the Karaoke area identified by the green hatched area on the floor plan. The applicant would have to demonstrate an exceptional circumstance that would allow the Sub Committee to depart from its pubs and bars policy of refusing applications for premises within CIA's.
- (c) The need to determine whether the application would add to the cumulative impact in the West End CIA.

Responding to the points raised in the Licensing Authority's submissions and matters raised by Members of the Sub Committee, Mr Bark provided the following information.

- (a) Regarding dispersal measures, although the premises were just within the CIA, it was anticipated that most persons would avail themselves of the adjacent London Underground network when leaving the premises.
- (b) Given the nature of the premises, it was not anticipated that patrons, when leaving, would then be in search of other late-night licensed premises.
- (c) The proposed Condition 4 would, in conjunction with the dispersal policy referred to in Condition 27, and the nature of the likely clientele, provide enough safeguards and mitigate any cumulative effect the premises might have on the area.
- (d) It was anticipated that, if the application was approved, the premises would not be operational for at least another 18 months thereby providing an opportunity to shape the future of this area in a manner similar to that achieved by the Crown Estate in Haymarket.
- (e) There were many features both in the area and in the premises that would aid dispersal including the main exit in the evening being from the basement.

In response to a question by the Chairman regarding dispersal and the main late-night exit from the basement area into the London Underground network, Mr Bark stated that there had been extensive discussions with TfL and British Transport Police on this issue and no objections to the present application had been made by either organisation. Ms Catterall added that it was not the intention that this become a late-night drinking venue and that the Crown Estate included provisions within their

lease agreements to ensure adherence to Crown Estate guidelines on the operation and management of premises. Mr Bark added that the proposed conditions prohibited Off-Sales and Hot Food or Drink takeaways after 11.00 pm, and that there would be security staff at the exits to enforce these conditions.

In response to a few questions by Councillor Burbridge, Mr Bark and Ms Catterall provided the following information.

- (a) The Food Hall and Court would comprise a combination of restaurants and takeaway premises rather than a [supermarket type] Food Hall where customers could only shop for items to take away.
- (b) Regarding Off-Sales, this comprised the resealing of bottles of alcohol that customers had part consumed on the premises, and the sale of bottles of premium Asian alcohol that customers could purchase to take with them when leaving the premises. Both On- and Off-Sales would be permitted between 8.00 am and 11:30 pm within the area delineated by the red line on the floor plan in the papers before Members.
- (c) Regarding the restaurant in the blue hatched area on the floor plan, it was the intention that customers could walk around the premises and purchase food from the various stalls and kitchens and take their food to the restaurant area where they could sit and consume their purchases. It would also allow customers who had purchased a drink or drinks only to sit and consume their drink(s) in that area.
- (d) It was not the intention to provide fast food, but a selection of different types of food and proposed Condition 10 was intended to address concerns regarding fast food. Regarding delivery services, there were no proposals for this at present. However, there was an area at the rear of the premises which could accommodate delivery services.
- (e) If there were proposals to allow delivery services, this could be made the subject of an appropriate condition and/or delivery plan agreed with the Environmental Health Service. If approval was to be granted to delivery services, it would have to be subject to a management plan agreed with the Crown Estate.

Mr Bark stated that a possible condition might be, as follows –

*“If third-party deliveries are to take place from the premises then they shall not do so before a Delivery Management plan has been put in place and approved by the Environmental Health consultation team”.*

- (f) Regarding the proposed Opening Hours set out in the papers, specifically the following –

Opening Hours to Public

*Friday to Saturday: 07:00 to 01:00*

Mr Bark stated that this was a typographical error and the timing should read 07:00 hours to 01:30 hours. He noted that some fine dining establishments had 01:00 hours or possibly as late as 02:30 hours as their closing time. As the emphasis was on making the premises primarily food led with drinks being ancillary, he proposed that the 01:00 hours closing time was appropriate to reinforce the premises concept.

- (g) Regarding the requirement to book a table beforehand, Mr Bark said it was anticipated that customers may wish to use an Asia Collective App to make bookings. It was proposed that the number of customers admitted to the premises would be controlled to ensure there was enough seating available for customers.

In response to a question by Horatio Chance, Legal Officer, regarding the exceptional circumstances that would allow the Sub Committee to depart from the Council's stated CIA policy, Mr Bark provided the following information.

- (a) It was one of the government's tests that it was not likely that the premises would add to the cumulative impact. He suggested that the application met this test given:

- The nature of the premises and how it was proposed they would operate;
- That the operator was a reputable company;
- That it was the Crown Estate that was the applicant;
- That there had been no objections from Environmental Health, residents or resident societies, TfL or British Transport Police; and
- The objections that had been received from the Police and the Licensing Authority were based on policy considerations which the Applicant had sought to address in the course of these proceedings.

- (b) The CIA policy was not absolute, and each application had to be considered on its merits. That there was no definitive list of exemptions in the policy, nor could the policy cover every type of premises. It was proposed that the premises –

- Represented an exciting project that would contribute to the revitalisation of the area;
- That there had been significant consultation and consideration of this project over the previous two years. The difficulty was that the application was butting against policy considerations which were not necessarily designed with this type of application in mind; and
- The application had been tailored in terms of opening hours, proposed conditions, and the areas to be included within the licence to accommodate the Council's licensing policies and the concept behind the licence application. In so doing, detailed conditions had been proposed as a means of reconciling the Council's policies with the proposed operating schedule.

- (c) A final consideration in support of the application, but not one upon which Mr Bark would necessarily rely, was the possibility that, by the time the premises were operational, there may be fewer licensed premises operating in the area. He stated that the project represented a significant investment and one that would contribute to the regeneration of the area.

## **SUMMING UP**

The Chairman then offered the various parties the opportunity to sum up their submissions and representations. PC Lewis and Ms Gadd stated they had nothing further to add to their submissions.

### Summing Up: Mr Bark and Ms Catterall

Mr Bark stated that the concept behind the project was excellent and unique in that this had not been done before in London. That the premises were unlikely to add to the cumulative impact and there had not been the number of objections to a project of this size that might otherwise have been expected. This was possibly the result of the extensive consultation and liaison undertaken by the Crown Estate over the last 2 to 3 years.

In conclusion, Mr Bark commended the application to the Sub Committee and thanked the Officers and the Police for their advice during the pre-planning and consultation stages.

Ms Catterall reiterated Mr Bark's comments, stating that there had been a lot of care and consideration over a long time in bringing this application before the Sub Committee. The Crown Estate wanted to be certain that it was creating relevant spaces for people to enjoy. Ms Catterall concluded by thanking the Sub Committee for its time.

In conclusion, the Chairman thanked the various parties for their contribution. The Sub Committee Members and officers then retired to consider their decision.

### **DECISION**

[The formal Decision Notice, as drafted by the Council's Legal Officers and approved by the Members of the Sub Committee, is attached as an Appendix to these Minutes].

To approve the application subject to the following amendments.

#### **1. Operating Schedule**

##### Hours Premises Are Open to the Public

Friday & Saturday: 07:00 hours to **00:30 hours**  
Sale by Retail of Alcohol (On and Off Sales)

Friday & Saturday: 08:00 hours to **00:00 hours**  
Late Night Refreshment (Indoors)

Friday & Saturday: 23:00 hours to 00:00 hours

#### **2. Conditions**

(a) To amend Condition 6 set out in the supplementary papers before the Sub Committee, as follows -

6. *Within the area hatched in green, alcohol may be supplied and consumed by persons who are standing provided that no more than 50 persons are accommodated in this area.*

After the word "area", add the following wording –

*"... and properly supervised and managed at all times".*

(b) To amend Condition 12 set out in the supplementary papers before the Sub Committee, as follows –

*12. Customers shall not be admitted to readmitted to the premises after 23:00 on Sundays to Thursdays and 24:00 on Fridays and Saturdays, except for customers permitted to temporarily leave the premises to smoke.*

Last entry and/or re-entry, except for customers permitted to temporarily leave the premises to smoke, to be amended to 23:30 hours.

(c) That a further condition in relation to the provision of delivery services be added to the list of conditions, as follows –

*“If third-party deliveries are to take place from the premises then they shall not do so before a Delivery Management plan has been put in place and submitted to the appropriate authorities including the Licensing Authority and Westminster City Council’s Environmental Health consultation team”.*

## **REASONS FOR THE DECISION**

The Sub Committee was satisfied that the application, as amended, would not add to the cumulative impact effect in the area and would address concerns expressed by the Metropolitan Police Service and the Licensing Authority.

It was noted that the premises would be situated at an iconic location in premises that had been vacant for some considerable time. In occupying these premises, the proposed use as an Asian themed Food Hall and Food Court would enhance this part of Regent Street with a unique sustainability and food led concept.

The amendments to the operating schedule would assist in the dispersal of a potentially large number of customers before the time when crime and disorder tended to peak in this area.

The meeting ended at 3.20 pm.

**CHAIRMAN:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

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

Thursday, 1 October 2020

**Membership:** Councillor Heather Acton (Chairman), Councillor Susie Burbridge and Councillor Maggi Carman

**Officer Support:** Legal Advisor: Horatio Chance  
Policy Officer: Aaron Hardy  
Committee Officers: Tristan Fieldsend & Cameron MacLean  
Presenting Officer: Kevin Jackaman

**APPLICATION FOR A NEW PREMISES LICENCE – ASIA COLLECTIVE, 55 REGENT STREET, LONDON W1B 4DY – 20/06120/LIPN**

### FULL DECISION

#### Premises

Asia Collective, 55 Regent Street, London W1B 4DY

#### Applicant

The Crown Estate Commissioners

#### Cumulative Impact Area?

West End

#### Ward

West End

#### Proposed Licensable Activities and Hours

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Hours Premises Are Open to the Public

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**Representations Received**

- Metropolitan Police Service (PC Reaz Guerra)
- Licensing Authority (Angela Seaward)

**Summary of Objections**

- The Metropolitan Police Service (MPS) raised concerns that the application, if granted, would undermine the Licensing Objectives; add to existing problems of crime and disorder in the area; and that there was insufficient detail within the operating schedule to promote the Licensing Objectives.
- The Licensing Authority raised concerns about how the Premises would promote the Licensing Objectives; On- and Off-Sales of alcohol on Mondays until 23:30 hours without provision for late night refreshment; insufficient detail about the proposed operation of the Food Hall and provision for customers who do not wish to be seated; and how it was proposed to manage the Karaoke area without ancillary food or waiter/waitress service.

**Summary of Application**

The application was for a new Premises licence to operate as an Asian themed Food Hall/Court offering a wide range of Asian cuisines, including the sale of alcohol. There would be a seated area, a delicatessen area, a café and a small dedicated Karaoke area. As this was a new Premises application, there was no Premises licence history.

**Policy Position**

The Premises was located within the West End Cumulative Impact Area and, as such, various policy points had to be considered, namely CIP1, HRS1 and PB2. The Applicant had to demonstrate how the Premises would not add to the cumulative impact in the West End cumulative impact area (CIA).

Policy CIP1

It was the Licensing Authority's policy to refuse applications in the CIA other than applications to vary hours within the Core Hours under Policy HRS1. Applications for

other licensable activities in the CIA were subject to other policies and must demonstrate that they would not add to the cumulative impact in the CIA.

#### Policy HRS1

Applications for hours within the Core Hours would, generally, be granted. Applications for hours outside Core Hours would be considered on their merits, subject to other relevant policies.

#### Policy PB2

It was the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within the Core Hours under Policy HRS1.

### **SUBMISSIONS AND REASONS**

**Mr Jackaman, Senior Licensing Officer:** summarised the application as set out in the report before the Sub Committee. He noted that additional submissions had been made by the Applicant and that these had been circulated to Members of the Sub Committee.

**Mr Jeremy Bark, Solicitor for the Applicant:** presented his case to the Sub-Committee. He made the following submissions:

- (a) The essence of the application was that it was a unique concept comprising a food hall and food court in a prime location which had previously been occupied by traditional retail units which had not proved successful.
- (b) Careful consideration had been given to an appropriate use for the site and, after a lengthy process, sui generis planning approval had been granted to the use of this location as a food hall/court.
- (c) Pre-planning advice had been sought and several meetings had taken place with various parties and a set of conditions had been agreed and subsequently revised in response to further consultation.
- (d) It was acknowledged that there were a few policy implications associated with the application and it was proposed to submit the application for the Sub Committee to consider in the light of those policy considerations and submissions by the various parties.
- (e) It was proposed that it was noteworthy that there were no objections to the application by Environmental Health and it was suggested that this might be attributed to the proposed conditions.
- (f) There had been an error in the application in that Late-Night Refreshment from 23:00 hours to 23:30 hours on Mondays had been omitted. If the Sub Committee was minded granting the application, the applicant would seek to include the provision of Late-Night Refreshment on Mondays by way of a variation to the licence.
- (g) The application for Regulated Entertainment was solely in relation to the Karaoke area on the mezzanine floor which would have its own set of conditions.
- (h) Referring to the basement area and the Premises facade that opened onto Piccadilly Tube, it was noted that there were two "grab-and-go" food Premises (a

noodle bar and a sandwich shop) which did not need to be licensed but were part of the food hall/food court concept.

- (i) There was also a coffee shop which did not require a licence, and which would probably be the main entrance to the Premises, opening at 7.00 am. When the coffee shop closed, the basement level Piccadilly entrance would become the main entrance.
- (j) As agreed with the Police, each of the entrances would have security staff present whenever the entrances were open.
- (k) Regarding the proposed conditions relating to the sale of alcohol, in particular, Condition 4, it was noted that the sale of alcohol would be ancillary to the sale and consumption of food on the Premises thereby correlating the licence application with the planning permission. [Mr Bark then briefly referred to a few the other proposed conditions detailed in the application].
- (l) In keeping with the concept of a Food Hall and Court, there would be about eight stalls and/or kitchens all under one operator creating the feel of an Asian market, and that the stalls and kitchens would change from time to time to offer different types of Asian cuisine to keep the concept fresh.
- (m) In addition to the security officers at the entrances, there would be several "Meet and Greet" personnel to assist customers who would place their orders at the food stall before taking a seat and collecting their order when it was ready. Waiter/waitress service would be available for customers to place orders for drinks. Customers would also be able to place orders using an app.
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- (o) The Coffee area on the ground floor would be an Asian coffee venture embracing the concept of sustainability and would be run by a renowned operator.
- (p) Accessibility and affordability were key to the concept with a range of price points for the various cuisines on offer.

**Ms Leanne Catterall, Lead Retail Asset Manager for the Crown Estate, Central London Portfolio:** made the following submissions:

- (a) She summarised the importance placed by the Crown Estate on finding suitable tenants for their West End properties and proactively managing those properties for the benefit of all through the imposition of appropriate leasehold and licensing terms and conditions.
- (b) Successive retail units had operated from these Premises but had not been successful and the Premises had been vacant for the previous 18 months. In summer 2018, the location had been identified as a possible site for a high-quality Food Court and planning permission had been granted for such use in January of this year.
- (c) It was proposed that the site would become a destination for users of, and visitors to, the West End, drawing and connecting workers and shoppers from both Regent Street and St James. It was proposed that a wide variety of customers would be

attracted to the Food Hall and Food Court thereby contributing to the vitality of the West End.

- (d) In developing the proposals, significant consultation had taken place with local Ward Councillors, Council Officials, Transport for London (TfL), and British Transport Police. In response to a question by the Chairman, Ms Catterall confirmed that the site had not previously been used as a restaurant/food led venture.
- (e) Maximal Concepts had been selected as the preferred operator because of its track record of developing, delivering and managing Food Hall concepts in addition, Asia Collective understood the importance of London's West End as a global destination and, in keeping with the Crown Estate, Asia Collective emphasised the importance of sustainability.
- (f) It was proposed to invest £10 million in the site which would deliver new jobs and contribute to the regeneration of Piccadilly.

Concluding the submissions, Mr Bark made the following points:

- (a) There had been significant pre-application discussions and consultation with various parties regarding the proposals, including dispersal measures which were reflected in the proposed conditions.
- (b) The proposals had been developed with the necessary safeguards in mind, noting that the site was just within the Cumulative Impact Area (CIA).

In response to several questions by Members, Mr Bark provided the following information:

- (a) Regarding the Karaoke area and the inclusion of vertical drinking, Mr Bark referred Members to Condition 29 (Conditions Relating to the Karaoke Area) in the supplementary papers. He stated that there was seating available in this area which could be either be pre-booked or, if it was free, booked at the time while visiting the Premises.
- (b) It was possible to have food in the Karaoke area and there would be waiter/waitress service for customers wishing to order alcohol. In addition, the area would always be supervised.
- (c) It was anticipated that customers who wished to have a meal and then go to the Karaoke area would pre-book the area. It was noted that the area contained two seating areas, each seating 15 persons.

PC Bryan Lewis on behalf of the Metropolitan Police made the following submissions:

- (a) The Police objections were based primarily on policy issues. It was noted that the Premises were very close to an area that was traditionally one of the busiest areas in Westminster and, therefore, there was a possibility of adding to existing risk factors in the area.
- (b) Those bars where the sale of alcohol was not ancillary to the consumption of food were not within the parameters of the Council's policies.
- (c) There was a concern about whether drinkers in the Karaoke area could take their drinks from that area to another area; and the provision to be made for people wishing to smoke.

(d) It was also a concern that, on Fridays and Saturdays, alcohol could be consumed until 1.00 am.

In response to the concerns raised by the MPS, Mr Bark stated that:

- (a) It would be possible for patrons to walk from the Karaoke area to another area as it was intended that they should be able to experience the combined atmosphere of different areas within the Premises.
- (b) There would be 155 Members of Staff, of which 75 would be front of house. Approximately 55 front-of-house and 60 back-of-house Members of Staff would be on duty at peak times. Therefore, the Premises would be very well supervised in terms of staff numbers.
- (c) If any patron left the Karaoke area whilst carrying a drink, they would be stopped by a Member of Staff who would offer to bring their drink over to them once they were seated. Alternatively, customers could ask a waiter/waitress to bring their drink to them once they were seated.
- (d) Smokers would be directed to designated smoking areas and would be prevented from taking their drinks with them when going to the smoking areas. It was not anticipated that there would be significant numbers of customers wishing to use the designated smoking areas. In response to a question by the Chairman, Mr Bark stated that discussions had taken place with various authorities regarding the location of designated smoking areas and the numbers that might be permitted in these areas and that this would be the subject of further discussions.

**Ms Daisy Gadd, Senior Practitioner for Licensing:** made the following representations on behalf of the Licensing Authority:

- (a) Referring Members to Paragraph 2.3.2 of the Council policy, Ms Gadd noted that the policy was not to refuse applications with hours longer than core hours, but to determine each application on its merits, noting the matters that should be taken into consideration when considering such applications.
- (b) The area of concern was the Karaoke area identified by the green hatched area on the floor plan. The applicant would have to demonstrate an exceptional circumstance that would allow the Sub Committee to depart from its pubs and bars policy of refusing applications for Premises within CIA's.
- (c) The need to determine whether the application would add to the cumulative impact in the West End CIA.

Responding to the points raised in the Licensing Authority's submissions and matters raised by Members of the Sub Committee, Mr Bark provided the following information:

- (a) Regarding dispersal measures, although the Premises were just within the CIA, it was anticipated that most persons would avail themselves of the adjacent London Underground network when leaving the Premises.
- (b) Given the nature of the Premises, it was not anticipated that patrons, when leaving, would then be in search of other late-night licensed Premises.
- (c) The proposed Condition 4 would, in conjunction with the dispersal policy referred to in Condition 27, and the nature of the likely clientele, provide enough safeguards and mitigate any cumulative effect the Premises might have on the area.

- (d) It was anticipated that, if the application was approved, the Premises would not be operational for at least another 18 months thereby providing an opportunity to shape the future of this area in a manner similar to that achieved by the Crown Estate in Haymarket.
- (e) There were many features both in the area and in the Premises that would aid dispersal including the main exit in the evening being from the basement.

In response to a question by the Chairman regarding dispersal and the main late night exit from the basement area into the London Underground network, Mr Bark stated that there had been extensive discussions with TfL and British Transport Police on this issue and no objections to the present application had been made by either organisation. Ms Catterall added that it was not the intention that this becomes a late-night drinking venue and that the Crown Estate included provisions within their lease agreements to ensure adherence to Crown Estate guidelines on the operation and management of Premises. Mr Bark added that the proposed conditions prohibited Off-Sales and Hot Food or Drink takeaways after 11.00 pm, and that there would be security staff at the exits to enforce these conditions.

In response to a few questions by Councillor Burbridge, Mr Bark and Ms Catterall provided the following information:

- (a) The Food Hall and Court would comprise a combination of restaurants and takeaway Premises rather than a [supermarket type] Food Hall where customers could only shop for items to take away.
- (b) Regarding Off-Sales, this comprised the resealing of bottles of alcohol that customers had part consumed on the Premises, and the sale of bottles of premium Asian alcohol that customers could purchase to take with them when leaving the Premises. Both On- and Off-Sales would be permitted between 8.00 am and 11:30 pm within the area delineated by the red line on the floor plan in the papers before Members.
- (c) Regarding the restaurant in the blue hatched area on the floor plan, it was the intention that customers could walk around the Premises and purchase food from the various stalls and kitchens and take their food to the restaurant area where they could sit and consume their purchases. It would also allow customers who had purchased a drink or drinks only to sit and consume their drink(s) in that area.
- (d) It was not the intention to provide fast food, but a selection of different types of food and proposed Condition 10 was intended to address concerns regarding fast food. Regarding delivery services, there were no proposals for this at present. However, there was an area at the rear of the Premises which could accommodate delivery services.
- (e) If there were proposals to allow delivery services, this could be made the subject of an appropriate condition and/or delivery plan agreed with the Environmental Health Service. If approval was to be granted to delivery services, it would have to be subject to a management plan agreed with the Crown Estate. Mr Bark stated that a possible condition might be, as follows – “If third-party deliveries are to take place from the Premises then they shall not do so before a Delivery Management plan has been put in place and approved by the Environmental Health consultation team”.

- (f) Regarding the proposed Opening Hours set out in the papers, specifically the following – Opening Hours to Public Friday to Saturday: 07:00 to 01:00 Mr Bark stated that this was a typographical error and the timing should read 07:00 hours to 01:30 hours. He noted that some fine dining establishments had 01:00 hours or possibly as late as 02:30 hours as their closing time. As the emphasis was on making the Premises primarily food led with drinks being ancillary, he proposed that the 01:00 hours closing time was appropriate to reinforce the Premises concept.
- (g) Regarding the requirement to book a table beforehand, Mr Bark said it was anticipated that customers may wish to use an Asia Collective App to make bookings. It was proposed that the number of customers admitted to the Premises would be controlled to ensure there was enough seating available for customers.

In response to a question by the Legal Advisor to the Sub-Committee, regarding the exceptional circumstances that would allow the Sub Committee to depart from the Council's stated CIA policy, Mr Bark provided the following information:

- (a) It was one of the government's tests that it was not likely that the Premises would add to the cumulative impact. He suggested that the application met this test given:
- The nature of the Premises and how it was proposed they would operate;
  - That the operator was a reputable company;
  - That it was the Crown Estate that was the applicant;
  - That there had been no objections from Environmental Health, residents or resident societies, TfL or British Transport Police; and
  - The objections that had been received from the Police and the Licensing Authority were based on policy considerations which the Applicant had sought to address in the course of these proceedings.
- (b) The CIA policy was not absolute, and each application had to be considered on its merits. That there was no definitive list of exemptions in the policy, nor could the policy cover every type of Premises. It was proposed that the Premises –
- Represented an exciting project that would contribute to the revitalisation of the area;
  - That there had been significant consultation and consideration of this project over the previous two years. The difficulty was that the application was butting against policy considerations which were not necessarily designed with this type of application in mind; and
  - The application had been tailored in terms of opening hours, proposed conditions, and the areas to be included within the licence to accommodate the Council's licensing policies and the concept behind the licence application. In so doing, detailed conditions had been proposed as a means of reconciling the Council's policies with the proposed operating schedule.
- (c) A final consideration in support of the application, but not one upon which Mr Bark would necessarily rely, was the possibility that, by the time the Premises were operational, there may be fewer licensed Premises operating in the area. He stated that the project represented a significant investment and one that would contribute to the regeneration of the area.

## Conclusion

The Sub-Committee realises that it has a duty to consider each application on its individual merits. In this case, the Sub Committee were mindful that they were considering an application for a Food Hall / Court including the sale of alcohol and karaoke within the West End CIA. Under Policy CIP1 of the SLP it is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars; fast food Premises, and Premises offering facilities for music and dancing – other than applications to vary hours within the Core Hours under Policy HRS1. Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies and must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.

The Sub Committee were mindful of the fact that objections had been raised by both the Police and the Licensing Authority. Both were based primarily on policy issues. However, having regard to the submissions made during the course of the hearing, the Sub Committee concluded that the Applicant had provided valid reasons as to why the granting of the application would be an exception to policy and not add to negative cumulative impact in the Cumulative Impact Area.

The Sub Committee noted that there was no definition of what could constitute an exemption from policy, but agreed that the proposal represented an exciting project that would contribute to the revitalisation of the area, was the product of significant consultation over the past two years and had been specifically tailored in terms of opening hours, proposed conditions and the areas to be included within the licence to accommodate the Council's licensing policies and the concept behind the licence application. Furthermore, the Sub Committee were of the view that the proposal would not add to negative cumulative impact on the CIA. In reaching this conclusion, the Sub Committee were particularly mindful of the nature of the Premises, how it would be run, that there had been no objections from Environmental Health, residents, resident societies, TfL or British Transport Police and that the objections received from the Police and the Licensing Authority were based on policy considerations which, for the reasons outlined above, the Sub Committee considered had been addressed.

Insofar as the Police and Licensing Authority objections extended to the management of the Premises, the Sub Committee considered that the conditions were appropriate and proportionate to promote the licensing objectives. Accordingly, the Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives.

Having carefully considered the committee papers and the submissions made by all the parties, both orally and in writing, the Sub-Committee has decided , after taking into account all the circumstances of this application and the promotion of the licensing objectives to **GRANT** the application with the following permissions:

1. To grant permission for Films (Indoors)

Monday to Thursday:	11:00 to 23:00 hours
Friday and Saturday:	11:00 to 00:00 hours
Sunday:	12:00 to 21:00 hours
Seasonal variations/ Non-standard timings:	N/A

2. To grant permission for Live Music (Indoors)

Monday to Thursday:	11:00 to 23:00 hours
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Friday and Saturday: 11:00 to 00:00 hours  
Sunday: 12:00 to 21:00 hours  
Seasonal variations/ Non-standard timings: N/A

3. To grant permission for Recorded Music (Indoors)

Monday to Thursday: 11:00 to 23:00 hours  
Friday and Saturday: 11:00 to 00:00 hours  
Sunday: 12:00 to 21:00 hours  
Seasonal variations/Non-standard timings: N/A

4. To grant permission for Anything of a Similar Description to That Falling Within (e), (f) or (g)

Monday to Thursday: 11:00 to 23:00 hours  
Friday and Saturday: 11:00 to 00:00 hours  
Sunday: 12:00 to 21:00 hours  
Seasonal variations/Non-standard timings: N/A

5. To grant permission for Late Night Refreshment (Indoors)

Tuesday to Thursday: 23:00 to 23:30 hours:  
Friday and Saturday: 23:00 to 00:00  
Sunday: N/A  
Seasonal variations/ Non-standard timings: N/A

6. To grant permission for the Sale of Alcohol on and Off the Premises

Monday to Thursday: 08:00 to 23:30 hours  
Friday and Saturday: 08:00 to 00:00 hours  
Sunday: 11:00 to 22:00 hours  
Seasonal variations/Non-standard timings:

Alcohol may be sold or supplied for consumption off the Premises prior to 23:00 but not afterwards (save for resealed partially consumed bottles of wine).

7. To grant permission for the Hours the Premises are Open to the Public

Monday to Thursday: 07:00 to 00:00 hours  
Friday and Saturday: 07:00 to 00:30 hours  
Sunday: 10:00 to 22:30 hours  
Seasonal variations/ Non-standard timings: N/A

8. That the Licence is subject to any relevant mandatory conditions.

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

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

10. The Premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the Premises is open for licensable activities and during all times when customers remain on the Premises. All recordings shall be stored for a minimum period of 31 days with date

and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period

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. A minimum of 2 SIA licensed door supervisors shall be on duty at the Premises at any time when licensable activities are being provided and remain on duty until the Premises close. However, the Premises licence holder will carry out regular risk assessments (at least every 8 weeks) in relation to the need for SIA security presence and shall share the results of any such assessment with the police upon reasonable request and take into account any views of the police. Additional SIA security shall be employed in such numbers and on such days and at such times as the risk assessment identifies.
13. The primary use of the Premises shall be as food hall where the food shall be available for consumption on the Premises and the provision of the licensable activity of the sale and supply of alcohol shall be ancillary to that overall use.
14. Other than in the area(s) hatched in green, the supply of alcohol shall be by waiter or waitress service only.
15. Within the area hatched in green, alcohol may be supplied and consumed by persons who are standing provided that no more than 50 persons are accommodated within this area and properly supervised and managed at all times.
16. The areas hatched in blue shall be used as dedicated restaurant areas where the following condition shall apply: This area shall only operate:
  - 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 take away service of food or drink for immediate consumption;
  - v) which do not provide any take away service 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 meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

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

17. The Premises shall be laid out with sufficient tables and chairs so that every customer permitted to be within the Premises may be seated if they wish to be.

18. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the Premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
19. There shall be no sales of hot food or hot drink for consumption off the Premises after 23.00 (other than where customers are permitted to take from the Premises part consumed and resealed bottles of wine supplied ancillary to their meal).
20. All sales of alcohol for consumption off the Premises shall be in sealed containers only, and shall not be consumed on the Premises.
21. Customers shall not be admitted to or re-admitted to the Premises after 23.00 on Sundays to Thursdays and 23.30 on Fridays and Saturdays, except for customers permitted to temporarily leave the Premises to smoke.
22. 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) equipment;
  - (h) any refusal of the sale of alcohol; and/or
  - (i) any visit by a relevant authority or emergency service.
23. In the event that a serious assault is committed on the Premises (or appears to have been committed) the management will immediately ensure that:
  - (a) The police (and, where appropriate, the London Ambulance Service) are called without delay;
  - (b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
  - (c) The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
  - (d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the Premises.
24. All windows and external doors shall be kept closed after 21:00 hours, except for the immediate access and egress of persons.
25. 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.
26. No licensable activities shall take at the Premises until the capacity of the Premises has been determined by the Environmental Health Consultation Team and the

licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined unless the Environmental Health Consultation Team believe this to be unnecessary.

27. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
28. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day other than as may be agreed in writing between Westminster Council in relation to arrangements for 55 Regent Street as a whole.
29. 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.
30. No collections of waste or recycling materials (including bottles) from the Premises shall take place between 23.00 and 08.00 on the following day other than as may be agreed in writing between Westminster Council in relation to arrangements for 55 Regent Street as a whole.
31. No deliveries to the Premises shall take place between 23.00 and 08.00 on the following day other than as may be agreed in writing between Westminster Council in relation to arrangements for 55 Regent Street as a whole.
32. 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.
33. 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.
34. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the Premises are operating under the authority of a Sexual Entertainment Venue licence.
35. A direct telephone number for the manager at the Premises shall be publicly available at all times the Premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
36. The Premises shall operate a dispersal policy which shall be in written form and take into account any relevant comments and feedback from the police, officers from Westminster Council and residents. This policy shall be available for inspection by the police or authorised officers of the Westminster Council upon reasonable request.
37. No licensable activity 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. This Condition 38 shall relate to the Karaoke Area:
38. The other conditions relating to the basis of alcohol sales shall not apply within this area. Within this area:

- a. The use of the karaoke area shall be via a booking system;
- b. There shall be a maximum of 30 customers permitted within this area at any one time;
- c. The area shall operate until 30 minutes before the Premises close;
- d. Alcohol may be sold or supplied without food but food shall be available at all times;
- e. The sale and supply of alcohol shall be by way of waiter/waitress service;
- f. Whilst in use there shall be a member of staff supervising the area at all times; and
- g. The provision of regulated entertainment required for karaoke shall be permitted within this area.

39. If third-party deliveries are to take place from the Premises, then they shall not do so before a Delivery Management Plan has been put in place and submitted to the appropriate authorities including the Licensing Authority and Westminster City Council's Environmental Health consultation team.

If problems are experienced, then an application for a review of the Premises licence can be made.

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

**The Licensing Sub-Committee  
3 December 2020**