



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday, 22 October 2020**. This was a virtual meeting.

**Members Present:** Councillors Jacqui Wilkinson (Chairman), Susie Burbridge and Maggie Carman

#### 1 MEMBERSHIP

1.1. There were no changes to the Membership of the Sub Committee.

1.2. For the purposes of this meeting, the Chairman proposed that Councillor Burbridge be appointed Substitute Chairman. Councillor Carman seconded the nomination and Councillor Burbridge was duly appointed Substitute Chairman.

#### 2 DECLARATIONS OF INTEREST

2.1. There were no Declarations of Interest.

### **BIG MAMMA, 15 HENRIETTA STREET AND 29-30 MAIDEN LANE**

### **LONDON WC2E 7JS**

#### **LICENSING SUB COMMITTEE No. 3**

*Wednesday, 22 October 2020*

**Membership:** Councillors Jacqui Wilkinson (Chairman), Susie Burbridge and Maggie Carman.

**Officer Support:**

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

#### **APPLICATION FOR A NEW PREMISES LICENCE 20/06917/LIPN**

**Present:** James Anderson, Poppleston Allen (Solicitors for the Applicant); Jack De Wet, Development Director (for the Applicant), Enrico Pireddu, Operations Director (for the Applicant); Angela Seaward, Licensing Authority; David Nevitt, Environmental Health Services; PC Bryan Lewis, Metropolitan Police Service; Richard Brown, Citizens Advice, Licensing

Advice Project (on behalf of Tom Cooke, Resident); David Kaner, Covent Garden Community Association

**Representations:** Representations were received from the Metropolitan Police Service; Environmental Health Service; the Licensing Authority; The Soho Society (representing a resident); and Complete Licensing (representing an objector)

**Applicant:** Big Mamma Holdings Ltd

**Ward:** West End

**CIA<sup>1</sup>:** West End

## **SUMMARY OF APPLICATION**

The application was for a new Premises Licence allowing the Premises to operate as a lounge bar.

## **INTRODUCTION**

The Chairman welcomed everyone to today's meeting of Westminster City Council's Licensing Sub Committee. In welcoming everyone, the Chairman introduced the Members of the Sub Committee and the Council Officers who would be supporting the Sub Committee. The Chairman then confirmed the names of the parties and representatives present and explained the procedure that would be followed at the meeting.

The Chairman then invited the Presenting Officer, Mr Kevin Jackaman, to present the report that was before the Sub Committee.

## **PRESENTATIONS AND SUBMISSIONS**

### **Mr Kevin Jackaman, Licensing Officer**

Mr Jackaman, Licensing Officer, stated that this was an application for a new Premises Licence which included the provision of Late-Night Refreshment and the sale by retail of alcohol both on and off the premises. Mr Jackaman summarised the various representations that had been received, noting that additional representations had been received from Capital and County CG Ltd and Capital and County CG Nominee Ltd represented by Alun Thomas of Thomas & Thomas Partners LLP.

In conclusion, Mr Jackaman noted that the Premises were within the St James's Ward and the West End Cumulative Impact Area (CIA).

### **Mr James Anderson, Poppleston Allen (Licensing Solicitors), on Behalf of the Applicant**

Mr Anderson noted that the Applicant ran similar Premises in Rathbone Place with a capacity for 240 patrons and that the Applicant was a premium Italian restaurant operator. Mr Anderson then described the proposal to convert the former Mabel's cocktail bar Premises into a Big Mamma restaurant with the same operating hours as the former Mabel's premises. The proposed Premises would operate within the same footprint as Mabel's but with a significantly different entrance on Henrietta Street. [Mr Anderson went through the various floor plans for the proposed premises,

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<sup>1</sup> Cumulative Impact Area

describing each area and detailing the various entrances and exits to the premises]. Mr Anderson stated that converting the Premises into a Big Mamma restaurant would be a significant investment in the area.

Referring to the Council's various licensing policies, Mr Anderson stated that the Applicant was mindful that the Premises were within a CIA but were of the view that the application fell within a few exceptions to those policies. Unlike Mabel's, there was no application for regulated entertainment, including live or recorded music. The most significant difference when compared with Mabel's would be the reduction in occupancy from 430 where the consumption of alcohol was not ancillary to a table meal, to the present proposals whereby the capacity would be a maximum of 260 persons of which 120 would be seated on the ground floor level.

Unlike the existing licence, which permitted off sales until all 01:00 hours, the present application was for off sales to 23:00 hours to be ancillary to a substantial meal, and no drinking would be permitted outside the premises. Accordingly, the proposed application met the requirements of the Council's licensing policies. In addition, the bar areas marked in blue on the plans would, in all probability, like the Rathbone Place premises, be used by diners.

Regarding Conditions, Mr Anderson stated that agreement had been reached with the Police, including the provision of door staff at the Henrietta Street entrance from 21:00 hours, Thursday to Saturday. In addition, agreement had been reached with Mr Kaner and the CGCA on a written Dispersal Policy and conditions relating to deliveries and collections which were more restrictive than the Council's model licence conditions. In addition, the Applicant had agreed to surrender the existing Mabel's licence, as per the Council's Model Condition 62, before any new licence would come into operation.

Mr Anderson stated it had not been possible to reach agreement on a proposed extension of the current condition restricting the use of the Henrietta Street entrance to 23:00 hours. In an attempt to compromise with residents, the Applicant had proposed that use of the Henrietta Street entrance be permitted until 23:30 hours (which was within Core Hours) to allow customers to enter and exit the Premises using the main entrance and to avoid the requirement that customers leaving the Premises after 11 o'clock having to walk through the restaurant, downstairs and through the bar to exit into Maiden Lane. In addition, those customers sitting in the basement and ground floor areas near to the Maiden Lane entrance/exit would leave by that exit in any event.

In response to several questions by Members of the Sub Committee, Mr Anderson and Mr De Wet provided the following information.

- (a) There was a waste storage space with waste compactors in the basement which allowed waste to be stored until such time as it was placed outside for collection at the prescribed collection times.
- (b) It was anticipated that customers would decide which exit they wished to use when leaving the Premises and that their proximity to the nearest exit would make this largely self-policing. To direct customers to specific exits depending upon where they were seated within the restaurant would be problematic. In addition, door supervisors and staff at the main reception area would be on duty to assist in dispersal into Henrietta Street.

- (c) Smokers would use either Henrietta Street or Maiden Lane to smoke, depending on where they were seated.
- (d) Model Condition (MC) 38 would apply to the ground floor other than the area shaded blue on the floor plan, which was a reserved bar area, not subject to any conditions, but which would likely be used by customers. Regarding the basement area, the whole of the public area on the right of the plan was reserved bar space where there would be a condition that customers be seated, and drinks served by waiters/waitress service.
- (e) The seating in the ground floor bar space area was fixed and, although it could operate as a vertical drinking bar, it would require an application for a variation to the Premises Licence to remove the seating in this area. The occupancy on the ground floor bar area was 71 covers and 59 in the basement bar area.
- (f) There would be one door supervisor at the Henrietta Street entrance from 9 PM, Thursday to Saturday. There was no proposed condition requiring a door supervisor at the Maiden Lane entrance/exit.
- (g) The Applicant was of the view that MC 38 was more appropriate for these Premises as MC 66 was more restrictive e.g. customers would not be allowed to order alcohol at the bar. It was more a difference of emphasis rather than a substantive difference in the way in which the Premises planned to operate. [The Applicant confirmed that they would be prepared to accept a condition not to use disposable dining utensils/crockery].
- (h) Off sales would be until 23:00 hours and ancillary to a substantial meal and hot food and drink after 23:00 hours would be by way of delivery only. At present, there was no proposal to do delivery food, but the Applicant wished to retain that possibility which would accord with the Council's CIA policy.
- (i) Artisan deliveries included a small van fish delivery from Cornwall and two meat deliveries in similarly sized vans. Deliveries were made at 5:30 AM four days a week (excluding Sundays) and the delivery drivers had keys to the Premises to allow them to leave the deliveries inside the premises.
- (j) There were several other restaurants within the vicinity of the Henrietta Street entrance, and it was believed that most of those Premises would operate in accordance with Core Hours with a terminal hour generally of midnight. There were more bars and licensed Premises within the vicinity of the Maiden Lane entrance.

**Ms Angela Seaward, Licensing Officer, on Behalf of The Licensing Authority**

Ms Seaward noted that the Premises fell within the West End CIA and that the Applicant had been encouraged to consider operating the Premises as a restaurant in accordance with the Council's MC 66 rather than MC 38 as this would allow the application to be considered under the Council's Restaurant policy. However, as the Premises intended to operate without ancillary conditions in some areas within the premises, the Premises fell within the Council's Pubs & Bars policy which required that licence applications for Premises within a CIA be refused unless the Applicant could show there were exceptional circumstances that would allow the application to be granted.

Regarding the Applicant's expressed intention to retain some flexibility as to the manner in which the Premises operated, Ms Seaward suggested that this might be

achieved by authorising licensable activities subject to these activities being ancillary to the main operation of the Premises as a restaurant under the Applicant's chosen name for the premises. This would then obviate some of the potential problems of the Premises changing hands.

In response to questions by Members of the Sub Committee, Ms Seaward provided the following information.

- (a) The bar areas on the ground floor and the basement floor were exempt from MC 38 and the sale of alcohol would not be ancillary to any food requirements.
- (b) There was a condition that customers in the basement area be seated and that the supply of alcohol be by waiters/waitress service only.

### **Mr David Nevitt, Environmental Health Service (EHS)**

Mr Nevitt stated that the proposed reduction in the capacity of the Premises was welcomed as it eliminated the previous drink led and regulated entertainment activity in what had previously been a destination venue within the CIA and replaced it with a restaurant. However, it remained a concern that there were areas within the Premises where alcohol consumption would not be ancillary to the consumption of food. The requirement that, in the basement area, customers be seated had, to some extent, ameliorated this concern.

Regarding the bar area on the ground floor, it was proposed that, within the context of the operation of the premises, a small element of vertical drinking was acceptable. The Applicant's other Premises in Rathbone Place were well-managed and there were no concerns about that food led operation.

Regarding the proposed main entrance on Henrietta Street, there was no evidence to suggest that the use of this entrance during Core Hours would be problematic, as there were no outdoor tables or chairs.

The Environmental Health Service (EHS) had maintained its representations in respect of this application for two reasons –

- (1) To ensure that suitable and appropriate conditions were agreed; and
- (2) That residents' concerns were addressed.

Accordingly, the Police and the EHS had collaborated in putting together several proposed conditions intended to address the concerns of residents; the CIA policies; and which would promote the Licensing Objectives. These conditions had subsequently been agreed with the Applicant.

In response to questions by the Chairman, PC Bryan Lewis stated that, in addition to a door supervisor, there would be a member of staff who would meet and greet customers as they arrived. Mr Anderson confirmed that the provision of a door supervisor at the Henrietta Street entrance was to address some of the concerns raised by residents and to allow the Applicant to use that entrance until 23:30 hours.

In response to questions by Members of the Sub Committee, Mr Nevitt provided the following information.

- (a) Regarding waste collection, Mr Nevitt referred to the proposed Condition 5 set out in the Joint Environmental Health and Metropolitan Police submission that was before the Sub Committee which stated –

*“MC 43: No collections of waste or recycling materials (including bottles) from the Premises shall take place between (23:00 hours) and (08:00 hours) on the following day”.*

- (b) Mr Anderson stated that the Applicant had agreed with Mr Kaner and the CGCA to a stricter condition prohibiting deliveries and collections between 20:00 hours and 08:00 hours, except for the three Artisan deliveries.

### **PC Bryan Lewis On Behalf of the Metropolitan Police Service (MPS)**

PC Lewis stated that the MPS had maintained its representations as it remained concerned about the operation of the bar areas within the Premises in relation to the CIA. He stated that agreement had been reached with the Applicant on the proposed conditions set out in the Police and EHS submission and, therefore, the Police objection was solely on policy grounds.

### **Richard Brown, Licensing Advice Project, Citizens Advice Westminster (representing Tom Cooke, Resident)**

Mr Brown stated that Mr Cooke’s concern was the effect the proposed Henrietta Street entrance to the Premises would have on residents and the fact that his property shared a party wall with the premises.

Mr Cooke did not object to the use of a main entrance to the Premises on Henrietta Street if the impact on residents of using that entrance could be kept to a minimum up to 23:00 hours, and if there was no impact on residents after 23:00 hours.

Mr Brown then referred the Sub Committee to the Conditions he had proposed in his email on Page 47 of the Additional Information Pack, and to the proposed Condition at Paragraph 4.8.1 of his “Submission on behalf of Tom Cooke” on Page 8 of the Additional Information Pack, which read –

*“The Henrietta Street entrance will be closed after 11 PM with all customers and staff entering and leaving thereafter via Maiden Lane”.*

Mr Brown explained the rationale for this proposed condition, stating that 11 PM correlated with the provisions of the Operational Management Planning document, which represented a sensible time. He stated that the half-hour between 11 PM and 11:30 PM was when Mr Cooke and his wife were most likely to be disturbed by patrons leaving the premises. He noted that, although the Premises was less likely to be used as a bar than had previously been the case, the existing licence did not impact on Henrietta Street. He proposed that the Sub Committee had to balance the convenience to the operator of being able to use the Henrietta Street entrance until 11:30 PM and the potential inconvenience to residents if customers could use the entrance until that time.

### **Mr Kaner, Covent Garden Community Association (CGCA)**

Mr Kaner referred to his submissions on Page 11 of the report before the Sub Committee and on Pages 33 to 34 in the Additional Information Pack. He stated that there had been a number of discussions with Mr Anderson who was representing the Applicant and that agreement had been reached on several of the conditions proposed by the CGCA, in particular, conditions regarding dispersal and service arrangements, and that these conditions would lead to an improvement on the current arrangements.

The CGCA remained concerned about the impact on residents in Henrietta Street, noting that most of the licensed Premises on Henrietta Street were restricted in their operation to Core Hours. The CGCA were of the view that it was preferable that the Henrietta Street entrance/exit not be used after 11 PM. Regarding the inconvenience to some customers of having to walk through the Premises to exit into Maiden Lane, Mr Kaner stated that, in a Covid-19 environment, people were now used to using one-way systems to enter and exit premises. Therefore, he questioned how difficult it would be to encourage customers to leave by that exit after 11 PM. Therefore, the CGCA would support Mr Brown's recommendation that there be no exit into Henrietta Street after 11 PM. In addition, for those customers using only the bar areas, the CGCA would support a proposal that, after 11 PM, those customers leave by the Maiden Lane exit.

In conclusion, Mr Kaner noted that there was a requirement that the Applicant keep the dispersal policy under review should there be any problems regarding dispersal.

### **Mr Alun Thomas on Behalf of Capital & Counties CG Ltd and Capital & Counties CG Nominee Ltd (Capco)**

Mr Thomas referred to his submissions supporting the application which were on Page 12 of the report before the Sub Committee. He stated that it had taken Capco some considerable time to find a tenant for these Premises and that, as landlord, they were appreciative of what the Applicant had done elsewhere and what they proposed to do with these Premises in Covent Garden.

As the landlord, Capco had discussed the Premises Licence conditions in detail with the Applicant including the modest proposal for a bar on the ground floor. Mr Thomas stated that there would be a significant reduction in the capacity of the Premises and a move away from regulated entertainment. The current Premises Licence allowed for a 430-capacity vertical drinking venue and that was how it had operated. He believed that, along with the landlord, local stakeholders would appreciate the change in operation. Referring to the Pubs & Bars policy and Paragraph 2.4.7<sup>2</sup>, Mr Thomas stated that he believed that the proposed reduction in capacity provided the necessary exception to allow the application to be granted, not least because the Applicant was asking for something less than they presently held. In addition, because the application was subject to the Applicant surrendering the existing licence, the proposals allowed the Applicant to future proof the Premises in a way that the current licence did not permit.

In response to a Member's question, Mr Nevitt confirmed that the capacity of the Premises was 260 with seating for 250 persons.

### **Ms Vivienne Walker, Legal Officer**

Ms Walker asked Mr Anderson (representing the Applicant) for confirmation that the proposed Conditions set out on Pages 34 to 47 of the Additional Information Pack had been agreed. Mr Anderson confirmed that most of the conditions had been agreed and that he would send Ms Walker a list of the agreed conditions. He stated that, because of last-minute negotiations, there had been insufficient time to prepare a comprehensive list of the agreed conditions before today's hearing.

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<sup>2</sup> "... Similarly, the reduction in the capacity of a Premises or a reduction in hours of operation might be a reason for an exception to the policy..."

### **Mr Aaron Hardy, Policy Officer**

In response to a question by Mr Hardy regarding the effect of the present application in reducing the impact the Premises had on the CIA, Angela Seaward, Senior Licensing Officer, confirmed that each application was taken on its merits and that the Licensing Authority had taken the view that it was for the Sub Committee to determine whether the proposed reduction in capacity constituted an exception to the Pubs & Bars policy in relation to CIA's.

### **SUMMING UP**

The Chairman invited the various parties to sum up their presentations.

### **Mr Alun Thomas on Behalf of Capital & Counties CG Ltd and Capital & Counties CG Nominee Ltd (Capco)**

Regarding the bar on the ground floor of the premises, Mr Thomas made the point that the Applicant was asking for less than what was already permitted under the current licence. He reiterated the point that the application represented a significant reduction in capacity that would be of benefit to residents and local stakeholders.

### **Ms Angela Seaward, Senior Licensing Officer, on Behalf of The Licensing Authority**

Ms Seaward confirmed that she had nothing further to add.

### **Mr David Nevitt, Environmental Health Service (EHS)**

Mr Nevitt stated that, regarding policy matters and cumulative impact, he wished to give some context to the location of the premises. He said that the Porterhouse Pub, which allowed vertical drinking for up to 800 people until midnight, was opposite the Premises rear entrance on Maiden Lane. On Henrietta Street, there was a hotel with a public bar that was open until 1 AM for members of the public, and 24-hours for hotel guests. Therefore, the opportunity to reduce the capacity of these Premises would have a material benefit in reducing the overall cumulative impact in this area. Furthermore, as the application did not include regulated entertainment, he did not see a need for a condition requiring a sound limiter.

### **PC Bryan Lewis On Behalf of the Metropolitan Police Service (MPS)**

PC Lewis proposed that there should be a requirement for an ongoing review of security to the Premises on the Maiden Lane entrance, given the location of the Porterhouse Pub opposite the premises.

### **Richard Brown, Citizens Advice Westminster, Licensing Advice Project, (representing Tom Cooke, Resident)**

Mr Brown asked the Sub Committee to draw a distinction between the cumulative impact granting the licence would have on Henrietta Street vis-à-vis the overall reduction in the cumulative impact of the premises. He noted that, at present, the Premises did not add to the cumulative impact on Henrietta Street and it was for that reason that he proposed that there be a condition that the Henrietta Street entrance/exit should not be used after 11 PM.

### **Mr Kaner, Covent Garden Community Association (CGCA)**



Concurring with Mr Brown, Mr Kaner stated that the application, if granted, would result in an overall reduction in the cumulative effect the Premises had in the area. However, that was not true of Henrietta Street where granting the licence would add to the cumulative impact on that street. Therefore, he too proposed that use of the main entrance on Henrietta Street be limited to no later than 11 PM.

**Mr James Anderson, Poppleston Allen (Licensing Solicitors), on Behalf of the Applicant**

Regarding the use of the main entrance on Henrietta Street, Mr Anderson stated that staff would exit the Premises via Maiden Lane, as set out in the operating schedule. In addition, the Applicant, in response to PC Lewis's comments, would be willing to undertake a risk assessment regarding the use of door supervisors at the Maiden Lane entrance/exit.

Mr Anderson went on to make the following points.

- (a) Future Proofing: this was a reference to something that did not exist in any relevant legislation or government guidance. However, its use as a means of granting a licence to the Applicant and at the same time removing the right of the Applicant to transfer the property was legally questionable.
- (b) Considering the Application on Its Merits: as the Sub Committee was required by law to consider the application on its merits, it could not look to the future with a view to future proofing an application.
- (c) CIA Policy: that the Council's Pubs & Bars policy allowed an application such as the present one to be granted and that the application presented an opportunity to lessen the cumulative impact of Premises in the West End by terminating the existing Mabel's licence and replacing it with a significantly less impactful licence, as stated by Mr Nevitt and PC Lewis.

The Premises would trade as a restaurant, but the Applicant would like the flexibility afforded by the bar spaces on the ground floor and in the basement. It was for this reason that the Applicant had opted for these Premises as it had an existing licence. Taking the Applicant's successful trading history in Rathbone Place, and the conditions that had been offered and agreed, it was proposed that the Applicant could be trusted to operate these Premises in a responsible manner.

Regarding the operation of the Henrietta Street entrance, to refuse to allow the Applicant to use this entrance after 11 PM would mean that the Premises had a greater restriction imposed upon it than any other Premises in Henrietta Street allowed to operate to Core Hours. In addition, Westminster City Council's Licensing Model Conditions did not recognise a last entry time of 11 PM. As a compromise, and because of the commercial significance of having a main entrance open until 11:30 PM, it was proposed that customers could enter and exit the Premises using the Henrietta Street entrance until 11 PM and from 11 PM to 11:30 PM only customers exiting the Premises into Henrietta Street be allowed to use the main entrance/exit.

In response to Member's questions, Mr Anderson provided the following information.

- (a) How well an operator managed their Premises was not something that Members of the Sub Committee could take into consideration when determining what might be grounds for an exception to the Council's CIA policies. Mr Anderson proposed that the exceptions in this case would be –

- The replacement of a high-impact licence with a lower impact licence; and
  - A reduction in vertical drinking in these premises
- (b) The Applicant had agreed MC 62 which would require that the Applicant surrender the current licence before the applied-for licence, if granted, would become operable.

### **ADJOURNMENT**

At this stage in the proceedings, the Chairman adjourned the meeting so that Members could retire to consider their decision. She stated that the Sub Committee would not announce its decision today but that a summary of the decision would be sent to the various parties within five working days.

The Chairman then closed the Live part of the virtual meeting.

### **DECISION**

To **APPROVE** the application.

### **REASONS FOR THE DECISION**

The Sub Committee's reasons for approving the application are set out in the Full Decision attached as Appendix 1 to this minute.

## **THE FARMERS CLUB, 3 WHITEHALL COURT, LONDON SW1A 2EL**

### **LICENSING SUB COMMITTEE No. 3**

*Wednesday, 22 October 2020*

**Membership:** Councillors Jacqui Wilkinson (Chairman), Susie Burbridge and Maggie Carman.

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

### **APPLICATION FOR A NEW PREMISES LICENCE 20/06917/LIPN**

**Present:** Jelle van Esseveld (Applicant); Ian Watson, Environmental Health Services; Richard Brown, Citizens Advice, Licensing Advice Project (on behalf of Johanna White, Resident)

**Representations:** Representations were received from the Environmental Health Service; and several residents.

**Applicant:** The Farmers Club

**Ward:** St James's

**CIA<sup>3</sup>:** None

### **Summary of Application**

The application was for a new Premises Licence allowing the Premises to operate as a lounge bar.

### **INTRODUCTION**

The Chairman welcomed everyone to today's meeting of Westminster City Council's Licensing Sub Committee and introduced the Members of the Sub Committee and the Council Officers who would be supporting the Sub Committee. The Chairman then confirmed the names of the parties and representatives present before explaining the procedure that would be followed at the meeting.

The Chairman then invited the Presenting Officer, Mr Kevin Jackaman, to present the report that was before the Sub Committee.

### **PRESENTATIONS AND SUBMISSIONS**

#### **Mr Kevin Jackaman, Licensing Officer**

Mr Jackaman, Licensing Officer, stated that this was an application for a variation of the Premises Licence which included varying hours for licensable activities, updating the Premises planned and updating the Premises Licence conditions with Westminster City Council Licensing Model Conditions.

Mr Jackaman summarised the various representations that had been received, noting that Mr Richard Brown, Citizens Advice, Licensing Advice Project, was

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<sup>3</sup> Cumulative Impact Area

representing one of the resident objectors and his submission to be found in the Additional Information Pack circulated to Members.

In conclusion, Mr Jackaman noted that the Premises were within the St James's Ward and did not fall within any Cumulative Impact Area (CIA).

### **Mr Jelle Van Esseveld on Behalf of the Applicant**

Mr Van Esseveld stated that The Farmers Club was a Private Members Club in Whitehall Court which had 5,500 members in the UK and overseas. Anyone who had any connection with agriculture was eligible to become a member of the club, along with the residents of Whitehall Court. The Club had been in existence for over 75 years and had 56 bedrooms within the building along with a restaurant, a bar and four function rooms. The club had a strong ethos embedded in its rules which included a dress code and standards of behaviour. Most members used the club for either business or leisure with their friends and families

Regarding the application to vary the Premises Licence, Mr Van Esseveld stated that the club had been advised that they did not have the correct licence for this type of establishment. Therefore, the applicant had contacted Westminster City Council and had been advised by the Council's Environmental Health Service that the premise licence was appropriate but could benefit from being updated as a consequence of a refurbishment of the Premises in 2016 which had altered the floor plans and the had made slight changes to the licensed area. In addition, the conditions attached to the licence could be updated. Therefore, the applicant was seeking to improve what it could offer in the way of food and beverages without making major changes to its current business model. To this end, the applicant would like to be able to offer Champagne Breakfasts which were frequently requested on occasions such as weddings and christenings. In addition, the Applicant would like to extend the hours for licensable activities on New Year's Eve thereby dispensing with the requirement to apply for a Temporary Event Notice (TEN).

The applicant acknowledged that the Premises was within a residential building and that it was vital to maintain good relations between the club members and residents. Accordingly, it was proposed to amend the application such that the sale by retail of alcohol would still end at midnight (not 01:00 hours as proposed in the application) except for New Year's Eve/day when the sale of alcohol would cease at 01:00 hours.

Mr Van Esseveld stated that it was acknowledged that there was concern about possible noise and nuisance, from the terrace area. Therefore, the Applicant had offered several proposed conditions which were set out in the letter from Andrei Spence, Chief Executive & Secretary of The Farmers Club, which was at page 62 of the Additional Information Pack. He stated that it was hoped that these proposed conditions would address those concerns.

In response to a few questions from Members, Mr Van Esseveld provided the following information.

- (a) The amended application for the sale of alcohol was now for the sale of alcohol until 01:00 hours on New Year's Eve. Previously, the applicant had applied for, and been granted, Temporary Event Notices (TENs) for New Year's Eve which had permitted the sale of alcohol until 01:00 hours with the bar closing at 02:00 hours.

- (b) The recent changes to the Premises had allowed the applicant to operate a lot more efficiently, including being able to split the main function room into two separate rooms for smaller events. However, the main purpose of the refurbishment was to accommodate a doubling of business since 2014 (Mr Van Esseveld noted that the club operated like a boutique hotel except that it was not open to the public).
  - (c) Regarding security, anyone entering the club Premises would pass the Porter's desk at the main entrance to the building where they would be given directions to the Club's reception desk which was open from 7 AM to 11 PM.
  - (d) The Club's bedrooms were grouped together on different floors, so they were not interspersed with other residential apartments in the building. The eighth floor of the building comprised exclusively club bedrooms and there were many bedrooms on the seventh floor. There were also bedrooms on the on the fourth floor, the upper ground floor (with the main area of the club was located), and in the basement.
  - (e) Access to the terrace area was via the Club's Bar Lounge area which operated from 11 AM to 11 PM. When the bar and terrace area closed at 11 p.m., the building supporters would patrol the Premises to ensure that there were no guests on the terrace area after 11 PM. The porters were paid from the service charge paid by residents and The Farmers Club.
  - (f) The current licence allowed the sale of alcohol in the lounge bar until to 24:00 hours but operationally, the bar closed at 23:00 hours. If guests were making too much noise in the terrace area, staff would remind them that they were other residents in the building and that the club rules required that they not be disturbed.
  - (g) There had never been any formal complaint about noise from the terrace area and, if there had been complaints, these were very few and had been dealt with informally.
  - (h) Most of the Club's members were in the age range of 50 to 60 years of age although there was a sizeable number of members who were under the age of 30.
  - (i) The terrace could accommodate 32 persons at eight tables, each table seating for persons.
  - (j) The current licence allowed both on and off sales of alcohol and club members could buy alcohol to take away with them or to have it delivered to their home address.
- [Mr Van Esseveld, referring to the various plans in the report, described the Club's various licenced areas. He then described the process for becoming a Member of the Club].
- (k) Regarding the number of guests, a Member could bring up to 10 guests to the club without prior notification. In addition, a Member could hire one of the function rooms which could accommodate up to 96 guests.
  - (l) The applicant would be willing to accept a condition that restricted smoking on the terrace area to no later than 11 PM.
  - (m) Regarding the proposal that both on and off sales be unrestricted for residents and their bona fides guests, it was confirmed that residents and their guests

would only be able to purchase alcohol after the bar closed if a member of staff was available to serve them and that a shutter was pulled down when the bar closed restricting who had access to the bar.

- (n) There was no room service and, should a guest wish to take alcohol to their guestroom, they would have to purchase alcohol before taking it to their room.

### **Mr Ian Watson on Behalf of the Environmental Health Service**

Mr Watson confirmed that he had been contacted by Mr Van Esseveld who had been advised that he required a Club Premises Certificate to sell alcohol. He had advised Mr Van Esseveld that this was not correct and that all that was required was a Premises Licence. During his discussions with Mr Van Esseveld, it was proposed that Mr Van Esseveld might wish to apply for a variation of the licence for the reasons stated by Mr Van Esseveld in his presentation.<sup>4</sup>

[Mr Watson then described the layout of the Premises and the location of the bedrooms, all of which were within the licensed areas. He stated that, as this was an application for a variation, the Applicant had only been required to submit plans of those parts of the licensed Premises which included the variations to the existing licence].

As many of the conditions on the existing licence were otiose, a revised set of conditions that would meet the requirements of the Club had been considered and these had been included in the present application. In addition, it was proposed to bring the licence in line with current permissions for hotels and/or private members clubs whereby Members of the Club and their bona fides guests would have unrestricted access to the licensable activities on offer.

Mr Watson stated that several objections had been received from residents of Whitehall Court. Most of the objections had focused on the proposed extension of hours, the use of the terrace area, and potential noise by Club Members walking late at night along the building's corridors and communal spaces late-night en route to and from their guestrooms. It was in response to these objections that Mr Van Esseveld had amended the application.

[Mr Watson then described the location of the Members Club bedrooms, which were mostly at the front of the building, and resident's apartments, which were mostly at the rear of the building overlooking the River Thames].

Mr Watson noted that no objections had been received to the proposed earlier hours of operation which would allow the applicant to offer events such as champagne breakfasts.

### **Mr Richard Brown, Citizens Advice Westminster, Licensing Advice Project (On Behalf of a Resident)**

Mr Brown referred to his written submission which was included in the Additional Information Pack at page 55. He stated that he was not clear whether the terraced area was to be included within the variation to the licensed areas.

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<sup>4</sup> Mr Watson confirmed that because the Premises were located within the verge of the Royal Palaces, a licence had been issued by the Board of Green Cloth, a specialist panel sitting at Buckingham Palace. The conversion of existing licences under Grandfather Rights in 2005 did not extend to licences granted by the Board of Green Cloth. Therefore, it had been necessary to make an application for a new Premises Licence for the Premises which was granted in 2005.

Referring to the Floor Plan of the 8<sup>th</sup> Floor on page 77 of the main report, Mr Brown drew Member's attention to that part of the plan that showed the staircase leading the 7<sup>th</sup> Floor Corridor and private flats. He stated that, if alcohol was to be available to Club Members 24-hours a day, the proximity of the Club's guestrooms on the 8<sup>th</sup> Floor, and the use by Club Members of the 7<sup>th</sup> Floor corridor to access the 8<sup>th</sup> Floor guestrooms, would be a matter of concern to residents.

Referring to Mr Van Esseveld's reference to the Club operating like a boutique hotel, Mr Brown stated that he did not think the analogy was appropriate as the Club's guestrooms were scattered around the building and not all in one place. He noted that, because the bedrooms were included within the licensed areas, any sales of alcohol to residents in their bedroom would be classed as On Sales.

Regarding the use of the terrace [it had previously been noted that the nearest residential apartment to the terrace was immediately above the terrace], Mr Brown stated that residents, ideally, would like the use of the terrace, particularly for drinking, to be cut back, but that he would be guided by Mr White (a resident) on that point.

In response to a Member's question, Mr Brown stated that the proposed 24-hour sale of alcohol to Club Members and their guests was a matter of contention, notwithstanding that he did not know how this would operate.

#### **Mr Martin White, Resident and Member of The Farmers Club**

Mr White stated that his concern regarded the use of the terrace area. He stated that Members and guests could generate a lot of noise on the terrace. He noted that there was now many younger members and any events in the club involving significant numbers of younger members tended to be louder than events involving the older members of the club. Therefore, his concern was that events involving younger persons could potentially be a nuisance to residents adjacent to the terrace should events spill out onto the terrace area. Accordingly, he proposed that the terrace area should be closed at 10 PM with some suitable provision being made to accommodate those who wish to smoke.

#### **Mrs Johanna White, Resident and Member of The Farmers Club**

Mrs White stated that there had been significant changes to The Farmers Club in the last 20 years. At one time, the Club was only open during weekdays and not at weekends. The bar staff used to place notices on the tables reminding Members and their guests that this was a residential block with apartments above and not to make a noise.

It was Mrs White understanding that the porters checked the building at 11 PM (and not midnight), when they locked the communicating door between the Club and the hotel. If the club was to be granted an extension to its licence, she queried who would be responsible for locking the doors. Therefore, it was preferable that the doors were locked at 11 PM, as was presently the case.

On occasions when there were people on the terrace at 11:45 PM, the only people available to deal with complaints about noise which, fortunately, were rare, were the Porters. Mrs White noted that there were now more meetings and dinners which was good for the Club's commercial interests but hard on the residents who live nearby.

The programme of events for Young Farmers could entail late-night socialising on the terrace which was equipped with gas fires and umbrellas with guests been provided with wraps to keep warm while outside.

Mrs White stated that she hoped that Westminster City Council would oppose the adverse effects in extension to the licence would mean for residents affected by use of the terrace area and the increased traffic in the internal areas of the building. In particular, she was concerned that the younger Members of the Club might prefer to use the higher up bedrooms, which were part of the Cummings Suite and which had magnificent views, to the detriment of residents living below, particularly if these rooms were within the areas that were licensed.

In response to several questions, Mrs White provided the following information.

- (a) She had been informed by the Club's Secretary about the licence application and that the letter informing her about the application acknowledged that late-night drinking did tend to cause noise and nuisance.
- (b) She stated that closing the terrace at 10 o'clock would be excellent and that she had no issue with the application to extend the hours on New Year's Eve.
- (c) She was not concerned about the proposal to extend the licence to allow the Club to sell alcohol from 7 AM assuming that guests did not want to be on the terrace at that time and given the likelihood that it would not happen very often that guests would wish to be sold alcohol at that time.
- (d) She could foresee problems if the licence was extended in that, with a younger membership and a possible change of staff, the club could start to operate more like a boutique hotel. This would mean increased interaction between the Club's younger members and their guests and the older and possibly single (widowed) residents who needed to feel safe in the common parts of the building.

Before asking the various parties to some of their presentations, the chairman asked if the Legal Officer, Ms Vivienne Walker, are the policy officer, Mr Aaron Hardy, had any questions. Ms Walker and Mr Hardy proposed similar questions about the inclusion of the terraced area within the application to vary the Premises Licence. The Chairman proposed that Mr Van Esseveld might address this issue in his summing up.

## **SUMMING UP**

The Chairman invited the various parties to sum up their presentations.

### **Mr Ian Watson, Environmental Health Service**

Mr Watson confirmed that there were no public safety aspects to the application to vary the licence. He noted that the application had been amended to remove the proposed extension of opening hours from 12 midnight to 01:00 hours; there were no objections to the proposed extension to the sale of alcohol by retail from 10 AM to 7 AM; and the proposed extension of the sale of alcohol to 1 AM on New Year's Eve had not met with any opposition from residents. However, the proposed extension of licensable activities to 24 hours for Club Members and their guests had met with some opposition from residents.

Mr Watson noted that The Farmers Club did not offer room service and, as the bar closed at 11 PM and there were no minibars in the Club bedrooms, any sales of



alcohol after 11 PM when the bar closed would have to be at the discretion of any members of staff who might be available after 11 PM.

**Mr Richard Brown, Citizens Advice Westminster, Licensing Advice Project (On Behalf of a Resident)**

Regarding use of the terrace area, Brown stated that residents would prefer to see the use of the terrace area restricted to no later than 11 PM or, preferably 10 PM, and that a suitably worded condition might address resident's concerns.

In relation to the proposed 24 hour licence for Club Members and their guests, given that the bar closed at 11 PM, Mr Brown did not think that the sale of alcohol after 11 PM was a practicable, or desirable, given that there would be very few staff available to serve Club Members and their guests after that time. However, the concern remains that, should the licence ever be transferred, a different operator might make the possibility of 24-hour service a greater concern for residents.

**Mrs Johanna White, Resident and Member of The Farmers Club**

referring to the terrace area, Mrs White stated that, if there was every problem after 11 PM, the only people available to deal with it were the Porters who might not be readily available as evidenced by an incident earlier this year, which caused much trauma, when a person was locked out on the terrace.

If the terrace area was closed at 11 PM that would address resident's concerns, but it remained resident's preference that the terrace should close at 10 PM.

**Mr Martin White, Resident and Member of The Farmers Club**

Referring to comments by Mr Watson, Mr White noted that there was only one entrance to The Farmers Club which was locked at night requiring any Member or Members and/or their guests wishing to gain entrance to the Club after midnight having to be let into the Premises by member of staff.

Regarding the terrace area, he stated that residents were entitled to peace and quiet and that 10 PM would be a sensible time to close the terrace. Dated that he had no issues with any of the other proposals in the application.

**Mr Jelle Van Esseveld on Behalf of the Applicant**

Mr Van Esseveld stated that the terrace area had always been included in the licensed area and that the applicant was cognizant of resident's concerns about noise. He stated that, as the bar was open until 11 PM, to close the terrace area at 10 PM would be too early but the applicant would be willing to revive notices on the terrace reminding Members and their guests that this was a residential block and to keep quiet, and to enforce this requirement if necessary. He stated that, in the six years he had been working at The Farmers Club, he was not aware of their ever having been any official complaints about noise from the terrace. Any complaints about noise from the terrace had been informal and infrequent and, on average, only about three or four times a year had they been a requirement to tell people not to make a noise.

As the club had a younger group of members, by the time the bar closed at 11 PM, these members prefer to leave the building and go clubbing. Accordingly, by 11 PM, most younger members had left the building.

Mr Van Esseveld stated that he would be happy to put notices on the terrace and to stop access to the terrace after 11 PM. He stated that The Farmers Club wanted to maintain good relationships with the residents and to work with residents to resolve any matters of concern.

[In response to a question by Mrs White, Mr Van Esseveld stated that the Applicant, if so required, would ensure that the terrace area would be cleared of Members and their guests and closed by 11 PM].

### **ADJOURNMENT**

At this stage in the proceedings, the Chairman adjourned the meeting so that Members could retire to consider their decision. She stated that the Sub Committee would not announce its decision today but that a summary of the decision would be sent to the various parties within five working days.

The Chairman then closed the Live part of the virtual meeting.

### **DECISION AND REASONS FOR THE DECISION**

It was the Sub Committee's decision to **Approve** the application for the reasons set out in the Full Decision attached as Appendix 2 to these minutes.

The Meeting ended at 2.50 pm.

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

**DATE** \_\_\_\_\_

## APPENDIX 1

### WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3 ("THE COMMITTEE")

Thursday 22 October 2020

**Membership:** Councillors: Jacqui Wilkinson (Chairman) Councillor Susie Burbridge and Councillor Maggie Carman

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

**Parties Present:** James Anderson, Poppleston Allen, Solicitors for the Applicant, Jack De Wet, Development Director for the Applicant, Enrico Pireddu, Operations Director for the Applicant, Angela Seaward, Licensing Authority, David Nevitt, Environmental Health Service, PC Bryan Lewis, Metropolitan Police Service, Richard Brown, CAB, Licensing Advice Project, on behalf of Tom Cooke, resident and David Kaner for Covent Garden Community Association.

**APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF BIG MAMMA  
15 HENRIETTA STREET AND 29-30 MAIDEN LANE LONDON WC2 7JS  
20/06917/LIPN**

### FULL DECISION

#### **Premises**

Big Mamma  
15 Henrietta Street & 29-30 Maiden Lane  
London  
WC2E 7JS

#### **Applicant**

Big Mamma Holdings Limited

#### **Cumulative Impact Area**

The Premises are within the West End Cumulative Impact Area

#### **Ward**

West End

#### **Summary of Application**

The Committee has determined an application for a New Premises License under the Licensing Act 2003 ("the Act"). The applicants intend to operate the premises as a restaurant. The premises had the benefit of a license 19/08294/LIPT.

#### **Proposed Licensable Activities and Hours**

### Late Night Refreshment (Indoors)

Sunday to Tuesday 23:00 to 01:00 hours

Wednesday to Saturday 23:00 to 01:30 hours

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

Sunday to Tuesday 10:00 to 00:30 hours

Wednesday to Saturday 10:00 to 01:00 hours

### Hours Premises are open to the Public

Monday to Tuesday 08:00 to 01:00 hours

Wednesday to Sunday 08:00 to 01:00 hours.

### **Representations Received**

- Metropolitan Police Service (PC Bryan Lewis)
- Environmental Health Service (David Nevitt)
- Licensing Authority (Angela Seaward)
- Richard Brown CAB, for Mr Tom Cooke
- Covent Garden Community Association (David Kaner)

### **Summary of issues raised by Objectors**

- The Police remained concerned about the operation of the bar areas within the premises in relation to the Cumulative Impact Area (CIA).
- It remained a concern that there were areas within the premises where alcohol consumption would not be ancillary to the consumption of food.
- The premises intended to operate without ancillary conditions in some areas within the premises.
- The resident's concern was the effect the proposed Henrietta Street entrance to the premises would have on local residents.

### **Policy Position**

Policies CIP1, HRS1, PB2, RNT2 and CIA apply under the City Council's Statement of Licensing Policy. The Premises are located within the West End Cumulative Impact Area and, as such, the Applicant must demonstrate that the application will not add to Cumulative Impact in the West End Cumulative Impact Area.

## **SUBMISIONS AND REASONS**

The Presenting Officer, Mr Jackaman summarised the application to the Sub-Committee.

He summarised the various representations received, noting that additional representations had been received from Capital and County CG Limited and Capital and County CG Nominee Limited represented by Mr Alun Thomas in support of the application.

Members heard from Mr James Anderson, solicitor for the Applicant, who stated that the premises were formerly known and traded as Mabel's.

It is the Applicant's intention to turn Mabel's into a Big Mamma Italian Restaurant with a maximum occupancy of 260 customers. The premises will trade on two floors with a ground floor and basement area (shown hatched blue on the plan attached to the Premises Licence).

The main entrance to the premises will be on Henrietta Street.

Mr Anderson also stated that converting the premises into a Big Mamma restaurant could be a significant investment in the area.

Mr Anderson explained that the capacity was down to 260 from 430 and this would benefit the stress area.

Mr Anderson further explained that off sales would be limited to 23:00 hours and there will be no drinking outside the premises.

Mr Anderson stated that with the current health crisis the applicant was looking for the maximum flexibility in the operation of the premises. He stated that the reserved bar area will be used by diners.

When asked by Members where the objector lived Mr Anderson stated directly adjacent the premises and that they shared a party wall. He stated that if the licence was granted with 23:30 hours finish the applicant would abide with that time given the proximity to the objector.

Mr Anderson stated that proper care would be exercised by the door staff. Dispersal could be organised without disturbing the residents.

When asked where smokers will go to smoke, Mr. Anderson stated that they will go onto Henrietta Street at the rear of Maiden Lane.

Members asked whether the Applicant would accept a restaurant condition (Model Condition 66) Mr. Anderson stated that Model Condition 38 would cover the ground floor. The main entrance is through to the centre area with restaurant capacity of 120 customers. To the right, there is a reserved bar likely to be used by diners in the future but does not have to be so used.

Mr. Anderson stated that the basement is not a restaurant. It has a bar where customers must be seated and are served by waiter or waitress service.

When asked by Members whether the Applicant would accept a condition for seating, Mr. Anderson stated no, because Big Mamma has invested several millions of pounds and they do not know when the premises will operate in 2021.

Members stated that it would appear that the Applicant wants the flexibility to remove the tables and chairs and have vertical drinking. Mr. Anderson responded that the Applicant would be required to make an application for a variation of the Premises License and the licensing policy would be against the Applicant.

Mr. Anderson also stated that the Application must be considered in relation to the existing Licence.

In his summing up Mr. Anderson stated that staff would exit the premises via Maiden Lane, as set out in the operating schedule.

In response to PC Bryan Lewis on behalf of the Metropolitan Police comments in relation to the bar element of the application, the Applicant stated that they would be willing to undertake a risk assessment regarding the use of door supervisors at the Maiden Lane entrance/exit.

Mr. Anderson stated that Members should consider the application on its merits. The premises would trade as restaurant, but the Applicant would like the flexibility afforded by the bar spaces on the ground floor and in the basement.

Mr. Anderson explained that to refuse the applicant to use the Henrietta Street entrance after 11:00 p.m. would mean that the premises had a greater restriction imposed upon it than any other premises in Henrietta Street.

The Applicant stated that they would be happy to offer a compromise. Due to the commercial significance of having a main entrance open until 11:30 p.m. it was proposed that customers could enter and exit the premises using the Henrietta Street entrance until 11:00 p.m. and from 11:00 p.m. to 11:30 p.m. only customers exiting into Henrietta Street would be allowed to use the main entrance/ exit.

Members asked how well the premises were managed and whether that made it an exception, Mr. Anderson stated that how well an operator managed their premises was not something that members of the Sub-Committee could take into consideration when determining what might be grounds for an exception to the Council's Cumulative Impact Area policies.

Mr. Anderson stated that the exceptions in this particular case would be the replacement of a high impact licence with a lower impact licence and a reduction in vertical drinking in these premises.

Ms Seaward on behalf of the Licensing Authority stated that the premises fell within the West End Cumulative Impact Area (CIA) and within the Council's Pubs and Bars policy which required that licence applications for premises within a CIA be refused unless the applicant could show there were exceptional circumstances that would allow the application to be granted.

It was noted that the applicant expressed intention to retain some flexibility as to the manner in which the premises operated. Ms. Seaward suggested that this might be achieved by authorising licensable activities subject to such activities being ancillary to the main operation of the premises as a restaurant under the applicant's chosen name for the premises.

In response to questions raised by Members, Ms Seaward stated that the bar areas on the ground floor and the basement floor were exempt from Model Condition 38 and the sale of alcohol would not be ancillary to any food requirements. Also, there was a condition that customers in the basement area should be seated.

Mr Nevitt on behalf of Environmental Health Service stated that the proposed reduction in the capacity of the premises was welcomed in that, it eliminated the previous drink led and regulated entertainment activity that had previously been a destination venue and replaced it with a restaurant.

Mr. Nevitt stated that there was no evidence that the use of Henrietta Street as the main entrance during core hours would be problematic, particularly, as there were no outdoor tables and chairs.

It was noted that the Police and Environmental Health Service had collaborated in putting together a number of proposed conditions intended to address the concerns of residents, the Cumulative Impact Area policy which would promote the Licensing Objectives. These conditions had subsequently been agreed with the applicant.

Mr Brown for Licensing Advice Project on behalf of one objector stated that the objector was concern about the proposed Henrietta Street entrance to the premises. He stated that his client did not object to the use of a main entrance to the premises on Henrietta Street if the impact on residents of using that entrance could be kept to a minimum up to 23:00 hours.

Mr Kaner on behalf of the Covent Garden Community Association (CGCA) stated that there had been a number of discussions with the applicant's legal representative and they agreed several of the conditions proposed by the CGCA, in particular, the conditions regarding dispersal and service arrangements.

The application was supported by the applicant's landlord, Capco, Mr. Thomas on behalf of the landlord stated that the premises licence conditions had been discussed in detail with the applicant, including the proposal for a bar on the ground floor.

Mr Thomas stated that there would be a significant reduction in the capacity of the premises and a move away from regulated entertainment. The current premises licence allowed for a 430-capacity vertical drinking venue and that was how it had operated.

Mr Thomas also stated that the proposed reduction in capacity provided the exception to allow the application to be granted because the applicant was seeking less than what they presently held.

In response to Member's question in relation to the reduced capacity, it was confirmed that the capacity of the premises was 260.

Having carefully considered all the submissions made by all parties both orally and in writing, the Licensing Sub-Committee decided to **grant** the application subject to conditions.

The Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would be an exception to policy, not add to negative cumulative impact in the Cumulative Impact Area and promote the licensing objectives.

In reaching its decision, the Sub-Committee took into consideration all relevant matters which are not limited to the following:

1. The Applicant explained that the proposed licensable activities and hours are no different from those in the Current Premises Licence save that the opening hours are an hour earlier. Also, there is a reduction in the capacity, and this would have lesser impact on the Cumulative Impact Area.
2. The applicant addressed the specified policy elements and explained that this application should be treated as an exception to the Policy.
3. The capacity for the premises is 260 people and a number of additional conditions have been added to the licence to promote the licensing objectives.

In conclusion, the Sub-Committee was satisfied that, in all of the circumstances of the case, it was appropriate and proportionate to **grant** the licence.

**The application was granted subject to the following conditions in addition to the Mandatory conditions applicable to this type of application**

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

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

upon the request of the Police or authorised officer throughout the entire 31-day period.

2. 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 date with the absolute minimum of delay when requested.
3. The supply of alcohol at the premises except in the ground floor bar area and the basement area shall only be to a person seated taking a table meal there, and for consumption by such a person as ancillary to their meal.
4. The sale and consumption of alcohol in the basement area shall only be to persons who are seated, and only by way of waiter or waitress service.
5. The number of persons permitted inside the whole of the premises at any one time (excluding staff) shall not exceed 260 persons.
6. The maximum number of persons accommodated at any one time in ground floor bar (excluding staff) shall not exceed 71.
7. Sales of alcohol for consumption off the premises shall only be supplied with an ancillary takeaway meal.
8. There shall be no off sales of alcohol after 11 p.m.
9. 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 driving licence, passport or proof of age card with the PASS Hologram.
10. 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
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
11. On Thursday, Friday and Saturday from 21:00 hours until closing, a minimum of 1 SIA licensed door supervisors shall be on duty at the Henrietta Street entrance to the premises.
12. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours and such sales shall be delivered to customers from the Maiden Lane entrance only.
13. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
14. No collections of waste or recycling materials (including bottles) from the premises shall take place between (20.00) and (08.00) on the following day.



15. 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.
  16. Patrons shall not be allowed to enter the Henrietta Street entrance to the premises after 23:30 hours on any day.
  17. Patrons shall not be allowed to exit the Henrietta Street entrance after 23:00 hours on any day.
  18. All deliveries to the premises shall take place between 08.00 and 20:00 except deliveries by 3 artisanal food suppliers on Monday to Saturday at the Maiden Lane entrance to the premises.
  19. No licensable activities shall take place at the premises until the premises have 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.
  20. The premises shall only operate as a restaurant except in the ground floor and basement bar areas hatched blue on the plan attached to the Licence.
    - (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.
- Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
21. Deliveries and Collections (including waste) shall take place only between 08:00 and 20:00 Monday to Saturday and 10:00 to 20:00 on Sunday at and from the Maiden Lane entrance to the Premises.
  22. Whenever the premises are in use under this licence the external doors and windows shall not be fixed open after 22:00 on any day of the week.
  23. The premises shall operate a dispersal policy and all staff shall be trained in its implementation. The Policy shall include a requirement to inform customers
  24. (by notices and other means) that the area is residential and to request that they leave the premises as quickly and quietly as possible.
  25. No noise shall emanate from the premises nor vibration be transmitted through
  26. The structure of the premises which gives rise to a nuisance.
  27. Patrons shall be encouraged not to cause a nuisance to residents whilst
  28. smoking in Henrietta Street.
  29. All staff shall enter and leave the premises via Maiden Lane.

30.No licensable activities shall take place at the premises until premises licence 19/08294/LIPT (or such other number subsequently issued for the premises) has been surrendered [and is incapable of resurrection].

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

**This Decision takes immediate effect.**

## APPENDIX 2

### WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 3 ("THE COMMITTEE")

Thursday, 22 October 2020

**Membership:** Councillors: Jacqui Wilkinson (Chairman) Councillor Susie Burbridge and Councillor Maggie Carman

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

**Parties Present:** Mr. Jelle Van Esseveld for the Applicant, Ian Watson for Environmental Health Service, Mr. Richard Brown CAB, Licensing Advice Project for one local resident.

### APPLICATION FOR A VARIATION OF PREMISES LICENCE IN RESPECT OF THE FARMERS CLUB 3 WHITEHALL COURT LONDON SW1A 2EL 20/07368/LIPV

#### FULL DECISION

##### Premises

3 Whitehall Court  
London  
SW1A 2EL

##### Applicant

The Farmers Club

##### Cumulative Impact Area?

The Premises are not within the Cumulative Impact Area

##### Ward

St James's

##### Summary of Application

The Sub-Committee has determined an application for a variation of Premises Licence for the above Premises under the Licensing Act 2003 ("The Act"). The Premises operate a private members club and are not located within the Cumulative Impact Area.

The Premises have had the benefit of a Premises Licence 18/03495/LIPDPS since 2005. The Applicant sought to vary the hours for licensable activities, to update the premises plans, to update the current conditions with model conditions and to extend the terminal hours for Late Night Refreshment, the Sale by Retail of Alcohol and the Opening Hours.

## **Proposed Licensable Activities and Hours**

### Late Night Refreshment (Indoors)

Monday to Sunday 23:00 to 00:00

Seasonal Variations: from the end of permitted hours on New Year's Eve to the start on New Year's Day

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

Monday to Sunday 07:00 to 00:00

Seasonal Variations: from the end of permitted hours on New Year's Eve to the start on New Year's Day;

### Premises Opening Hours

Monday to Sunday 07:00 to 00:00

Monday to Sunday for residents and their bona fide guests 00:00 to 00:00 hours.

Seasonal Variations: from the end of permitted hours on New Year's Eve to the start on New Year's Day;

## **Representations Received**

- Environmental Health Service (Ian Watson)
- Eight Local Residents

## **Summary of issues raised by Objectors**

- The hours requested for the supply of alcohol and to permit the provision of late-night refreshment will have the likely effect of causing an increase in Public Nuisance in the area.
- The premises are situated in the midst of a residential building with 60 bedrooms dispersed amongst the residents' flats and the level of noise experienced made it impossible to sleep.
- Currently the club is open until 11:00 p.m. This ensures that activities are quiet after 11:00 p.m. for the benefit of the residents in the building.
- The proposed extension of operating hours to 01:30 a.m. would impact the residents' quiet enjoyment of the premises.

## **Policy Position**

Policies HRS1, PB1 and COMB1 apply under the City Council's Statement of Licensing Policy.

## **SUBMISSIONS AND REASONS**

Mr Jackaman, the Presenting Officer, summarised the application to the Sub-Committee. He confirmed that this was an application for a variation of the Premises Licence which included varying hours for licensable activities, updating the Premises Plan and updating the Premises Licence conditions with Westminster City Council Model Conditions.

Mr Van Esseveld who represented the Applicant, Farmer's Club, stated that in relation to the application to vary the premises licence, the club was advised that they did not have the correct licence for the establishment. The Applicant contacted the Council's Environmental Health Service and was advised that the Premises Licence was appropriate but would require updating, following refurbishment of the premises in 2016. In addition, the conditions attached to the licence needed updating.

Mr. Van Esseveld stated that the Applicant was seeking to improve how food and beverages could be served without making major changes to its current business model. The Applicant would like to offer Champagne Breakfasts which were frequently requested on occasions such as weddings and christenings.

The Applicant intended to extend the hours for licensable activities on New Year's Eve in order to dispense with the requirement to apply for a temporary Event Notices.

The Applicant acknowledged that the premises were within a residential building and that it is important to maintain good relations between the club members and residents. Accordingly, it was proposed to amend the application so that the sale by retail of alcohol would end at midnight instead of 01:00 as proposed in the application, except for New Year's Eve/ day when the sale of alcohol would cease at 01:00 hours.

The Applicant offered a number of proposed conditions, Mr Van Esseveld stated it was hoped that these conditions would address concerns about possible noise and nuisance from the terrace area.

In response to a number of questions raised by Members, Mr. Van Esseveld provided the following information: -

- a) The recent changes to the premises had allowed the Applicant to operate more efficiently, including being able to split the main function room into two separate rooms for smaller events. The main purpose of the refurbishment was to accommodate doubling of business since 2014.
- b) Regarding security, anyone entering the club premises would arrive at the Porter's desk at the main entrance to the building where they would be given directions to the Club's reception desk which was open from 07:00 to 23:00 hours.
- c) Access to the terrace area was via the Club's Bar lounge area which operated from 11:00 to 23:00 hours. When the bar and terrace area closed at 23:00 hours the building supporters would patrol the premises to ensure that there were no guests on the terrace area after 23:00 hours.
- d) There had never been any formal complaint about noise from the terrace area, and if there had been complaints, there were very few and would be dealt with informally.
- e) The terrace could accommodate 32 persons at eight tables.
- f) The Applicant would be willing to accept a condition that restricted smoking on the terrace area to no later than 23:00 hours.
- g) The Club's members were in the age range of 50 to 60 years of age. There are a number of members who were under the age of 30 years.
- h) The current licence allowed both on and off sales of alcohol and for club members to buy alcohol to take away with them or to have it delivered to their home address.

- i) Members could bring up to 10 guests to the club without prior notification. In addition, a Member could hire one of the function rooms which could accommodate up to 96 guests.

Mr Van Esseveld referred Members to various plans in the report and described the club's various licensed areas. He also described the process for becoming a member of the Club.

Mr Watson, on behalf of the Environmental Health Service addressed the Sub-Committee and confirmed that he was contacted by the Applicant to whom he gave pre-application advice. Mr. Watson stated that he did not need a club premises certificate to sell alcohol, but he advised the Applicant that he may wish to apply for a variation of the licence.

Mr. Watson confirmed that he visited the premises on 19 August 2019.

Mr. Watson confirmed that because the premises were located within the verge of the Royal Palaces, a licence was issued by the Board of Green Cloth, panel sitting at Buckingham Palace.

Mr. Watson stated that since 2005, such licence was not permitted under grandfather rights. Therefore, it had been necessary for the application for the Premises Licence.

Mr. Watson confirmed that at the meeting with the Applicant they discussed licence conditions for this type of premises.

Mr. Watson described the layout of the premises and the location of the bedrooms, all of which were within the licensed areas.

It was noted that there were a number of objections received from local residents pertaining to the proposed extension of hours, the use of the terrace area, and potential noise by Club Members walking late at night along the building's corridors and communal areas. It was in response to these objections that Mr. Van Esseveld amended the application.

Mr. Brown, representing one resident stated that the objector is a member of the Club who was supportive of the Club's success.

Mr. Brown stated that if the application was granted without amendments to the conditions it would harm the licensing objectives.

Mr. Brown referred Members to the floor plan of the 8<sup>th</sup> floor and particularly that part of the plan which showed the staircase leading to the 7<sup>th</sup> Floor Corridor and private flats. Mr. Brown stated that it was a concern that alcohol was to be available to Club Members 24-hours per day, due to the proximity of the Club's guestrooms on the 8<sup>th</sup> floor, the use by Club Members of the 7<sup>th</sup> floor corridor and access to the 8<sup>th</sup> floor guestrooms.

Mr. Brown confirmed that he had noted that because the bedrooms were included within the licensed areas, any sales of alcohol to residents in their bedrooms would be classed as On Sales.

Mr. Brown also stated that the use of the terrace for consuming alcohol should be reduced. He stated that the proposed 24-hour sale of alcohol to Club Members and their guests was still a matter of contention.

Representations were heard from Mr. White, who is a resident and member of the Farmer's Club. Mr. White stated that there were concerns around the use of the

terrace. He stated that a number of the neighbours are elderly, but there was now a large number of younger members, and any events in the club involving significant numbers of younger members tend to be louder than events involving the older members of the club.

Mr. White stated that his concern was in relation to the potential nuisance to residents adjacent to the terrace. Accordingly, he proposed that the terrace area should be closed at 22:00 hours.

Members also heard representations from Ms. White, a resident of the Farmer's Club.

Ms. White stated that there had been significant changes over the last 20 years. In the past there were notices placed in the bar area reminding Members and their guests to respect the neighbours and not to make noise.

Ms. White explained that she was led to believe that the porters checked the building at 23:00 hours when they locked the communicating door between the Club and the hotel. Also, there are now more meetings and dinners which was good for the Club's commercial interests but hard on the nearby residents.

Ms. White stated that the programme of events for the young farmers could entail late night socialising on the terrace which was equipped with gas fires and umbrellas with guests being provided with wraps to keep them warm whilst outside.

When asked by Members about the start time at 07:00am, Ms. White responded that she was concerned about the proposal to extend the licence to allow the Club to sell alcohol from 07:00am.

She stated that closing the terrace at 22:00 hours would be more acceptable and that she had no issue with the application to extend the hours on New Year's Eve.

Having carefully considered all the submissions made by all parties both orally and in writing, the Licensing Sub-Committee decided to **grant** the application subject to conditions.

In reaching its decision, the Sub-Committee took into consideration all relevant matters which are not limited to the following:

1. The Premises have had the benefit of a premises licence since 2005;
2. The Applicant amended the application in order that the sale by retail of alcohol would end at 00:00 hours instead of 01:00 hours;
3. There has been no formal complaint about noise from the terrace;
4. The Applicant offered a number of proposed conditions in order to address residents' concerns about possible noise and nuisance from the terrace area.

**The application was granted subject to the following conditions in addition to the Mandatory conditions applicable to this type of application**

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

1. The premises shall be a private members club providing licensable activities for its members and their bona fide guests.
2. The supply of alcohol shall only be to members and their bona fide guests.

3. All sales of alcohol for consumption 'Off' the premises shall be in sealed containers only and shall not be consumed on the premises.
4. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
5. Sales of alcohol for consumption in Members' bedrooms shall be by waiter or waitress service only after mid-night.

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

6. 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.
7. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
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, which will record the following:
  - (a) All crimes reported to the venue;(b) all ejections of patrons;
  - (b) Any complaints received concerning crime and disorder;
  - (c) Any incidents of disorder;
  - (d) All seizures of drugs or offensive weapons;
  - (e) Any faults in the CCTV system;
  - (f) Any refusal of the sale of alcohol; and
  - (g) 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. All refuse will be properly presented and placed on the street 30 minutes before agreed collection time.
12. All external windows and doors to the terrace shall be closed by 11.00 p.m. and no activities shall take place on the terrace except on New Year's Eve and the morning of New Year's Day.



13. Whenever the premises operate to 00.00 hours the external terrace shall be cleared of patrons and not used for any activity after 23:00 hours, except on New Year's Eve and the morning of New Year's Day.
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. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open for licensable activity after 23:00 hours. This telephone number is to be made available to residents.

**This is the full decision reached by the Licensing Sub-Committee.**

**This Decision takes immediate effect.**

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