



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 4th November, 2021**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Jim Glen (Chairman), Richard Elcho and Maggie Carman

Also Present: Councillors

Apologies for Absence:

1. MEMBERSHIP

THERE WAS NO CHANGE TO THE MEMBERSHIP.

2. DECLARATIONS OF INTEREST

THERE WERE NO DECLARATIONS OF INTEREST.

1 Licensing Applications

2. ADMIRAL, 1A BEDFORD STREET, WC2E 9HH

WCC LICENSING SUB-COMMITTEE NO. 3 ("The Committee")

Thursday 4 November 2021

Membership: Councillor Jim Glen (Chairman) Councillor Richard Elcho and Councillor Maggie Carman

Officer Support: Legal Advisor: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Georgina Wills
Presenting Officer: Karyn Abbott

**Application for a New Gambling Premises Licence in respect of ADMIRAL 1A
BEDFORD STREET LONDON WC2E 9HH 21/01830/LIPN**

Present: Richard Wormald QC (Legal Representative, Future Leisure Limited), Elizabeth Speed (Group General Counsel, Future Leisure Limited), Shaun Hooper (Regional Operations Director, Future Leisure Limited), Mark Thompson (Head of Risk and Compliance, Future Leisure Limited) Kevin Jackaman (Licensing Authority), PC Bryan Lewis (Metropolitan Police), Ms E Kwong, (Mr Fogg's Society of Exploration, Inception Group), Mr Marcus Lavell of Keystone Law, (representing Ms E Kwong) Mr Satta Padham (Witness for Mr Rajbir Sawhney, owner and operator of Speciality Drinks), David Kaner (Covent Garden Community and Association (CGCA)) and Richard Brown, (Citizen Advice Bureau, representing CGCA)

Full Decision

Premises

Admiral 1A Bedford Street London WC2E 9HH

Applicant

Future Leisure Limited

Cumulative Impact Area

West End

Ward

St James's

Summary of Application

This is an application under Section 159 of the Gambling Act 2005 (2005 Act). The Premises plans to operate as an Adult Gaming Centre (AGC).

Activities and Hours applied for

Hours premises are open to the public

Monday to Sunday 00:00 to 00:00

Representations received

- Metropolitan Police (PC Bryan Lewis)
- Licensing Authority (Kevin Jackaman)
- City Inception Group
- Covent Garden Community and Association (CGCA)
- The Northbank Bid

- A local Business Owner

Summary of issues raised by objectors

The Metropolitan Police had maintained representation as the application may not promote the licensing objectives, contained within the 2005 Gambling Act namely:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Protecting children and other vulnerable people from being harmed or exploited by gambling.

There were also concerns about the plan to trade 24 hours a day in a high-risk area. The applicant has provided a comprehensive risk assessment but has not proposed any licence conditions to support the steps offered to manage risk.

The Licensing Authority maintained their representations on the grounds contained within the 2005 Act namely:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Ensuring that gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The City Inception Group, Covent Garden Community and Association, The Northbank Bid, and a local business owner had maintained their representations on the grounds contained within the 2005 Act namely:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

There were also concerns raised regarding Public Nuisance.

Policy Position

Policies OBJ1, OBJ2, OBJ3, AGC1 and LOC1 of the City of Westminster Statement of Licensing Principles for Gambling apply.

DECISION AND REASONS

The Sub-Committee considered an application by Future Leisure Limited for a New Gambling Premises Licence in respect of Admiral 1A Bedford Street London WC2E 9HH. The Presenting Officer provided a summary of the application and confirmed that representations had been maintained by the Licensing Authority, Metropolitan Police, Ellie Kwong, City Inception Group, the owners of Fogg's Society of

Exploration, Covent Garden Community and Association (CGCA), The Northbank Bid, and a local business owner. The Applicant and Objectors had submitted additional information, and these were circulated to all parties.

The Premises is situated in the St James's Ward.

Mr Richard Wormald QC, Applicants' Legal Representative presented the premises as a small fronted, basement building situated in Bedford Street. He stated that the building was 'discreet' and 'modest', it would not be attractive to either children or other vulnerable persons and was suited for its proposed use. The Sub-Committee was advised that the Applicant's overarching Company had an excellent reputation in the industry and oversaw over 240 venues and employed over 2400 staff within nearby localities. Mr Wormald advised that since its inception in 2007 there had been no problems which required some form of intervention from any of the Responsible Authorities.

He stated that the Applicant Company was an extremely well run and professional organisation.

Counsel explained that Ms Elizabeth Speed, Group General Counsel, Future Leisure Limited, was the current chair of the Back to Social Responsibility Committee and Mr Shaun Hooper, Regional Operations Director, Future Leisure Limited was also a member of the same body. Both individuals consulted and devised policies in these subject areas. Mr Wormald informed the Sub-Committee that Mark Thompson, Head of Risk and Compliance at Future Leisure Limited, previously worked for the Metropolitan Police and various local Authorities including Westminster. Mr Thompson had sat on the Crime and Serious Crime Unit in the Borough and was familiar with the locality. Counsel submitted that there was extensive training for staff members and commented that the Metropolitan Police had been consulted and had recommended that the premises personnel are of sufficient calibre, worked in the company for over 6 months and are trained. Courses provided for employees included leadership, organisational skills, and compliance.

Mr Wormald confirmed that the application was for an Adult Gaming Centre (AGC) and not for a licensed betting office. The Premises previously traded as a William Hill betting office for a 30-year period. The Sub-Committee was informed that licensed betting offices could have B2 machines which had a higher stake and that these machines were not and could not be present in AGCs. He reminded the Sub-Committee that B2 Machines were more of a concern regarding their usage by vulnerable persons. He advised that AGCs were not amusement arcades with video games and would not be attractive to children and young people and that these premises attracted a different type of clientele.

Mr Wormald highlighted that under the 2005 Act, AGCs did not have any restriction of hours on their operations and that this was indicative that they were viewed as having lower level of concerns. The premises layout had been designed to ensure that there are no blind spots. The cash desk would be clearly visible and that there was no sight line into the main basement area of the premises from the street level. This would help to ensure that children, vulnerable persons, and passers-by are not 'drawn into' the Premises. Mr Wormald QC asserted that the premises was in a good location, had excellent travel links and this would help with their dispersal policy. A SIA door supervisor would be present from 18:00 onwards and would monitor patrons entering the premises. The Sub-Committee was advised that this measure

would ensure that patrons do not congregate near the premises. Mr Wormald added that the premises position would ensure that there were no noise spillage or vibrations into neighbouring properties.

The Applicants referred to national data indicated that the 'rolling usage' of AGCs machines were between 5 to 7 customers at any time and that the maximum number of patrons were between 12 to 14 people. It was asserted that patrons do not dwell in AGCs and that the number of machines at the premises should not be viewed as an indicator of the number of patrons that would be present at the premises. A high number of machines were present to ensure that there was a wide range of machines on offer.

Counsel continued by informing the Sub Committee that the GamCare Helpline Report found that gambling addiction was overwhelmingly related to online gambling and that only 3% was in relation to AGCs. He reminded the Sub-Committee that only slot machines were permitted to be in operation in Bingo Halls after they closed. He advised that the AGCs were well supervised, had machines which offered low stakes and that no alcohol could be consumed on the premises. Staff would be trained to observe patrons' who exhibit a particular pattern of behaviour and to intervene when appropriate. There will be self-exclusion policies in place.

The premises exterior had been designed in a style that was deliberately unattractive to children and young persons and reminded that there would be no video or arcade games available at the venue. The Applicants commented that Challenge 25 would be rigorously enforced, and that staff not adhering to this policy would amount to gross misconduct and termination of employment. The Sub-Committee was advised that Mr Hooper had reviewed information on 38 sites operated by the applicant and there had been 3767 requests for IDs and that on these occasions, 3083 had provided the requisite ID. The remainder of these checks, patrons were unable to provide the requisite IDs. Mr Wormald advised that there had been no events of patrons gambling without suitable IDs. The applicant operated AGCs in other London Boroughs which were located near schools and that there were no concerns with children and young people entering these Premises.

Mr Wormald said that the AGCs would not be attractive to individuals that are homeless. He advised that the Premises would have a spot camera and that patrons would need to request access to the premises when the doors are not being monitored by the door staff. There would always be a minimum of two staff member present at the premises and one of the employees would have 6 months experience of working in AGCs. Staff would be aware of the patrons that are present in the premises and would actively interact with these individuals.

The Applicant confirmed that they had been granted planning permission and allowed for its operation of usage to be until 02:00 and the objectors concerns regarding the overall amenity of the location is not a relevant consideration. The Sub-Committee were reminded that AGCs did not have any restrictions on their hours of operation and that 26 AGCs operated by the Applicant, were based in the capital and in various settings which include the High Streets and operated 24hrs. There have been no concerns regarding these premises.

Mr Wormald advised that the Applicant would be applying to disapply the Byelaw which currently restricts the Premises hours of operation. The Sub-Committee were

informed that there were other licensed premises in the Borough which operated for 24 hours despite the Byelaw.

The Metropolitan Police had been consulted. The Applicants emphasised that The Gambling Licensing Objectives Preventing Crime and Disorder had been addressed and that the Applicant operating until 06:00 would mitigate concerns. There had been a raft of conditions agreed with the Metropolitan Police and this included mandatory conditions. Mr Wormald commented that conditions which had been agreed included for a SIA registered Door Supervisor to be present after 18:00, for quarterly meetings to be held with the Metropolitan Police, comprehensive CCTV systems, a spotter monitor, Challenge 25 Policy, mag lock for the front shop door, two staff members to be present on the shop floor, the appointment of a staff member who had a minimum of 6 months work experience in AGCs and extensive training for employees. He commented that these conditions would mitigate concerns regarding the Gambling Licensing Objectives.

The evidence submitted showed that the Applicant had first operated AGCs in 2007 and had acquired 19 centres in this year and 240 venues across the United Kingdom during the past 14 years. 38 of the AGCs were based in London and throughout the trading periods there had not been any complaints or an application to Review before a Licensing Sub-Committee.

In response to the Sub-Committee question, Mr Wormald stated that the Applicant did not operate any AGCs within the Borough. The Sub-Committee were also advised that the premises would have a range of machines and that there was sufficient space for them, and this include a bank of portable tablets. Mr Wormald advised that B3 machines will only make up 20% of the overall number of machines in the venue. He advised that portable tablets would be accessible to patrons and that individuals would not need to engage with staff when obtaining these devices. The portable devices could be used in any area of the premises and could be used in conjunction with other machines. There will be seating areas for patrons using portable devices.

Counsel advised that there was increase demand for gaming machines in the later hours of the day and the customer based during these hours included shift workers from the hospitality sector. He advised that the later hours of trade were the busiest periods for AGCs and that patrons did not come from drink led establishments. The Sub-Committee noted that the Applicant had a wide range of experience in operating AGCs in the United Kingdom and commented that the objector's concerns was about the unique characteristics of the proposed premise's location. The Sub-Committee reminded the meeting that the Borough had one of the highest street populations in the country, and these included homeless persons, vulnerable adults and street drinkers. The Applicant confirmed that they did not have any premises in Westminster.

The Sub-Committee noted that representations had been made by a Homeless Shelter and that two Hostels were located near to the Premises. In response to questions from the Sub-Committee, Mr Hooper advised that it was Company Policy to refuse entrance to any individuals who were under the influence of alcohol or homeless. He acknowledged that it was not always clear whether individuals were homeless, and he advised that these persons were not permitted to congregate at

premises. The Sub-Committee were advised that the Applicant were aware of the concerns regarding the premises location.

In response to questions from the Sub-Committee, Mr Thompson advised that he had policing experience in the Borough and informed that acquisitive crimes were not associated with gambling. He advised that staff members received extensive training and are required to ensure that stolen goods are not sold in the premises. The premises staff members would actively patrol the shop floor and interact with patrons. The Sub-Committee were advised that the premises door supervisor will be fully trained. Ms Speed added that the Applicant Company had traded prior to the Gambling Act 2005 and had extensive experience.

PC Bryan Lewis confirmed that the Metropolitan Police Licensing Team was not objecting the application and that the Applicant had agreed to a raft of conditions. The representations had been made to assist the Sub-Committee with proposed conditions. In response to the Sub-Committee, PC Bryan advised that the Police would monitor the Premises to ensure that it was trading correctly, and that conditions imposed were fit for purpose. The Sub-Committee noted that the Premises Planning Application granted allowed the Premises operational hours to be until 02:00 and that the Metropolitan Police had agreed for operations to cease at 06:00. PC Lewis advised that 06:00 had been requested by the Applicant and this time was accepted due to the raft of conditions which had been agreed. These include for a door supervisor, the Premises having a lock door and extensive training for staff. In response to question from the Sub-Committee Mr Hooper advised that locks were fitted on all the doors of each Premises, and this was undertaken to enable staff to control who enters these venues. PC Bryan stated that AGCs were of a low concern and there were only occasional incidents involving these premises. Kevin Jackaman, Licensing Authority, confirmed that representations had been maintained and this was in accordance with Policy AGC1. Policy AGC1 required the applications to be determined under the relevant criteria in policies OBJ1, OBJ2, OBJ3 and other relevant Licensing Principles for Gambling. Policy LOC1 had been included and this was due to the Premises location. He advised that Policy LOC1 defined a sensitive location as where a Premises is in close proximity to or main route to a school, education institution, hostel and there is potential exposure to children, young people, and vulnerable persons to gambling. Policy LOC1 needed to be considered due to the local area profile of the local area in which the premises was situated. He advised that within the vicinity there was a large number of alcohol licensed premises which attracted a wide range of age groups, and this included vulnerable persons. The Sub-Committee were advised that the Applicant had agreed to a number of conditions following consultation with the Metropolitan Police on the aim of preventing gambling being a source of crime or disorder and these were welcomed.

Mr Jackaman stated that the Applicant had submitted information regarding vulnerability, signage, and training and these were included in the additional information that were submitted. The Applicant was reported to have submitted extensive documents about the operations of their AGCs Premises, operational procedures, training manual and signage. Mr Jackaman repeated that Applicant oversaw 240 AGCs nationwide. The Applicants had agreed with the OBJ3 Council Policy definition of a Vulnerable Person and that the Applicant had provided self-exclusion forms, their staff training guide on vulnerable persons and also contacts

they will have with local services. There will also be displays of support agencies such as GamCare on the Premises. The Sub-Committee was advised that they would need to be satisfied that the Applicant met all the policy objections requirements of AGC1, the relevant criteria's under OBJ1, OBJ2, OBJ3, and Policy LOC1.

In response to questions from the Sub-Committee Mr Jackaman advised that Policy LOC1 was relevant and that the premises locality was considered a 'sensitive location' due to the large number of licensed premises and high number of the homeless population near the Strand and Covent Garden. Mr Jackaman confirmed that the West End had a high level of crime and disorder in the locality. He further agreed that the layout of the premises was satisfactory and was of a suitable design to ensure the prevention of crime.

Richard Brown, Citizen Advice Bureau representing Covent Garden Community and Association, CGCA, confirmed that CGCA representation included an analysis of the Applicant's Local Area Gambling Risk Assessment. That document was important and had been assessed by the CGCA and that the Amenity Society had used their expert local knowledge of the area when reviewing the document. Mr Brown reminded the Sub Committee that the Premises locality was a 'unique area' of the country and that the Risk Assessment, submitted by the Applicant was incomplete and did not include the relevant factors and therefore its conclusion was flawed. Mr Brown added that the mitigations proposed in the Risk Assessment and the conditions offered did not meet the standards which would allow for the application to be granted. He went on to state that Licensed Betting Shops had been permitted to have four B2 machines before April 2019 and had stakes up to £100 and these had now been reduced. Licence Betting Shops could have four B2 machines with stakes up to £2 with a maximum prize of £500. Mr Brown commented that AGCs could have 20% of the total machines to be B3 Machines and these machines had the same stake and prizes of B2 machines. He commented that the differences between AGCs and License Betting Shop were now minimal, and this may have contributed to the decline of the latter. Mr Brown commented that the game play on B3 gaming machines were quicker than B2 machines.

On behalf of CGCA, Mr Brown made representations that the Council Policy indicated that gaming machines were potentially harmful to children and vulnerable persons. He added that mitigations which are put in place to address these concerns need to be suitable for the locations. The Applicant's submission on measures put in place to protect under 18s were sufficient and could be easily implemented. However, there were concerns regarding the Applicants submission in relation to measures that would be put in place to address concerns with other vulnerable person such as homeless persons, individuals with mental health impairment and persons with substance dependency. These were inadequate and this was due to the premises locality. He advised that there were several hostels in the vicinity and that the locality attracted a high number of homeless persons who arrived throughout the day.

Mr Brown contended that gaming machines which are available throughout the day could cause harm to vulnerable persons and that the Applicant's Risk Assessment had failed to sufficiently address these concerns. He commented that the initial mapping tool used in the production of the initial Risk Assessment had failed to

acknowledge relevant Premises such as St Martins and the homeless centre at the Zimbabwean High Commission. This was a potential indicator as to why the risks to vulnerable persons had been assessed as low. Mr Brown then referred to the updated Risk Assessment, stating it was not an improvement and noted that the Applicant had failed to take into the CGCA submission when the document had been redrafted. He advised that the Applicant risk assessment regarding vulnerable persons continued to be low, despite strong evidence of the concerns regarding the area and its demographics. The Risk Assessment was found by the CGCA not to have grasped the issues and vague. The updated Risk Assessment did not go much further and found the potential harm to the vulnerable to be low.

Mr Brown noted that the Applicant's training document was voluminous, and that staff were required to assess patrons' age, vulnerability and observe patrons' behaviour whilst using machines. He highlighted that homelessness was not always visible and commented that only two staff members would be present at the Premises and were required to adhere to a substantial raft of regulatory operations. There was a high concentration of homeless persons in the locality and Mr Brown noted that a SIA door supervisor would be present after 18:00. However, homeless persons frequented the area throughout the whole day.

Mr Brown also identified that B3 machines were located near the walls and patrons would be faced away from staff members. Employees would have to engage in conversations with individuals to distract them from the gaming machines.

Mr Brown informed the Members that there was a high level of crime in the vicinity and noted that the updated Risk Assessment stated that patrons found to be involved in criminal activities on the premises would be barred and that it was in the interest of the Applicant to implement this policy. There were a high number of licensed premises which offered alcohol in the area and reminded that the Cumulative Impact Zone, (CIZ) objectives was to ensure that patrons do not remain in the area. Mr Brown commented that the Premises was situated in a CIZ and highlighted the importance of joint working and local decision making.

Mr Marcus Lavell of Keystone Law, representing Ms E Kwong, Inception Group and operators of Fogg's Society of Exploration, would be calling witnesses, and this included Ms E Kwong and Mr S Padham (Witness for Mr R Sawhney, owner and operator of Speciality Drinks). Mr Sawhney was unable to attend the Sub-Committee. Mr Lavell commented that the large amount of evidence which had been provided by the Applicant were based on national statistics and indicated the lack of experience of operating premises in the Borough. He agreed that the premises was situated in a 'unique location' and that the Sub-Committee were aware of the concerns regarding the area. The locality had the highest saturation of alcohol licensed premises in the country. He reminded the Sub-Committee that the West End CIZ had been implemented to ensure that crowds do not remain in the locality and that those under the influence of alcohol are not victims of crime or cause public nuisance. Mr Lavell expressed concerns regarding patrons entering the premises during the latter hours whilst they were intoxicated. He commented that the view that the majority of patrons visiting the premises during the latter trading hours would be commuters was flawed.

In response to questions from Mr Lavell, Ms Kwong informed that she worked next door to the proposed premises and advised that there was a large concentration of homeless individuals and vulnerable persons in the locality. Her premises was affected by this demographic and these persons would position themselves at the doorway of her establishment. Her premises had implemented several measures to ensure homeless persons are identified and prevented from congregating near the venue. This included employing Designated Premises Supervisor (DPS) and SIA Door Supervisors and having regular staff training. 19 staff Members are present during shifts and commented that only two staff members would be present at the proposed AGCs and part of their roles included monitoring and controlling vulnerable persons.

In response to questions from the Sub-Committee, Ms Kwong advised that alcohol was sold at her establishment and the Premises operational hours were between 18:00 to 02:00. However, all patrons entering her premises were closely monitored and assessed by all staff members. The Sub-Committee was advised that patrons who are under the influence of alcohol are refused further sales and requested to leave the Premises. Staff would enquire whether patrons needed an Uber Taxi. Mr Lavell informed the Sub-Committee that there were not always visible signs that an individual was under the influence of alcohol and that there were concerns that these persons would be unable to make informed decisions and that there was a large concentration of such individuals in the area.

Mr S Padham informed the Sub-Committee that he operated a homeless Charity for 12 years in the locality. Over 3500 meals were served per week to the homeless and that these individuals were engaged with regularly. Mr Padham stated that the homeless population had increased over the past decade and commented that not all individuals in these demographic displayed signs of homelessness. In response to questions from the Sub-Committee, Mr Padham confirmed that his Charity had chosen to operate in the locality due to the high concentration of homeless people. Homeless individuals who are given donations would inevitably seek to increase the amount and he stated that that AGCs would be a method of achieving this. Mr Padham commented that gaming machines with low level stakes would be appealing to vulnerable persons. The Homeless persons had an excellent grasp of the area and were aware which locality they were likely to receive donations and obtain shelter. Mr Padham advised that Bedford Street attracted a large number of homeless individuals and commented on the importance of protecting vulnerable individuals.

The Sub – Committee adjourned at 11:21 and resumed at 11:25

David Kaner, Chair of Covent Garden Community and Association CGCA, advised that there was historically a large homeless person and rough sleepers' population in the vicinity and in particular near the Strand. Individuals from across the capital were attracted to the area and this was due to the large number of services that were available in the area for vulnerable persons and good opportunities for obtaining donations. There had been an increase in the homeless population following the post Covid-19 Pandemic lockdown. He advised that homeless persons requested cash donations and would seek to increase the amount which were gifted. AGCs would be of attraction for these individuals who wanted to increase the donations that had been received. The Sub-Committee were reminded that individuals did not always

present as homeless and commented that gambling was more prevalent in this demographic in comparisons to other groups. Mr Kaner felt that these aspects needed to be considered by the Sub-Committee and commented that the Applicant's 'scope mapping tool' did not adequately take these factors into consideration. Mr Kaner informed the Members that residents regularly interacted with homeless persons and would sign post individuals to appropriate agencies rather than give cash donations. There were concerns regarding the premises operational hours and commented that extended opening hours would encourage individuals to remain in the vicinity. Representations were usually maintained for any licence application which sought to operate 24hrs and this was due to concerns regarding the CIZ. Mr Kaner agreed that the Premises having a capacity limit and reduced operational hours would be welcomed and this would ensure the number of persons entering the Premises are restricted and would help to mitigate concerns that have been raised. The Legal Officer advised that there were no restrictions preventing an application for a 24 hr AGCs operation, and the site could trade as such. The Sub-Committee were advised by Leading Council for the Applicant that they could impose conditions which could restrict the premises operational hours and that the Applicant was also required to comply with the Byelaws that were in place.

In response to questions from the Sub-Committee the Policy Officer advised that the application needed to be considered under the Location Policy and whether the area it was situated was 'sensitive'. The Policy Officer noted that the Licensing Authority and other objectors had raised concerns regarding homeless persons and informed that these demographics were considered as vulnerable. The Sub-Committee were informed that this demographic had a 11.6% higher risk factor than the national average. Mr Kaner advised that the gambling addiction was 20 times higher in the homeless population than in any the other groups.

In response to the Policy Officer, Mr Hooper advised that B3 gaming machines were physical machines and that 60% of patrons preferred to be sat down whilst in front of machines. He advised that there would be adequate space to allow patrons to be positioned in-between the B3 machines and that the layout of the Premises and accessibility of machines all complied with the Gambling Commission requirements.

Mr Brown advised that the Premises was situated in a sensitive area and that the Sub-Committee was required to consider the suitability of the proposed AGCs location. He advised that there had been no evidence provided on how the Applicant would protect vulnerable persons apart from children. Mr Brown noted that the premises operated as a Betting Shop previously and had several B2 machines. He commented that 20% of the overall machines would be B3 in the new Premises and these machines had the same stakes and prizes as B2. Mr Brown reminded the Sub-Committee that Planning Permissions should not be taken into consideration and that AGCs were permitted to operate 24hrs. He advised that the premises terminal hour should be 22:00 and commented that the previous Betting Licence Shop ceased trade at this hour. Mr Brown commented that concerns regarding vulnerable persons would still not be mitigated with the premises operations ceasing at 22:00 and that the application should be refused.

PC Lewis advised the Sub-Committee that the Applicant could be requested to undertake a risk assessment on whether a SIA Door Supervisor was required during the daytime. He advised that a condition should be imposed which require for a SIA

Door Supervisor during the daytime for the first six months of trade and this would allow employees to settle in and demonstrate to children and vulnerable persons that there is an active entrance policy in place.

Mr Wormald QC reminded that there were nearby premises which had very large capacity, served alcohol and operated until 02:00. He acknowledged that the premises was in a sensitive area and commented that the Metropolitan Police were content with the application. Mr Wormald highlighted that it had been reported that AGCs were of a low concern to the Metropolitan Police Licensing Team. He advised that the Applicant had various AGCs in city centres of several cities located in Northern England. He commented that in Manchester there was a high homeless population, vagrancy and high usage of prohibited substances and these factors were also prevalent in the other Cities. Mr Wormald advised that the AGCs in Manchester Piccadilly was several floors and housed 350 machines and was situated next to soup kitchens and hostels which are overseen by charities. It was further submitted that there had been no concerns from the Manchester Police, retail outlets or charities about the Premises. The Sub-Committee was advised that there were staff reports and weekly security reports produced, and no concerns raised about the AGCs proximity to the homeless population.

Mr Wormald advised that patrons who entered the premises with large or small number of coins or wish to exchange coins for notes are viewed as a 'potential problem' and are challenged. He advised that there was no evidence regarding concerns with homeless persons and commented that public houses also had gaming machines. The Sub-Committee noted that there were no AGCs or similar premises in the vicinity and the effects of these venues in the locality were unknown. In response to questions from the Sub-Committee, Mr Wormald advised that it was preferred for operational hours to cease at 06:00 and commented that violent crimes and other anti-social behaviour were alcohol led.

Mr Wormald confirmed to the Sub-Committee's Legal Adviser that the previous Premises Licence for William Hill had been surrendered in 2019.

Conclusion

The Sub-Committee has determined the application for a grant of a new Premises Licence under The Gambling Act 2005

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

The Sub-Committee are aware, as were the Applicants, of policies LOC1, OBJ3 and the sensitivities of the premises location given the concentration of vulnerable groups in the area including the street population attracted by, but not exclusively to, the nationally famous St Martins in The Field Charity and their excellent outreach organisations and other charities.

The Sub-Committee noted that there were 30 educational establishment, 14 places of worship and hundreds of licensed premises in the immediate vicinity as identified in the Applicant's own submissions and evidence. The Sub-Committee noted these

establishments may add, attract, and create vulnerable adults as well as attract or add children to the vicinity.

The Sub-Committee acknowledged that Greater Manchester, Leeds, and Birmingham also have concerns in relation to their locality and that the Applicants have traded in those areas without issue. However, it was noted that those areas did not have the concentration of vulnerable groups as seen in the capital and in particular in the vicinity of the Strand. This area attracts a street population from across London, United Kingdom and further afield. Furthermore, each case is decided on its own merits.

The Sub-Committee noted that the risk assessment specific to this sensitive location was included in support of the application, as required by the Gambling Commission Social Responsibility Code. However, the evidence did not give the Sub-Committee confidence that the risk to children and other vulnerable persons, considering the location of the premises, had been addressed adequately.

The Sub-Committee accepts that Novamatic and the Admiral Brand are reputable Companies which have comprehensive procedures to mitigate the risks associated with the first two of the 2005 Act Licensing Objectives, namely addressing Crime and Disorder and the Fairness of Gambling. The Sub-Committee accepted that there was some mitigation in place to protect children and the vulnerable.

However, the Sub-Committee did not have confidence that the risks to children and other vulnerable persons from being harmed or exploited by gambling had been suitably mitigated, given the written and oral evidence and the compelling evidence presented by the objectors to the Application.

Thus, the Sub-Committee rejected the Application.

3. 32 COVENTRY STREET, W1D 6BR

WCC LICENSING SUB-COMMITTEE NO. 3 ("The Committee")

Thursday 4 November 2021

Membership: Councillor Jim Glen (Chairman) Councillor Richard Elcho and Councillor Maggie Carmen

Officer Support: Legal Advisor: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Georgina Wills
Presenting Officer: Karyn Abbott

Application for a New Premises Licence in respect of 32 COVENTRY STREET LONDON W1D 6BR 21/05711/LIPN

Present: Marcus Lavell of Complete Licensing (Legal Representative, Absolutely Fad Limited), James Hoffelner of Complete Licensing, Mr Fadi Saliba (Owner/Operator of the Applicant, Absolutely Fad Limited) and Kevin Jackaman (Licensing Authority)

Full Decision

Premises

32 Coventry Street London W1D 6BR

Applicant

Absolutely Fad Limited

Cumulative Impact Area

West End

Ward

St James's

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). According to the application this premises intends to operate as a restaurant and café.

Activities and Hours applied for

Hours premises are open to the public

Monday to Sunday 00:00 to 00:00

Late Night Refreshment (Indoor and outdoor):

Monday to Sunday 23:00 to 05:00

Representations received

- Licensing Authority (Michelle Steward)
- Metropolitan Police (PC Bryan Lewis) **Withdrawn**
- Environmental Health (Maxwell Kodagu) **Withdrawn**

Summary of issues raised by objectors

The Licensing Authority had maintained representation on the grounds of the Prevention of Public Nuisance, Prevention of Crime & Disorder, Public Safety and The Protection of Children from Harm. The Metropolitan Police and Environment Health withdrew their representations following additional conditions being agreed by the Applicant.

Policy Position

Policies HRS1, CIP1, FFP1 and HRS1 of the City of Westminster Statement of Licensing Policy apply.

DECISION AND REASONS

The Sub-Committee considered an application by Absolutely Fad Limited for a New Premises Licence in respect of 32 Coventry Street London W1D 6BR. The Presenting Officer provided a summary of the application and advised that representation had been maintained by the Licensing Authority. The Applicant had submitted additional information, and these were circulated to all parties. The Premises is situated in the St James's Ward and in the West End Cumulative Impact Zone.

Mr Marcus Lavell of Complete Licensing, the Applicant's Legal Representative, advised that the Premises operated as a restaurant and that the Applicant had applied for a takeaway provision to be included in their licensable activities. He confirmed that the premises had traded for over two decades and had formed a good relationship with the responsible Authorities. The Applicant had received two letters of support from the Metropolitan Police. The hours sought for late night refreshments were between 23:00 to 05:00 and Policy FFP1 applied. It was submitted that the Applicant needed to be treated as a 'fast food take away'. Mr Lavell highlighted that the Environmental Health and Metropolitan Police had withdrawn their representations and these decisions indicated that the Licensing Objectives would be promoted. The Sub-Committee were reminded that no Resident Associations had objected to the Application.

Mr Fadi Saliba, Owner/Operator Applicant, Absolutely Fad Limited, informed the Sub Committee that the Premises had been affected by the Covid-19 Pandemic and that during the pandemic the restaurant and other similar establishments had prepared over 300 meals and snacks for NHS staff from three different Hospitals and also for other key workers. He had received an award for his charitable works during the Covid-19 pandemic lock down. Mr Saliba advised that an application had been made to enable the Premises to recover from the poor trade during the past 18 months. The Applicant stated that the Premises current operational hours were between 11:00 to 05:00. Patrons were required to consume meals in the Premises. Potential customers sought alternative venues when informed there were no take away service. The Sub-Committee were advised that patrons would queue at the Premises during the early morning.

Mr Lavall advised that it was acknowledged that there was a saturation of licensed premises which provided alcohol in the West End Cumulative Area Zone. He commented that Policy D5 indicated that late night refreshments caused patrons leaving drinking led establishments to remain in the vicinity. He also highlighted that the Applicant already had a Premises License. The Sub-Committee were reminded that patrons were already in the vicinity and that the Premises would not draw individuals into the locality. He commented that patrons seeking late night refreshments would either consume their meal in the Premises, remain in a queue or seek alternative providers.

Mr Lavell asserts that the inability for the Premises not being able to provide a takeaway service meant that individuals would find alternative providers, and this resulted in them remaining in the stress area for longer periods. The Sub-Committee noted that there were numerous food outlets in the vicinity who had takeaway provisions.

Mr Lavell commented that the Premises was situated in a unique location, had a Premises Licence, and was surrounded by other food outlets. He advised that a limited takeaway service would be provided, and that Conditions recommended by the Responsible Authorities had been agreed. These included for queues to be held inside the premises and be limited to ten persons. Patrons would be able to leave the stress area once they purchased food and this ensured that the Council's dispersal strategy for these areas were adhered to. The new premises licence would ensure conditions for licensable activities were updated and more effective. The Sub-Committee were told that a SIA door supervisor would also be employed. In response to questions from the Sub-Committee, Mr Lavell advised that there would be public convenience for all patrons including those queuing.

The Sub-Committee noted the aims of the Cumulative Impact Area and commented that the presence of other eateries in the area could not be considered as exception to policy and that the Policies took into consideration the overall number of persons within these localities. Mr Lovell commented that the Premises would be serving patrons already present in the vicinity and that individuals had the option of visiting other providers of late-night refreshments if they were unable to be provided with a takeaway service at the Applicant's site. Therefore, patrons who would otherwise be queuing at other eateries would leave the area once served.

Kevin Jackaman, Licensing Authority, had maintained representation as the Premises was situated within the Cumulative Impact Area and needed to be considered under Policies CPR1, FFP1 and HRS1. Mr Jackaman reminded the Sub-Committee of the requirements for each Policy and advised that the existing Premises Licence would be surrendered if the Application was granted. The Applicant had applied for the same existing operational hours and had agreed to conditions proposed by both the Metropolitan Police and Environmental Health. He advised that the conditions which were agreed by the Applicant were more than what was currently on the existing License.

The Sub-Committee was informed that there were concerns regarding the removal of the current Condition 9 which was imposed by a previous Licensing Sub-Committee when the Premises hours were extended. Mr Jackaman advised that the Sub-Committee needed to be satisfied that the Application could be treated as exception to Policy. In response to questions from the Sub-Committee, Mr Jackaman accepted that the Sub-Committee needed to determine whether the arguments put forward by the Applicant that patrons would be encouraged to leave the stress area once served should stand.

In response to the Legal Officer, Mr Lavell advised that conditions proposed by the Environmental Health had been agreed. Mr Lavell advised that only background music would be played at the Premises and that a condition for a noise limiter had been accepted. Mr Lavell confirmed that a SIA Security Guard would monitor the queue and ensure that only the maximum number of people permitted are queuing at any one time.

The Sub-Committee noted that there is a presumption to refuse applications in the Cumulative Impact Area except in very specific circumstances due to the negative effect on the amenity of residents. The Sub-Committee agreed that it was expected for all operators to be responsible and conscientious premises licence holders and that this did not provide an exception.

The Sub-Committee further noted that the Covid-19 Pandemic was not an exception because it applied to operators across the West End who all had a terrible trading period. There were no objectors from Environmental Health, Metropolitan Police, Amenity Societies, and residents. This also did not on its own does not provide and exception. The Sub-Committee noted if the premises licence was granted, it would be properly conditioned with a suite of up-to-date conditions including a SIA Door Supervisor from 23:00 until the close of the Restaurant. There were no off sales of alcohol proposed and the Application also included a Personal Condition limiting the Premises Licence to operation by the Applicant.

CONCLUSION

The Sub-Committee acknowledged and commended the good work which the Applicant had undertaken with the community and responsible authorities.

The Sub-Committee agreed that as a result of a suite of up-to-date conditions being agreed, including requiring a door supervisor at the premises, and that the operation, in the main, would not attract new patrons to the area but would be serving patrons already present in the vicinity, resulting in patrons potentially leaving the area earlier, rather than remaining and searching for other eateries, this application was an exception to policy.

The Committee has determined an application for a grant of Premises Licence under the Licensing Act 2003 ("The Act").

The Sub-Committee having read the report by the Director of Public Protection and Licensing that was before it; the written submissions of the Applicant and those parties objecting to the application; and, having heard presentations and representations by, and/or on behalf of, those parties present at the proceedings, as well as the responses by those parties to questions put to them by Members of the Sub-Committee, the Sub-Committee was satisfied that, in accordance with the Home Office Guidance, on the evidence before it that it was appropriate and proportionate, in all the circumstances, to determine the application:

1. To grant permission for the **Late-Night Refreshment** Monday to Sunday 23:00 to 05:00 hours indoors and outdoors.
2. To grant permission for the **opening hours of the premises** Mondays to Sundays inclusive from 00.00 to 00.00
3. To grant the new premises licence subject to any relevant mandatory conditions.

4. To grant the new premises licence 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 the hearing with the agreement of the Applicant

5. At the close of business each day the premises are open for business, the pavement from the building line to the kerb edge immediately outside the premises and to a distance of 10 metres on either side, and to include the gutter / channel at it junction with the kerb edge, is swept whilst the premises are open for business and litter sweepings collected and stored in accordance with the approved refuse storage arrangements.
6. When engaged, all SIA licensed door supervisors will:
 - a) Display their SIA badges in yellow arm bands
 - b) be equipped with closed circuit radios;
 - c) be equipped with "body worn video" camera devices that will record both sound and images. All recordings will be stored for a minimum of 31 days with date and time stamping. Viewing of recordings will be made available immediately upon request of the Police or Responsible Authority Officer throughout the preceding 31 day period; and
 - d) when stationed outside the premises, wear high visibility yellow jackets or vests.
7. The premises licence holder will employ additional SIA licensed door supervisors on a risk-assessed basis. The written risk assessment shall be available to view by the Responsible Authorities at all times.
8. The premises licence holder will ensure that a minimum of 1 SIA licensed door supervisors are on duty at the premises from 23:00 until 05:00 (or until 30 minutes after closing to ensure safe dispersal of any remaining customers) the premises closes to the public, and a log will be kept at the premises and made available to Responsible Authority Officers which 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 including items found or abandoned);
 - (f) any faults in the CCTV system or searching equipment or scanning equipment;
 - (g) daily inspection of the CCTV system
 - (h) any refusal of the sale of alcohol; and
 - (i) any visit by a relevant authority, Police Service, Ambulance Service or Fire Brigade.

(j) The full name and registration number of any SIA door person who has been involved in dealing with any of the above matters (a to g).

The log will be completed as soon as possible, and, in any case within 12 hours of the occurrence or at the end of the Door Supervisors shift whichever is sooner.

9. Where SIA licenced door supervisors are used at the premises a record will be maintained (on the premises) which is legible and details:
- (a) The day and date when the door supervisors were deployed;
 - (b) The full name and SIA registration number of each door supervisor on duty at the premises; and
 - (c) The start and finish time of each door supervisors work duty period.

This record will be retained on the premises for 31 days and be immediately provided to Responsible Authority Officers upon request.

- 10 Any person employed as a door supervisor at the premises either directly or by way of a third party will be required to undertake a refresher course in physical intervention skills (provided by a trainer who themselves has been trained by an SIA endorsed awarding organisation and has an SIA required qualification for trainers). Such training will have been received within the last 12 months.

- 11 A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria:

- (a) the limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses,
- (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder,
- (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team,
- (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and
- (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

- 12 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.

- 13 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
- 14 All windows and external doors shall be kept closed after 23:00 hours except for the immediate access and egress of persons
- 15 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly
- 16 A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity
- 17 All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
- 18 No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day.
- 19 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
- 20 No deliveries from the premises, either by the licensee or a third party shall take place between 23:00 and 08:00 hours on the following day
- 21 The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed 20 persons
- 22 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
- 23 The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided
- 24 No fumes, steam or odours shall be emitted from the licensed premises to cause a nuisance to any persons living or carrying on business in the area where the premises are situated

- 25 No licensable activities shall take place at the premises until premises licence 18/16269/LIPVM or subsequently numbered Premises Licence has been surrendered.
- 26 The provision of hot food and hot drink for the purpose of take away from the premises for consumption, is only permitted whilst the premises licence is held by Absolutely Fad Limited.
- 27 The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
- a) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
 - b) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the gaming area, office, toilet entrance, any seating and external area immediately outside the premises entrance.
 - c) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
 - d) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period
- 28 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.
- 29 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.
- 30 There shall always be at least one member of staff on duty in the basement dining area.
- 31 There shall be no queuing outside the premises. Queuing inside the premises for takeaway food, shall be permitted for a maximum of 10 customers
- 32 There shall be waiter/waitress service to seated customers only, save for take away customers, who shall order inside the premises, from the ground floor counter area.
- 34 There shall be no glass bottles supplied with take away meals.
- 35 Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area covered by CCTV and monitored by Security. The area shall be well lit and covered by CCTV.

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

**The Licensing Sub-Committee
4th November 2021**

4. MISTER NICE, 14-16 DAVIES STREET, W1K 3DR

WCC LICENSING SUB-COMMITTEE NO. 3 ("The Committee")

Thursday 4 November 2021

Membership: Councillor Jim Glen (Chairman) and Councillor Maggie Carmen

Officer Support: Legal Advisor: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Georgina Wills
Presenting Officer: Kevin Jackaman

**Application for a New Premises Licence in respect of MISTER NICE
14 - 16 DAVIES STREET LONDON W1K 3DR 21/06496/LIPN**

Present: Marcus Lavell, Keystone Law (Legal Representative, Goodkat Limited), Mr Jean-Philippe Kley (Owner/Operator, Goodkat Limited), Mr Romain Ribera (Designated Premises Supervisor, Goodkat Limited) and Mr Sotirios Sakkas (General Manager, Goodkat Limited)

Full Decision

Premises

Mister Nice 14 - 16 Davies Street, London W1K 3DR

Applicant

Goodkat Limited represented by Mr Marcus Lavell of Keystone Law

Cumulative Impact Area

None

Ward

West End

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). According to the application this premises intends to operate as a restaurant.

Activities and Hours applied for

Sale by retail of alcohol [Both]

Monday to Thursday 10:00 to 23:30
Friday to Saturday 10:00 to 00:00
Sunday 12:00 to 22:30

Hours premises are open to the public

Monday to Thursday 07:00 to 00:00
Friday to Saturday 07:00 to 00:30
Sunday 07:00 to 23:00

Late Night Refreshment:

Monday to Thursday 23:00 to 23:30
Friday to Saturday 23:00 to 00:00

Film

Monday to Thursday 10:00 to 23:30
Friday to Saturday 10:00 to 00:00
Sunday 12:00 to 22:30

Representations received

- Metropolitan Police (PC Nicole Sondh) **Withdrawn**
- Environmental Health (Ian Watson) **Withdrawn**
- One Local Resident

Summary of issues raised by Objectors

- One local resident had maintained representation on the grounds of the Prevention of Public Nuisance and that the Premises would disturb the nature and feel of the flow for the existing trades (high class galleries) and will make the vicinity lose its character.
- The Metropolitan Police and Environmental Health withdrew their Representations following agreement of conditions

Policy Position

Policies RNT1 and HRS1 of the City of Westminster Statement of Licensing Policy apply.

DECISION AND REASONS

The Sub-Committee considered an application by Goodkat Limited for a New Premises Licence in respect of Mister Nice 14 - 16 Davies Street London W1K 3DR. The Presenting Officer provided a summary of the Application and advised there were additional submissions from the Applicant, and these were circulated to all

parties. The Sub-Committee was informed that the objector would not be attending the Meeting.

Mr Marcus Lavell, of Keystone Law, Applicant's Legal Representative confirmed that the Premises intended to operate as a 'classic restaurant' which showcased French wine. The Applicant had agreed to the Restaurant Model Condition 66, and the Premises hours of operation were within the core hours. The establishment is not situated in any Cumulative Impact Area. Mr Lavell highlighted that there was only one objector and that the individual had maintained representation on the basis that they did not want a restaurant to be situated next door to their Premises. The neighbouring Premises currently operates as an Art Gallery.

Mr Lavell advised that the Premises and other Units in the vicinity were empty. He reminded the Sub-Committee that the Government had introduced a New Planning Class E which enabled vacant units to be transferred into 'living sustainable premises'. He advised that the Premises would not cause public nuisance and highlighted that the Applicant had provided a dispersal policy. It was noted that there had been no representations from nearby local residents about concerns regarding patrons congregating and causing obstruction on the public highway. He commented that the pavements width in the vicinity was generous and that the owner of the premises who objected had planters outside their establishment.

Mr Lavell advised that the premises would have door staff who would be present whilst patrons left the restaurant, and this was to ensure that individuals had a good experience during their visit. In response to questions from the Sub-Committee Mr Lavell advised that the Applicant previously operated an establishment in the Borough and was working on various business ventures. Mr Lavell confirmed that conditions which stipulated that no noise nuisance should emanate from the Premises would be adhered too.

CONCLUSION

The Sub-Committee noted that the application was for a new Premises Licence, that the site was not in the Cumulative Impact Area and that licensable activities were within Westminster Council's Core Hours. There were also no objections from the Responsible Authorities and furthermore, a Restaurant Model Condition 66 had been accepted with minor amendments:

Save for private pre-booked wine tasting events, the premises shall only operate as a restaurant:

- (i) in which customers are shown to their table,*
- (ii) where the supply of alcohol is by waiter or waitress service only,*
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery (except chopsticks),*
- (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 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.

The Committee has determined an application for a grant of a new Premises Licence under the Licensing Act 2003 ("The Act").

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

1. To grant permission for regulated entertainment. *(Indoors)*

Monday to Thursday 10:00 to 23:30
Friday to Saturday 10:00 to 00:00
Sunday 12:00 to 22:30

2. To grant permission for late-night refreshment. *(Indoors)*

Monday to Thursday 23:00 to 23:30
Friday to Saturday 23:00 to 00:00

3. To grant permission for the sale of alcohol. *(On and off sales)*

Monday to Thursday 10:00 to 23:30
Friday to Saturday 10:00 to 00:00
Sunday 12:00 to 22:30

4. To grant permission for the premises to open to the public Mondays to Thursdays 07.00 to 00.00, Fridays and Saturdays until 00.30 and on Sundays until 23:00.

5. To grant the permission for All licensable activities and opening times to be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

6. That the new premises licence is subject to any relevant mandatory conditions.

7. That the new premises licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing with the

agreement of the Applicant

8. Save for private pre-booked wine tasting events, the premises shall only operate as a restaurant:
- (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery (except chopsticks),
 - (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 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.

9. During the hours of operation, 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.
10. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
11. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and to leave the area quietly.
12. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before collection times.
13. Loudspeakers shall not be located in the entrance lobby or outside the premise building.
14. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
15. The premises licence holder shall ensure that any patrons smoking outside the premises do so on an orderly manner and are supervised by

staff so as to ensure that there is no public nuisance or obstruction of the public highway.

16. 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.
17. 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.
18. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental health Services and access shall only be by persons authorised by the Premises Licence Holder. The limiter shall not be altered without prior agreement with the Environmental health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised officer of the Environmental health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
19. No fumes, steam or odours shall be emitted from the licenced premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
20. 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 preceding 31 day period.
21. A staff member from the premises who is conversant with the operation of the CCTV shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
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, which 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 refusal of sale of alcohol;
 - g) Any faults in the CCTV system;
 - h) Any visit by a relevant authority or emergency service.
23. There shall be no striptease or nudity and all persons shall be decently attired at all times unless the premises are operating under the provisions of a Sexual Entertainment Licence.
24. A challenge 21 proof of age scheme shall be operated at the premise 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.
25. 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.
26. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
27. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
28. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
29. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
30. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
31. No licensable activities shall take place at the premises until the Environmental Health Consultation Team has determined the capacity of the premises and the Licensing Authority has replaced this condition on the licence with a condition detailing the capacity so determined. In any event the capacity of the premises shall not exceed 100 persons (excluding staff) in total, with no more than 100 customers on the Ground Floor and no more than 60 customers in the basement, at any one time.
32. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.

33. 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.
34. No deliveries to the premises shall take place between 23.00 hours and 08.00 hours on the following day.
35. 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.
36. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

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

**The Licensing Sub-Committee
4th November 2021**

5. 6 RATHBONE PLACE, W1T 1HL

WCC LICENSING SUB-COMMITTEE NO. 3 ("The Committee")

Thursday 4 November 2021

Membership: Councillor Jim Glen (Chairman) Councillor Richard Elcho and Councillor Maggie Carmen

Officer Support: Legal Advisor: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Georgina Wills
Presenting Officer: Kevin Jackaman

**Application for a New Premises Licence in respect of 6 RATHBONE PLACE
LONDON W1T 1HL 21/06214/LIPN**

Present: Alun Thomas, Thomas and Thomas (Legal Representative, Shaftesbury CI Limited), Julia Wilkinson (Applicant Company, Shaftesbury CI Limited) Krystal Moore (Applicant Company, Shaftesbury CI Limited). Nick Pring (Proposed Tenant, of Urban Pubs & Bars) and Karyn Abbott (Licensing Authority)

Full Decision

Premises

6 Rathbone Place London W1T 1HL

Applicant

Shaftesbury CI Limited

Cumulative Impact Area

West End

Ward

West End

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). According to the application the Premises intends to operate as a traditional Public House.

Activities and Hours applied for:**Sale by retail of alcohol [both]**

Monday to Thursday 10:00 to 23:30

Friday to Saturday 10:00 to 00:00

Sunday 12:00 to 22:30

Sundays before Bank Holidays: 12:00 to 00:00. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Hours premises are open to the public

Monday to Thursday 10:00 to 23:30

Friday to Saturday 10:00 to 00:00

Sunday 12:00 to 22:50

Sunday before Bank Holidays: 12.00 to 00.00

Late Night Refreshment:

Monday to Thursday 23:00 to 23:30

Friday to Saturday 23:00 to 00:00

Sundays before Bank Holidays: 12:00 to 00:00. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day

Live music, recorded music, performance of dance and anything of a similar description :

Monday to Sunday 00:00 to 00:00

Films, Indoor sporting events:

Monday to Thursday 10:00 to 23:30

Friday to Saturday 10:00 to 00:00

Sunday 12:00 to 22:30

Sundays before Bank Holidays: 12:00 to 00:00

Representations received

- Metropolitan Police (PC Cheryl Boon) **Withdrawn**
- Environmental Health (Anil Drayan) **Withdrawn**
- Licensing Authority (Jessica Donovan)

Summary of issues raised by objectors

- The Licensing Authority had maintained representation on the grounds of the Prevention of Crime & Disorder, Protection of Children from Harm, Public Safety and Public Nuisance

Policy Position

Policies CIP1, PB1, PB1(B) and HRS1 of the City of Westminster Statement of Licensing Policy apply.

DECISION AND REASONS

The Sub-Committee considered an application by Shaftesbury CI Limited for a New Premises Licence in respect of 6 Rathbone Place London W1T 1HL. The Presenting Officer provided a summary of the Application confirming the representation had been maintained by the Licensing Authority. There were also representations made by the Metropolitan Police and Environmental Health and both were withdrawn following the Applicant agreeing to additional conditions.

The Premises is situated in the West End Ward and the West End Cumulative Impact Zone.

Alun Thomas of Thomas, Legal Representative, Shaftesbury CI Limited, stated that the Applicant had over 250 licensable properties in the Borough and that the proposed tenant Mr Nick Pring owned 34 Premises which were located around London. The Premises previously traded as the Black Horse Public House for over 150 years and the Applicant wished to restore the premises to this former use as a traditional public house.

The Sub Committee was informed that the former Premises Licence was surrendered in 2019 by the previous tenant. The previous tenant TYL Limited operated a late-night cocktail bar and had obtained a new Premises Licence to enable licensable activities until 01:00. The Applicant had applied to reinstate the Premises Licence which was surrendered by TYL Limited. He confirmed that the current licence which was transferred from TYL Limited to Shaftesbury CI Limited and which allows for licensable activities until 01:00, will be surrendered. Mr Thomas

confirmed that the application sought would be within core hours and that additional conditions had been agreed.

Mr Thomas acknowledged that an exception to policy would need to be demonstrated and commented that the Applicant would be surrendering a license which permitted a late-night bar until 01:00 in exchange for a licence with reduced operational hours. The new licence sought would also have additional restrictions.

Mr Thomas commented that Westminster City Council Planning Sub-Committee had agreed to grant the TYL Limited planning application and had noted the important role the premises played in supporting the local night-time economy and recognised that the application would not harm residential amenities.

Mr Thomas noted that the Premises was located within the Cumulative Impact Area and commented that it was reported that robberies and crime and anti-social behaviour rose in these localities during the later hours. He asserted that the premises closing at an earlier time would ensure that patrons are not put at risk of becoming victims of crimes.

Mr Thomas informed the Sub Committee that Shaftesbury CI Limited were responsible landlords and had made various improvement in the West End with a good track record with their tenancies. He commented that the applicant was an active estate manager and had their own estate security team and managing agents.

Mr Nick Pring confirmed that he operated 34 pubs and bars and had overseen public houses in London for 20 years. These included notable public houses such as Gate House in Highgate, North London. This premises is to be reinstated as a traditional pub. The building will also be renovated. He commented that the premises operational hours would be within the core hours.

Mr Thomas advised that there would be minimum changes to the layout and that the bar area would be moved to the back of the first floor. Mr Thomas highlighted that Policy D12 and D15 stipulated which factors needed to be considered and commented that this included the transfer of existing operations and whether the size and location of the new Premises was likely to have a less detrimental impact and meet the licensing objectives. The Premises Licence sought would reduce the terminal hour from 01:00 to core hours and met Policy D15.

In response to questions from the Sub-Committee, Mr Thomas confirmed that an application to vary the existing licence was not made, as the Applicant did not wish to inherit a licence which was personal to the previous Premises Licence Holder. The previous licence also prohibited alcohol consumption outside the premises. He advised that the Applicant wished for this restriction to be removed along with the requirement for alcohol to be sold by waiter service.

Mr Thomas noted that Paragraph F67 of the Policy gave guidance about resurrecting a lapsed licence following insolvency and confirmed that the Applicant would be surrendering the old licence. He commented that the site would not be redeveloped or demolished, and that the Applicant sought to reinstate the unit to a previous use. He commented that the Policies would not be undermined. The Sub-Committee were advised that Shaftesbury CI Limited had four other Premises within the vicinity.

Karyn Abbott, Licensing Authority, made representations that the Applicant had been consulted and the premises proposed hours of operations were within the core hours. She noted that the Applicant had agreed the additional conditions proposed by both the Metropolitan Police and Environmental Health. Ms Abbott advised that the previous licence was surrendered in 2019 and that the Application fell under Policy PB1 as there were no ancillary nature to the consumption of alcohol and that the Policy required for new licenses for pubs and bars in the Cumulative Impact Area should be limited to exceptional circumstances. The Sub-Committee were reminded that the Applicant must demonstrate that the Premises would not add to the cumulative Impact in the West End and be satisfied that 'exceptional circumstances' to Policy had been demonstrated by the Applicant.

Mr Thomas responded and reminded the Sub-Committee that the existing Licence operated until 01:00 and would have more of a cumulative impact than the proposed licence. He advised that the Applicant was a responsible landlord, and the proposed tenant was a good operator. Mr Thomas highlighted that the existing licence would be surrendered and be replaced with a dormant licence and new model conditions. He advised that patrons would not be able to consume alcohol outside the Premises after 23:00 and that all off sales would be in sealed containers apart from areas immediate adjacent to the Premises. He advised that conditions which ensure that the immediate area of the Premises are kept clean and litter free had been accepted. The Sub-Committee was advised that a condition which requires for patrons to be supervised whilst drinking and smoking in the external areas so that that they do not cause any nuisances in the public highway had also been agreed.

In response to the Legal Officer, Mr Thomas confirmed that the Applicant would agree for Condition 12 to be amended. The word 'Existing' be replaced with 'Written operations'. The condition would read *Written operations for procedures and policies regarding risk assessments, training of staff and all aspects of regulatory compliance and measures to prevent noise nuisance shall apply*. This was agreed.

Mr Burnett, Legal Advisor to the Sub Committee asked for clarification in relation to the apparent capacity increase which could add to adverse issues in the area. Mr Thomas responded that a capacity on the ground floor was not stipulated by the Environmental Health or District Surveyors as there was direct access to the street. He advised that the ground floor could accommodate 80 and 90 persons. Furthermore, he confirmed that the capacity on the first floor would be restricted and that the previous licence had an overall capacity of 120 and enabled alcohol consumption until 01:00. In response to the Policy Officer, Mr Thomas advised that the Applicant agreed to reduce operational hours on Sunday to 22:30

Conclusion

The Sub-Committee noted that the Application was for a new Premises Licence in the Cumulative Impact Area and so required exceptional circumstances. The Sub-Committee noted that the Applicant had agreed to reduce the current operational hours to be within the Council's core hours. The existing licence with longer hours was to be surrendered and the history of the Premises was also considered. The Sub Committee found that there were exceptional circumstances as to why the Application should be granted subject to the conditions in the papers.

The Committee has determined an application for a grant of a new Premises Licence under the Licensing Act 2003 ("The Act").

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

37. To grant permission for regulated entertainment and late-night refreshment.
(Indoors):

- a) Live music, recorded music, performance of dance and anything of a similar description - 24hrs
- b) Late Night Refreshment –
 - Monday to Thursday 23:00 to 23:30
 - Friday to Saturday 23:00 to 00:00
 - Sundays before Bank Holidays: 23:00 to 00:00. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day
- c) Films and Indoor sporting events –
 - Monday to Thursday 10:00 to 23:30
 - Friday to Saturday 10:00 to 00:00
 - Sunday 12:00 to 22:30
 - Sundays before Bank Holidays: 12:00 to 00:00

38. To grant permission for the sale of alcohol. (*On and off sales*):

Monday to Thursday 10:00 to 23:30
Friday to Saturday 10:00 to 00:00
Sunday 12:00 to 22:30
Sundays before Bank Holidays: 12:00 to 00:00. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

39. To grant permission for the premises to open to the public:

Monday to Thursday 10:00 to 23:30
Friday to Saturday 10:00 to 00:00
Sunday 12:00 to 22:30
Sunday before Bank Holidays: 12.00 to 00.00

40. That the new premises licence is subject to any relevant mandatory conditions.

41. That the new premises licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

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

6. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
7. The number of persons accommodated at any one time (excluding staff) shall not exceed 60 on the first floor.
8. Written operational procedures and policies regarding risk assessments, training of staff and all aspects of regulatory compliance and measures to prevent noise nuisance shall apply.
9. Emergency exit and doors are to open in the direction of escape.
10. Alcohol may be sold or supplied:
 - (i) On Monday to Thursday, 10:00 to 23:30.
 - (ii) On Friday to Saturday, 10:00 to 00:00
 - (iii) On Sundays, 12:00 to 22:30.
 - (iv) On Sundays, immediately prior to a Bank Holiday, 12:00 to 00:00
 - (v) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

NOTE - The above restrictions do not prohibit:

- (a) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (c) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (e) the taking of alcohol from the premises by a person residing there;
- (f) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (g) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

11. Customers to be off the premises by no later than the terminal hours set out above save that on Sundays when the terminal hour is 10.30pm, customers must be off the premises by no later than 10.30 pm.
12. Credit card sales to be allowed, subject to the proviso that customers are to be presented with an itemised bill.
13. All persons under the age of 14 shall be accompanied at all times by an adult. No person under 14 shall be allowed to remain in the bar area after 9pm (9.30pm if taking a table meal accompanied by an adult).

Conditions proposed by Environmental Health and agreed by the applicant so as to form part of the operating schedule

14. 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.
15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
16. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
17. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
18. No waste or recyclable materials, including bottles, shall be moved, removed from, or placed in outside areas between (23.00) hours and (07.00) hours on the following day.
19. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (07.00) hours on the following day.
20. After 23:00 hours 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.
21. No deliveries to the premises shall take place between (23.00) and (07.00) hours on the following day.
22. No licensable activities shall take place at the premises until premises licence 21/07718/LIPT (or such other number subsequently issued for the premises) has been surrendered and is incapable of resurrection.

Conditions proposed by the Police and agreed by the applicant so as to form part of the operating schedule

23. (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
(b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
(c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
(e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
24. 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.
25. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport, or proof of age card with the PASS Hologram.
26. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
- (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system, searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
27. Food and Non-Intoxicating Beverages, including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
28. There shall be no self-service of Alcohol.
29. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
30. All sales of alcohol for consumption off the premises, save for areas immediately adjacent to the premises, shall be in sealed containers only.

31. 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.
32. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are properly supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
33. As soon as possible, and in any event within 1 month from the grant of this licence, the premises shall join the local Pubwatch or other local crime reduction scheme approved by the police, and local radio scheme if available.

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

**The Licensing Sub-Committee
4th November 2021**

6. 76 EDGWARE ROAD, W2 2EG

WCC LICENSING SUB-COMMITTEE NO. 3 ("The Committee")

Thursday 4 November 2021

Membership: Councillor Jim Glen (Chairman) Councillor Richard Elcho and Councillor Maggie Carmen

Officer Support: Legal Advisor: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Georgina Wills
Presenting Officer: Kevin Jackaman

**Application for a New Premises Licence in respect of 76 EDGWARE ROAD
LONDON W2 2EG 21/0496/LIPN/LIPN**

Present: Jamal Hafeez (Applicant Company, Jenab 2 Limited), PC Bryan Lewis (Metropolitan Police) and Maxwell Koduah (Environmental Health)

Full Decision

Premises

76 Edgware Road London W2 2EG

Applicant

Jenab 2 Limited

Cumulative Impact Area

None

Ward

Bryanston And Dorset Square

Special Consideration Zone

Edgware Road

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The premises intends to trade as a 24-hour Dessert / Coffee Parlour.

Activities and Hours applied for**Hours premises are open to the public**

Monday to Sunday 08:30 to 05:00

Late Night Refreshment: Indoors and Outdoors

Monday to Sunday 23:00 to 05:00

Representations received

- Metropolitan Police (PC Bryan Lewis)
- Environmental Health (Maxwell Kudauh)
- Connaught Court Tenants Association
- One local resident

Summary of issues raised by objectors

- The Metropolitan Police had maintained representation as there were Insufficient conditions proposed to support the Prevention of Crime and Disorder, Licensing Objective. The Environmental Health, Connaught Court Tenants Association and a local resident had maintained representation on the grounds of the prevention of Crime and Disorder, Public Nuisance and Public Safety.

Policy Position

Policies HRS1, CIP1, FFP1(A) and SCZ1 of the City of Westminster Statement of Licensing Policy apply.

DECISION AND REASONS

The Sub-Committee considered an application by Jenab 2 Limited for a New Premises Licence in respect of 76, Edgware Road, London W2 2EG. The Presenting Officer provided a summary of the Application and advised that representation had been maintained by the Metropolitan Police, Environmental Health, Connaught Court Tenants Association and a local resident.

Environmental Health had submitted additional information, and these were circulated to all parties. The Premises is situated in the Bryanston And Dorset Square Ward and in the Edgware Road Special Consideration Zone.

The Applicant, Mr Jamal Hafeez, of Jenab 2 Limited stated that a late-night refreshments licence was sought. The Premises is to offer desserts such as gelato ice creams, waffles, and crepes. Patrons would include families and young people. The operation was part of the Cookies and Creams Franchise and did not offer alcohol or provide shisha. Mr Hafeez operated a similar premises in the London Borough of Tower Hamlets that ceased operations at 03:30. There have been no adverse incidents at this site. Mr Hafeez commented that he was aware of the concerns regarding operating after 00:00. However, the Premise was located near Hyde Park and neighbouring establishments operated until later hours.

Mr Hafeez explained that a late-night refreshment had been sought as trading during the earlier hours was slow. Trade usually increased during the latter part of the day and when the Premises was about to close. He had met with Environmental Health and agreed conditions proposed by the Service and those by the Metropolitan Police.

The Sub-Committee was advised that the Premises had numerous CCTV cameras and would have a staff member stationed at the premises' doors. This was to ensure that customers have a good experience and the positive reviews about the Premises continued to be made.

Mr Hafeez commented that the Premises would provide a 'good offer' to the locality and be a divergent for the large footfall that was already present in the vicinity. There are several security patrols along Edgware Road and a door supervisor would be present at the door from 22:00. Furthermore, the Premises was part of a franchise and was monitored on how they operate which included regular audits and staff training.

Mr Hafeez confirmed that a planning application for external seating would be sought and that chairs would be rendered unusable at 23:00. The Sub-Committee was advised that the Premises had a private courtyard and that the Premises had been refurbished and was largely seated.

Maxwell Koduah, Environmental Health Officer's representations had been maintained as the Premises operational hours were outside core hours. Mr Koduah advised that he had met with the Applicant and had agreed additional conditions. These included a trained person to be stationed at the door from 23:00 and that the Applicant should be required to undertake a risk assessment and increase the security staff numbers if deemed appropriate. He advised that it was preferred for the Premises to cease operation at an earlier time.

In response to questions from the Sub-Committee, Mr Hafeez confirmed that he would accept the operational hours to cease at 03:00 rather than 05:00. Following questions from the Policy Officer, Mr Hafeez confirmed that 'trained personnel' and staff members had extensive training, and this included door control and monitoring waiting time. He advised that trained staff members were not SIA registered and that Team Leaders also monitored the doors.

The Sub-Committee noted that door staff involved in security needed to be SIA registered and was advised by the Legal Officer that the Applicant should seek independent legal guidance about requisite training for door security. PC Bryan Lewis, Metropolitan Police advised that he had liaised with the Applicant's Agent and commented that the Premises was not a high-risk venue. PC Lewis highlighted that no alcohol or shisha would be offered at the Premises. He commented that representations would have been withdrawn if conditions had been agreed earlier. PC Lewis advised that it would be beneficial for the Premises to have registered door security, and this would reduce risks associated with later operational hours and commented that a number of fast-food premises had SIA registered door supervisors. Mr Hafeez advised the Sub-Committee that the Premises had adequate number of staff to control patrons.

In response to the Legal Officer, Mr Hafeez confirmed that he accepts a condition which requires patrons to be supervised in the external area to ensure that there are no public nuisance and that the public highway is not obstructed. In response to the Environmental Officer, Mr Hafeez agreed that a condition which requires for last entry to be at 02:00 would also be acceptable.

CONCLUSION

The Sub-Committee notes that the Application was for a new Premises License in the Edgware Road Special Consideration Zone. The Sub-Committee notes that the Applicant had agreed to conditions and reduced the operational hours to 03:00 and that external chairs would be rendered unusable at 23:00. The Sub-Committee also took into account that the Applicant would amend their Security Door staff Condition to state that a risk assessment of the door would be conducted and following assessment if deemed appropriate, a qualified SIA Door Supervisor would be employed. The Risk Assessment should be made available to the Appropriate Authorities

The Sub-Committee has determined the application for a grant of a new Premises Licence under the Licensing Act 2003 ("The Act").

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, **the Committee has decided**, after taking

into account all of the individual circumstances of this case and the promotion of the four licensing objectives: -

1. To grant permission for Late Night Refreshment Indoors and Outdoors Mondays To Sundays 23.00 to 03.00.
2. To grant permission for the premises to open to the public Mondays to Sundays 08.30 to 03.00.
3. That the new premises licence is subject to any relevant mandatory conditions.
4. That the new premises licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

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

5. 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
6. All windows and external doors shall be kept closed after 21:00 hours except for the immediate access and egress of persons
7. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly
8. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity
9. All outside tables and chairs shall be rendered unusable by 23.00 hours each day
10. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
11. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day
12. 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
13. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day

14. No deliveries from the premises, either by the licensee or a third party shall take place between 23:00 and 08:00 hours on the following day
15. 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
16. 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
17. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided
18. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated
19. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed Basement 25 persons and Ground Floor 25 persons.
20. At least 1 trained personnel shall be on duty at the entrance of the premises from 23.00 until 30 minutes after trading hours to supervise the entry and exit of patrons.
21. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
 - (a) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
 - (b) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance and all its external seating areas.
 - (c) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
 - (d) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
22. 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

23. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any visit by a relevant authority or emergency service.

24. The need for door supervisors at the premises, shall be on a written risk assessed basis and that risk assessment shall be available to the responsible authorities whilst the premises is open

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

**The Licensing Sub-Committee
4th November 2021**