



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (5)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Thursday 16th December, 2021**, This is a virtual Teams Meeting.

**Members Present:** Councillors Murad Gassanly (Chairman), Louise Hyams and Rita Begum

#### 1. MEMBERSHIP

1.1 There were no changes to the Membership.

#### 2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

#### 1. CONNAUGHT HOUSE, 1-3 MOUNT STREET, W1K 3NB

#### **WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE No.5** **("The Committee")**

Thursday 16 December 2021

Membership: Councillor Murad Gassanly (Chairman)  
Councillor Louise Hyams  
Councillor Rita Begum

Officer Support: Legal Advisor: Vivienne Walker  
Policy Officer: Aaron Hardy  
Committee Officer: Kisi Smith-Charlemagne  
Presenting Officer: Roxsana Haq

**Application for a New Premises Licence in respect of Connaught House 1-3 Mount Street London W1K 3NB 21/08517/LIPN**

#### **FULL DECISION**

#### **Premises**

1-3 Mount Street London W1K 3NB

## **Applicant**

Caprice Holdings Limited

## **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"). The Premises propose to operate as a restaurant. The application follows pre-application advice. The Premises are located within the West End Ward but are not within the West End Cumulative Zone nor Special Consideration Zone.

## **Proposed Activities and Hours**

### **Late Night Refreshment (Indoors and Outdoors)**

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

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

### **Sale by Retail of Alcohol (Indoors and Outdoors)**

Monday to Saturday 10:00 to 00:30 hours Sunday 10:00 to 00:00 hours

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

### **Opening Hours of the Premises**

Monday to Saturday 10:00 to 00:30 hours Sunday 10:00 to 00:00 hours

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

## **Representations Received:**

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

### **Summary of issues raised by objectors:**

The proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety within the area. Residents stated Mount Street is a predominantly residential street with some restaurants and there is long standing precedent as to limitations on the use of properties in Mount Street for entertainment. Residents also stated that granting the application would be in breach of such precedent. The premises have not been used as a restaurant before, this would increase the risks of public nuisance, crime, and public safety in general. The proposed hours are outside of core hours and introducing late hours into a residential area would affect children and elderly residents sleeping early.

### **Policy Position:**

Under Policy RNT1, applications outside the West End Cumulative Impact Zone will generally be granted subject to matters identified in Policy RTN1.

Under Policy HRS1, applications for hours outside the core hours will be considered on their merits, subject to other relevant policies and with particular regard to the matters identified in Policy HRS1.

## **SUBMISSIONS AND REASONS**

The Presenting Officer Ms Roxsana Haq introduced the application, she advised the Licensing Sub-Committee that they had before them a new premises licence application who intended to operate as restaurant. Ms Haq informed the Sub-Committee that the Premises are located within the West End Ward but are not with the Cumulative Impact Zone nor Special Consideration Zone.

Ms Sarah Lefevre – Counsel for the Applicant addressed the Sub-Committee, she advised that the venue was a new and upmarket restaurant premises on the corner of Mount Street and Davies Street, which replaces a Porsche garage previously on the site. She explained that there were a series of conditions proposed and the supply of alcohol would be by waiter or waitress service or by service (condition 10). She advised that the consumption of alcohol, except for bona fide private functions will only be to persons seated or persons attending such functions. Ms Lefevre added that except in the hatched areas shown on the plan, the supply of alcohol shall be by waiter/waitress service or bar service only to persons seated ancillary to a meal. She advised that there was reference to after 23:00 but this could be removed demonstrating the true restaurant nature of the premises.

Ms Lefevre referred to the hatched areas, describing the shape and advising the Sub-Committee that the hatched area around the ground floor bar and rear room made up 9.3% of the total premises space. She added that final restaurant orders would be taken 90 minutes before the restaurant closed. With regards to the outside area, Ms Lefevre confirmed that permission was sought in advance of the application and her client had provided an operational and pavement licence management plan as well as the planning permission report which could be found in appendix 3 of the

Report. She confirmed that the tables and chairs would be rendered unusable after 22:30 hours.

Ms Lefevre informed the Sub-Committee that the premises consist of a ground, mezzanine, and basement floor. She advised the Sub-Committee that the ground floor included an entrance lobby, greeters' station, customer seating area, dining counter and separate customer lounge including a bar servery. It was noted that the mezzanine floor included additional customer seating areas, a private dining room and storage. Ms Lefevre explained that the basement floor included a kitchen, WCs and back of house areas. She confirmed that there was an external seating area on the ground floor.

Ms Lefevre advised the Sub-Committee that the premises are

located outside of the Mayfair Special Consideration Zone, however her client had given careful consideration to the application. She noted that the Policy stated at D58 that the local issues to consider are crime, noise nuisance and incidents relating to ambulance callouts. She advised that her client was confident that their style of operation and trading record within Westminster was not one that is associated with crime and disorder. Ms Lefevre confirmed that there is no objection from the Police and therefore crime and disorder was not a concern in respect of the application.

In respect of noise nuisance, Ms Lefevre added that her client had limited the use of the external area, and their extensive experience of operating high quality restaurants showed that dispersal is gradual, controlled and causes minimal noise with very little risk of noise disturbance or breakout. She confirmed that her client had also provided a very comprehensive acoustic report which confirmed no noise breakout will occur from the premises. She confirmed that waste bins would be stored in the basement along with a glass crusher.

Ms Lefevre explained that her client would work to a robust Operational Management Plan which dealt with dispersal and deliveries. She felt that it was really important to note that her client operated a number of licensed premises in the area and there would only be one delivery made between 07:30 and 19:30 to all their premises at the same time in the area, for example fresh bread. She pointed out that normally each individual premises would have their own individual delivery, adding further traffic to the area.

Ms Lefevre advised the Sub-Committee that her client noted that applications for hours were outside Westminster's core hours will be considered on their merits, with particular regard to the following not being located within a Special Consideration Zone, nonetheless, as a responsible operator, her client had given careful consideration to the four licensing objectives in the preparation of its application and accompanying operational management plan.

Ms Lefevre informed the Sub-Committee that whilst the hours for licensable activities are slightly beyond core hours, they had been in respect of the commercial viability of the premises and were not unusual for similar premises in the area. She added that her client was confident that their experience and the suitable conditions offered would mitigate any concerns. The nature and style of the premises are such that customers will disperse gradually with minimal noise.

Ms Lefevre confirmed that her client had at all times liaised closely with residents, who they felt would be impacted by the development, to ensure that the operation causes no risk of disturbance to them. She stated that significant mitigation measures were proposed in the conditions offered with the benefit of the applicant's experience and the applicant had fully complied with the conditions requested by the Environmental Health Officer. Ms Lefevre noted that her client had submitted a concept presentation and correspondence relating to mediation between the applicant and objectors. These can be found in appendix 3 of the report.

Ms Lefevre confirmed that customer dispersal will be gradual, as the nature of the operation meant that customers would leave in small groups over time. Also, customers would be asked to remain within the premises until their car arrived. She confirmed that there were also two taxi ranks virtually on the doorstep of the premises. Ms Lefevre confirmed the capacity of the premises had been assessed by the District Surveyor, and conditions had been offered regarding the movement of customers within the premises. She noted that the hatched area exemption for customers related to a small part of the premises and is a normal exemption within Westminster to allow bar use in restaurant premises.

Ms Lefevre confirmed that her client had not sought permission for any Regulated Entertainment and additional conditions had been offered to restrict the use of the external area. She confirmed that her client was a highly experienced operator of licensed premises, operating within the vicinity and across other areas of Westminster and, indeed, the country, with an impeccable track record, and to later hours without causing any issues that would offend the licensing objectives. Ms Lefevre noted that The Council's Licensing Policy clearly stated that restaurants do have a lower impact on crime and disorder and public nuisance than other styles of premises, and conditions have been offered to ensure promotion of the licensing objectives in this regard.

Ms Lefevre confirmed that the style of operation and conditions offered would ensure that customers were able to gradually complete their meals, pay their bills and disperse from the premises in a controlled and orderly way. She added that Westminster Licensing Authority have made no objection to this application.

The Sub-Committee sought clarification of condition 9, regarding removing 23:00 hours relating to the hatched areas. The Committee also queried if the Applicant would consider the full restaurant model condition. Ms Lefevre confirmed the removal of 23:00 hours was correct, however, because they did need to use the hatched areas and did not want to completely restrict its use, had suggest the condition proposed. Ms Lefevre confirmed that her client would accept MC66 as long as the wording relating to the hatched areas remained. The Committee queried how conditions 10 and 11 would work in coordination with condition 9. Ms Lefevre confirmed that conditions 10 and 11 would apply through the premises except in the hatched areas.

Mr Mark Gudgin - Project Manager for the Applicant addressed the Sub-Committee and confirmed that there would be no vertical drinking. He informed the Sub-Committee that the bar area would hold 20 people and the rear room would hold 44 people seated. He also confirmed that it would be difficult to estimate how many

private functions the premises might hold, until the premises were open, and they are able to judge whether the functions would be popular.

The Sub-Committee queried how the Applicant intended to ensure the restaurant operations did not impact residents. In response to the Sub-Committee, Mr Stephen Hutchings, Designated Premises Supervisor and General Manager for the Applicant advised the Sub-Committee that at its premises Scott's which operates until 01:00, they have been able to do this successfully for a number of years with no complaints from residents.

Mr Ian Watson on behalf of the Environmental Health Service, addressed the Sub-Committee, he confirmed that the application was subject to pre application advice which occurred last year under the old licensing policy. The Core hours for a bar or a restaurant in this area was up to 01:00 hours, however he was aware that this is residential area.

Mr Watson stated that the applicant had sought Planning approval for an internal capacity of 240 persons, not including external terrace, he advised the Sub-Committee that they were minded to grant the application a capacity condition should be added in line with the planning permission. Mr Watson stated that one of the resident's main concerns was with regards to noise. He confirmed that the applicant has produced noise acoustics report, where it was suggested that an attenuation box be used to protect noise which could be transferred through fabric of building. He stated that there was a weakness from windows at the front of the building and there are some discussions regarding planning permission to change the windows. It was noted that the windows would not be fully opened.

Mr Watson also stated that the applicant should install a noise limiter and asked the applicant to consider doing so. He also raised the use of the external terrace which had been limited to a capacity of 40 persons until 22:30 hours. With regards to the external table and chairs, Mr Watson said that he felt there was some conflict as one aspect of the report stated the tables and chairs would be removed at 22:30 hours. However, the Applicant's solicitor stated that the tables and chairs are to be rendered disabled at 22:30 hours. Mr Watson advised that he felt the matter of removal and storage required clarification.

Mr Richard Brown, from Westminster's Citizens Advice, addressed the Sub-Committee he confirmed that he was representing two objectors to the application, namely Tahoun Ahmed and Glenys Roberts. He advised the Sub-Committee that Mr Ahmed and Ms Roberts were both residents of Mount Street. Mr Brown informed the Sub-Committee that until recently the premises were a Porsche car showroom. It occupies a prominent site at the north end of Berkeley Square, where it leads into Mount Street. He stated that Mount Street had a significant amount of residential accommodation, and it was also a landmark retail destination, with some notable art and cultural attractions.

Mr Brown advised that the provisions of and requirements of the 'Special Consideration Zone were relevant to the application. He informed the Sub-Committee that residents feared that the areas may become an entertainment destination attracting crime and disorder such as pickpocketing.

Mr Brown advised the Sub-Committee that the conditions proposed within the application (Page 86 of the report - Conditions 9, 10, 11, 12 and 13) were unclear in terms of the extent that sale of alcohol is restricted to restaurant use. Mr Brown explained to the Sub-Committee that the effect of these conditions is that the entire premises, including the outside area, could operate as a bar without any requirement for substantial table meals until 11pm, save that 'substantial food must be available. Alcohol can be consumed without a requirement to be seated if a private event or function is held. He noted that after 11pm, the hatched area and private events/functions were exempted from any requirement for a substantial table meal or any food at all to accompany alcohol.

Mr Brown advised the Sub-Committee that his clients felt that if the premises are a restaurant, it should be restricted to restaurant conditions with core hours. Mr Brown informed the Sub-Committee that his clients were also concerned that the premises would have openable windows. He believes that this was withdrawn from the applicant's proposals at the planning stage but would welcome confirmation. Mr Brown advised the Sub-Committee that his clients welcomed the reduction in number by the applicant since pre-application, however, this did not address residents' concerns, as any shopfront that is opens will allow noise breakout.

Mr Brown advised the Sub-Committee that policy RNT1 was not considered applicable to the application as it currently stood. Mr Brown stated that Paragraph F123 stated that *'The operation of premises with a new premises licence granted as a restaurant solely under this policy may not include independent use of the bar or entertainment. Bar use and entertainment would have to be specifically sought and considered having regard to other policies within this statement.'*

Mr Brown advised the Sub-Committee that Policy PN1 was a key consideration and Policy PN1A stated that *'The Licensing Authority will not grant applications that do not promote the prevention of public nuisance licensing objective.'* Mr Brown stated that a number of conditions had be suggested by the residents to address concerns with regards to core operating hour, capacity on the Terrace, smoking, windows and doors and table and chairs.

Dr Tahoun Ahmed, local resident addressed the Sub-Committee, he explained that he strongly opposed the application as it would change the nature of Mount Street and impact negatively on the lives of local residents. He noted that many residents were unhappy about this application and not all were able to voice how they felt. Dr Ahmed felt that the Applicant had deceived residents. He stated that in the original proposal Caprice Holdings had promised that the sale of alcohol will be Monday to Friday: 10:00 - 00:00, Sunday 10:00-23:30 but were now applying for longer hours.

Dr Ahmed advised that the style of the restaurant was 'party' themed and that had deeply concerned him. He informed the Sub-Committee that in order to protect residents he had suggesting conditions for the hatched areas, the dinning bar, the private room. He felt that it should be treated as a restaurant and if the Committee were to allow private functions, the residents should know how many will be taking place and how they will operate.

The Sub-Committee sought further clarification on how conditions 9,10 and 11 would operate, and if the private functions room and bar would allow for vertical drinking.

The Sub-Committee were concerned that an operating plan would not be enough to ensure the premises did not cause nuisance. Ms Lefevre informed the Sub-Committee that the Private functions would be outside the restaurant conditions and therefore would allow for vertical drinking without a meal and this was not the way the restaurant would operate. Ms Lefevre advised the Sub-Committee that at all times the hatched areas will be served by waiter services and seated at all times, which prevents the restaurant turning into a bar.

The Sub-Committee queried condition 36 (now condition 35), noting that the capacity was still to be agreed. The Sub-Committee noted Mr Watson suggestion of a maximum internal capacity of 240 persons. The Sub-Committee also sought clarification on the windows, a condition for a noise limiter, 5 smokers on Davies Street, no smoking on the terrace and smoking table on Davies Street only. The Sub-Committee also sought confirmation on condition 18 with regard to SIA staff. In response, Mr Gudgin confirmed the capacity of 240 persons. He also confirmed that the new shop frontage would have windows that could not be opened. Mr Gudgin agreed a condition for a noise limiter, 5 smokers on Davies Street, no smoking on the terrace and smoking table on Davies Street. Condition 18 with regard to SIA staff was also agreed.

The Sub-Committee queried how the Applicant would manage noise nuisance from the tables and chairs are being removed. The Sub-Committee also considered limiting the number of private events and deliveries from 07:00 - 19:30 and if the Applicant would consider 07:30. Ms Lisa Inzani, Agent for the Applicant, advised the Sub-Committee that it was difficult as the restaurant would still be operating and would consider chaining the tables and chairs. The Applicant agreed to condition 26 regarding deliveries and agreed 07:30 start to deliveries.

Vivienne Walker Legal Advisor for WCC confirmed the wording for MC 66 and the new conditions agreed with the Applicant. She also confirmed the Conditions for private parties (1 per week), capacity 240 and the disabling of Tables and Chairs.

### **Conclusion**

The Sub-Committee has a duty to consider the application on its individual merits and took into account all the committee papers, submissions made by the Applicant and all other parties, and the oral evidence given by those parties in attendance during the hearing in its determination of the matter.

The Sub-Committee noted that the proposed conditions that had been agreed with all the Responsible Authorities and concluded that these conditions attached to the Licence would alleviate residents' concerns and were appropriate and would promote the licensing objectives.

The Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives.

Having carefully considered the committee papers and the submissions made by all 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)  
Monday to Saturday 23:00 to 00:30 hours Sunday 23:00 to 00:00 hours.

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

2. To grant permission for the Sale by Retail of Alcohol (Indoors and Outdoors)  
Monday to Thursday 10:00 to 00:00 hours Friday to Saturday 10:00 to 00:30 hours Sunday 10:00 to 23:30 hours.

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

3. To grant permission for the Opening Hours of the Premises to the Public  
Monday to Saturday 10:00 to 00:30 hours Sunday 10:00 to 00:00 hours.

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

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

#### **Conditions imposed by the Committee after a hearing**

9. Except in the hatched areas shown on the plan, the premises shall only operate as a restaurant:
  - (i) in which customers are shown to their table or the customer will select a table themselves;
  - (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;
  - (iv) which do not provide any takeaway service of food or drink for immediate consumption off the premises;
  - (v) 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, except for persons attending a pre-booked and bona fide private function.
10. (a) Except in the hatched areas shown on the plan, the supply of alcohol shall be by waiter/waitress service or bar service only to persons seated.  
(b) pre-booked and bona fide private function shall be limited to one event per week.
11. The consumption of alcohol shall only be by persons seated or those persons attending a pre-booked and bona fide private function or event to which members of the public are not admitted.

12. 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.
13. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
14. All outside tables and chairs shall be rendered unusable by 22.30 hours each day.
15. The premises may remain open for the sale of alcohol and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
16. All sales of alcohol for consumption 'Off' the premises shall be in sealed containers only and shall not be consumed on the premises.
17. There shall be no sales of alcohol for consumption 'Off' the premises after 23.00 hours.
18. After 21.00 hours each day there shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol. The requirement and number of SIA door supervisors after 21.00 hours shall be risk assessed by the premises licence holder; such risk assessment shall be kept at the premises for a minimum of 21 days following the occasion.
19. A Challenge 21 or Challenge 25 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport or proof of age card with the PASS Hologram.
20. 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. 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 regarding crime disorder
  - (d) any incidents of disorder
  - (e) any faults in the CCTV system
  - (f) any refusal of the sale of alcohol
  - (g) any visit by a relevant authority or emergency service
22. 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.

23. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of the local residents and businesses and leave the area quietly.
24. 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.
25. No collection of waste or recycling materials (including bottles) from the premises shall take place between 23:00 and 07:30 hours on the following day.
26. No deliveries to the premises shall take place between 23:00 and 07:30 hours on the following day.
27. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
28. 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.
29. 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.
30. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
31. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
32. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
33. At least 2 SIA licensed door supervisors shall be on duty at the entrance of the premises at all times whilst it is open for business and they must correctly display their SIA licence when on duty so as to be visible.
34. No licensable activities shall take place until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority.

35. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the Licensing Authority has replaced this condition on the licence with a condition detailing the capacity so determined.

The number of persons permitted in the premises at any one-time excluding staff shall not exceed 240 persons.

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.

37. 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.

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

39. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

40. The premises licence holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day, they start their employment.
41. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area in Davis Street.
42. The number of people smoking in Davies Street shall be limited to 5 persons.
43. There shall be no smoking on the terrace area except at the tables situated in Davies Street.
44. Smoking tables shall be in Davies Street and all tables and chairs shall be stacked on Davies Street adjacent to the entrance and brought inside the premises at close of business.

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

**Licensing Sub-Committee  
16 December 2021**

**2. SHEESH, 70 BROMPTON ROAD, SW3 1ER**

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE No.5**  
**("The Committee")**

Thursday 16 December 2021

Membership: Councillor Murad Gassanly (Chairman)  
Councillor Louise Hyams  
Councillor Rita Begum

Officer Support: Legal Advisor: Vivienne Walker  
Policy Officer: Aaron Hardy  
Committee Officer: Kisi Smith-Charlemagne  
Presenting Officer: Roxsana Haq

**Application for a New Premises Licence in respect of Sheesh 70 Brompton Road London SW3 1ER 21/07425/LIPN**

**FULL DECISION**

**Premises**

70 Brompton Road London SW3 1ER

**Applicant**

Sheesh London Limited

**Cumulative Impact Area**

None

**Ward**

Knightsbridge and Belgravia

**Summary of Application**

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises propose to operate as a restaurant with private dining rooms in the basement, restaurant/holding bar on the ground floor and members/diners lounge and restaurant on the first floor. The Premises are located within the Knightsbridge and Belgravia Ward but are not within the Cumulative Impact Zone nor Special Consideration Zone. There is a resident count of 143.

## **Proposed Activities and Hours**

### **Late Night Refreshment (Indoors)**

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

Seasonal Variations: Sunday before Bank Holiday Monday 23:00 to 00:00 hours.  
New Year's Eve 23:00 to 01:00 New Year's Day.

### **Sale by Retail of Alcohol (Indoors and Outdoors)**

Monday to Saturday 10:00 to 00:00 hours Sunday 10:00 to 23:30 hours

Seasonal Variations: Sunday before Bank Holiday Monday 10:00 to 00:00 hours.  
New Year's Eve – from end of permitted hours on New Year's Eve until 01:00 hours  
on New Year's Day.

### **Opening Hours of the Premises**

Monday to Saturday 10:00 to 00:30 hours Sunday 10:00 to 00:00 hours

Seasonal Variations: Sunday before Bank Holiday Monday 10:00 to 00:30  
New Year's Eve to 01:30 hours.

## **Representations Received:**

- Environmental Health Service (EHS) (Ian Watson)
- 53 Local Residents
- The Knightsbridge Association
- The Knightsbridge Neighbourhood Forum, Knightsbridge Residents Management Company
- Metropolitan Police Service (PC Nicole Sondh) (Withdrawn 01/10/2021)

## **Summary of issues raised by objectors:**

The proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety within the area. Residents stated Mount Street is a predominantly residential street with some restaurants and there is long standing precedent as to limitations on the use of properties in Mount Street for entertainment. The premises have not been used as a restaurant before and granting the application would strongly increase the risks of public nuisance, crime, and public safety. The proposed hours are outside of core hours and introducing late hours into a residential area would affect children and elderly residents who have to sleep early.

### **Policy Position:**

Under Policy RNT1(A), applications outside the West End Cumulative Impact Zone will generally be granted subject to the matters identified in Policy RNT1.

Under Policy HRS1, applications outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies in the Statement of Licensing Policy.

### **SUBMISSIONS AND REASONS**

The Presenting Officer Ms Roxsana Haq introduced the application, she advised the Licensing Sub-Committee that they had before them a new premises licence application who intended to operate as restaurant with private dining rooms in the basement, restaurant/holding bar on the ground floor and members/diners lounge and restaurant on the first floor. Ms Haq informed the Sub-Committee that the Premises are located within the Knightsbridge and Belgravia Ward but are not with the Cumulative Impact Zone nor Special Consideration Zone.

Ms Lisa Sharkey – Agent, for the Applicant addressed the Sub-Committee, she advised that her client had undertaken pre application consultation with Environmental Health officers in June, however due to lockdown restrictions they took a view to not invite residents to the premises. She advised the Sub-Committee that her client had liaised with EHS officers and considered other local premises in order to review their hours of operation, conditions, and complaints. Ms Sharky informed the Sub-Committee that the location for the premises was selected by Mr Hunt, because it was a busy location and a primary retail shopping area.

Ms Sharkey advised the Sub-Committee that the application was for a restaurant and the style of operation was striking the right balance between shoppers, tourists, and residents. She felt that the style of operation, the hours, conditions proposed, and the dispersal policy showed the right balance. Ms Sharkey stated that the hours were outside WCC core licensing hours, and that there was not a presumption to refuse, but instead the application would be considered on its merits. She advised that her client had mirrored the operating hours of the closest restaurant 'Zuma'.

Ms Sharkey advised the Sub-Committee that the premises have a dedicated service yard in the rear of the premises for deliveries. In the lowered basement will be a central storage space for waste and a glass crusher. With regard to the restaurant, she informed the Sub-Committee that the basement would be made up of three dining areas and condition 10 stated that alcohol would be ancillary to food and that her client was happy to accept a condition for these rooms to be used for private dining only.

Ms Sharkey confirmed that the main dining area was located on the ground floor, she stated that there would be a concierge available throughout the day. She also explained that the reception area was large to avoid queues outside the premises. Referring to the premises plan, Ms Sharkey highlighted the kitchen and dispense bar area. She informed the Sub-Committee that on the first floor of the premises were two seated lounge bars and restaurant area with an estimated 100 covers. She



stated that with regards to membership, members would be able to order and book a table for dinner and come in to lounge for drinks, pre or post dinner.

Ms Sharkey confirmed that there were three dining rooms in the basement which would hold 45 people, the ground floor would hold 120-150 seated. She advised that the first-floor dining area would accommodate 100 people and the lounge bars, and the library would hold 50 people. Ms Sharkey explained that EHS had suggested an amount of 450 people, but the Applicant would be happy to reduce this to 350 people.

Mr Raja Balasuriya (Witness for the Applicant) addressed the Sub-Committee, he confirmed that he had no financial involvement with Mr Hunt's businesses but was a customer who frequented a number of the members' clubs. He informed the Sub-Committee that he was able to visit these establishments with his family and received a very high-quality dining experience. Mr Balasuriya confirmed that he had been a club member for 10 years and the establishments were well run with no trouble associated with any of the premises. He also explained to the Committee that Mr Hunt was a popular figure in the local community.

Mr Ian Watson, on behalf of Environmental Health Services advised that he was contacted by Ms Sharkey for pre application advice. He confirmed that the location had a substantial number of residential properties. He stated that the original hours sought had been reduced based on his advice and in keeping with similar premises in the area, such a Zuma. Mr Watson confirmed that the residents were concerned with the capacity and the use of the external areas. He confirmed that there would be no tables and chairs outside the premises.

Mr Watson confirmed that there would be no entrance lobby and doors would remain closed, he stated that the Applicant had not applied for regulated entertainment. Mr Watson informed the Sub-Committee that there was an office situated above the first floor of the restaurant and there was a sensitive party wall adjacent to the library. He stated that the noise report not submitted as part of the application. Mr Watson raised the queries regarding light escaping from the premises into the properties of residents directly opposite the premises. He confirmed that the dedicated yard at the rear of the premises is shared with Zuma.

Mr Richard Brown addressed the Sub-Committee, he confirmed that he was representing the Knightsbridge Association and Mr Paul Meitner who was in attendance. Mr Brown referred the Sub-Committee to the residential map on page 192 of the Licensing Sub-Committee Report which he advised showed the residential nature of the vicinity, particularly to the north and west of the site. He informed the Sub-Committee that the premises were described as a restaurant with private dining rooms in basement, restaurant/holding bar on ground floor and members/diners lounge and restaurant on first floor. Mr Brown stated that despite the references to 'restaurant', the conditions proposed with the application do not sufficiently link it to that use. He stated that Policy PB1 applied to the application.

Mr Brown informed the Sub-Committee that there had been no fewer than 56 objections to the application. He stated that his clients and other persons believed the application site was simply in the wrong location for a licensed premises, and particularly for a licensed premises of this scale and nature. Mr Brown informed the

Sub-Committee that although the address of the premises was Brompton Road, the premises were in fact on the corner of Brompton Road and Lancelot Place. He advised that to the immediate west of the premises was Trevor Square and Trevor Street, each of these have high levels of residential accommodation, with more being built.

Mr Brown explained that the main entrance to the premises was on the corner of Brompton Road and Lancelot Place and so the arrivals and dispersals would be in close proximity to many residents. He noted that dispersal in particular would have a serious impact which would be felt on the adjacent streets and beyond. Mr Brown referred to the photographs submitted by objectors to illustrate this point. He advised that Brompton Road was a Red Route, and it was simply not possible for vehicles to stop, drop off customers and manoeuvre vehicles. Mr Brown added that the objectors simply cannot see how any licensed premises in this location can operate so as to promote the licensing objectives.

Mr Brown advised the Sub-Committee that when determining licence application, the focus should be on evaluating what is 'reasonably acceptable' in a particular location. He added that the scope of the licence and conditions should be looked at in a local context. He informed the Sub-Committee that the Statement of Licensing Policy was clear that on the merits of a particular case, refusal of an application was the appropriate outcome. He stated that the Knightsbridge Association felt that this was the appropriate outcome in this instance.

Mr Paul Meitner addressed the Sub-Committee, he advised that he objected to the application as it conflicts with the objectives of the Licensing Act 2003, including the prevention of public nuisance, including crime and anti-social behaviour, prevention of harm to children and public safety. He also confirmed that it was a residential area, and a mansion block was located at the rear of the premises. Mr Meitner stated the red route on Brompton Road and nearby road were already congested. He added that in addition the application did not comply with the requirements of WCC's Restaurant Model Condition, and the site was unsuitable. Mr Meitner requested that the Committee consider the cumulative impact of the application.

Ms Caroline Stoclin addressed the Sub-Committee, she confirmed that she was a resident who lived in Lancelot Place and has three children. She confirmed that she was also speaking on behalf of her mother-in-law. She stated that she objected to the application and felt that the council should not allow such a big restaurant to open with a licence to serve alcohol so late as this would cause more noise and crime in the area.

Ms Stoclin informed the Sub-Committee that the Sheesh restaurant would be at the junction of Lancelot Place and Brompton Road where there is already a lot of traffic. She stated that she was extremely worried about the loss of amenities for residents with people smoking outside on the street.

Ms Ann Wright addressed the Sub-Committee, she confirmed that she had been a resident of Trevor Square for over 24 years. She stated that her objection was based on the increased likelihood of public nuisance affecting the many residential houses and flats in the immediate neighbourhood of 70 Brompton Road.

Ms Wright informed the Sub-Committee that she was particularly concerned about the noise levels created by late night diners and night club members leaving the premises in what was an unusually quiet neighbourhood. Ms Wright advised that she would be concerned about the possibility of an increase in low level crime disorder when club members leave the premises. She noted that parking would also be another concern as there is limited car parking in the area.

Mr Charles Nasser addressed the Sub-Committee, he confirmed that he was speaking on behalf of his mother Therese Cattan-Nasser. Mr Nasser explained that he had objected to the application due to the increased noise, litter, and traffic. He stated that granting such application would enable the sale of take away alcohol would impact negatively on residents.

The Committee clarified with Mr Brown and Mr Meitner that their concerns were primarily focused on the location and capacity of the premises. Mr Brown confirmed that it was indeed the location, the capacity and the nuisance were the main areas of concern.

The Sub-Committee also asked Ms Wright if there were any areas of the application that she would consider negotiating to negate any areas of concerns, for example, hours or activities offered. Ms Wright confirmed that she objected to the entire application.

Mr Melville Haggard, local resident, informed the Sub-Committee that any vehicles making deliveries and who position their vehicles into the entrance of Lancelot Place, can only go into Trevor Square or Knightsbridge Green, both are highly congested. Vehicles are unable to reverse onto the Red Route in order to continue along Brompton Road.

Mr Will Hollest addressed the Sub-Committee, he confirmed that he was representing a resident. He informed the Sub-Committee that the residents home entrance was only a few meters away from the premises. Mr Hollest informed the Sub-Committee that the premises had solely been used for retail use with very little negative impact on the residents, however the proposed use of a restaurant with private members club would see a huge increase in the amount of footfall and activities. Mr Hollest informed the Sub-Committee those local residents could be faced with circa 250-280 customers leaving the premises around midnight every day of the week. He stated that the volume of people and those hours would surely create significant noise disruption for residents.

Mr Hollest explained that the operation hours were outside of Westminster's core hours and were more like the hours of a club as appose to a restaurant and would harm residents. He noted that Appendix 11 of the policy stated that a noise report to be submitted with application where there is need for plant and door staff, which will help the council to decide if noise and acoustic reports are needed. Mr Hollest advised the Sub-Committee that his client had raised concerns regarding noise in the original objection letter and the lack of a formal noise statement. He felt that without the information it was not possible to access what needs to be in place to mitigate against the potential increase in noise.

Mr Hollest informed the Sub-Committee that the operational and dispersal plan did not provide sufficient controls over parking management and arrangements should include dedicated drop off and collections places agreed with the Council away from Lancelot Place.

Mr Robert Hayes addressed the Sub-Committee and added that he was concerned about losing the enjoyment of the outside space and that consideration should be given to the current developments meaning more residents would be living in the vicinity. He confirmed that he objected to the application.

Mr Simon Birkett on behalf of Knightsbridge Neighbourhood Forum advised the Sub-Committee that the application conflicted with the licensing objectives. He explained that it was a large operation with 350 covers for several sittings per day and entrance and egress would be challenging. He stated that Knightsbridge and Hyde Park Corner underground stations had often been exit only during the Winter Wonderland events meaning that the transport impacts of the application need to be very carefully assessed. Mr Birkett advised the Sub-Committee that those other modes, such as minicabs, would cause many problems in quiet neighbouring residential streets not least late at night e.g., illegal parking, noise from slamming doors and shouting and/or idling or anti-social behaviour by drivers. Mr Birkett advised that he objected to the application as the location was not suitable.

Mr Robert Botkai confirmed that he represented the Knightsbridge Residents Management Company, they in turn represent over 200 apartments. He informed the Sub-Committee that it was unusual for them to seek a straight refusal but were doing so on this occasion. He advised the Sub-Committee that Sheesh was not a restaurant, he felt that it was a bar serving expensive food, with music and this type of operation would not work in the proposed location.

Mr Botkai explained that the Sub-Committee role is to strike a balance between resident and commercial interests, and this often means seeking a compromise through conditions. Mr Botkai noted that given the level of objections the Applicant has not amended the application to core hours with restaurant conditions. He noted the 350 covers and number of sittings proposed and queried the number of staff needed to support such a large operation. Mr Botkai explained that the coming and going and what would happen outside the premises was his clients main concern. He commented on the level of disturbances from cars and taxi's the residents were already subjected to and advised that the flagging down of taxi's would not work in this location.

Ms Vivienne Walker - Legal Advisor, sought clarification from the Applicant with regards to the conditions withdrawn by Mr Hollest. Ms Sharkey confirmed that her client agreed condition 11, however suggested that the paragraph be reinserted as it was agreed in the pre application by Mr Watson. It was also noted that condition 12 should be amended so that it stated, '*Notwithstanding this condition, customers are permitted to purchase and take from the premises alcohol for consumption 'off' the premises in accordance with conditions 14.*'

Ms Sharkey confirmed that her client agreed condition 21, however did not want to agree condition 23 as proposed but wanted to suggest the condition as consulted by Mr Watson. She advised the Sub-Committee that the premises were not seeking to

include regulated entertainment, only background music would be played. Ms Sharkey confirmed that her client would be happy to agree a condition for a noise limiter, if deemed necessary by Environmental Health officers. Ms Sharkey advised the Sub-Committee that until Mr Watson visited the premises, it would be difficult to determine if a noise limiter would be necessary. She confirmed that she did not submit a noise report because her client was not proposing any form of regulated entertainment.

Mr Sharkey informed the Sub-Committee that with regard to condition 24 there were no windows that opened. Ms Sharkey agreed condition 31 and confirmed that her client was happy to amend condition 32 from between 19:00 to 08:00. Ms Sharkey confirmed conditions 38, 39, and 40 were agreed, Ms Sharkey did not agree condition 41 as proposed, she advised that her client was not applying for regulated entertainment and felt that conditions needed to be appropriate to the application. Ms Sharkey advised the Sub-Committee that her client would be willing to accept a model condition (MC13) requesting that no speakers be placed by the front door or outside the premises.

Ms Sharkey did not agree condition 42 and felt that Mr Watson's suggestion condition 23 adequately covered and the additional condition was required. She felt that conditions 43, 44, 45 and 46 were covered by her client's operational and dispersal plan (condition 16) and were not agreed. Ms Sharkey noted that regarding condition 47 deliveries, collections, and operational servicing, this was not agreed because of customers who may want to collect food orders. She stated that there would be no Deliveroo, Uber Eats or similar companies as part of the operation (condition 15). Ms Sharkey confirmed that condition 48 was agreed, however, condition 49 was not agreed and accepted Mr Watson's condition 36 with a capacity of 350 people, with added wording '*and should exclude staff*'.

Ms Sharkey confirmed that condition 50 was not agreed as this was covered by condition 34. Ms Sharkey stated that conditions 51 and 52 were not agreed as her client would be operating a restaurant and it was not appropriate for every guest dining to have their pockets or bags searched.

The Sub-Committee sought clarification on the planning status, referring to the earlier comments regarding classification C, and if a planning application had or would be submitted regarding the change of use element. Mr Gary Stanesby, Architect, addressed the Sub-Committee, he advised the Sub-Committee that a planning application would be submitted along with details of minor changes to the front façade of the premises, and the extraction system. He confirmed that there would be no change of use, the premises would operate as a restaurant under class C. The Committee queried whether a noise report would be produced for planning, Mr Stanesby confirmed that a noise report would be required for the extraction system.

The Sub-Committee queried conditions 10 and 11, referring to the comments and concerns from the residents and interested parties regarding the hours and nature of the operation, type of activities proposed, and the mitigating conditions proposed by the residents. The Sub-Committee also noted concern regarding the supply of alcohol in the basement and private dining rooms being ancillary to a substantial meal, however, this was not the Council's model restaurant condition. Ms Sharkey

confirmed that the basement and private dining rooms would be ancillary to food and would be happy to accept the model restaurant condition.

The Sub-Committee queried the first-floor lounge bar areas, seeking clarity on whether members and guests could consume alcohol without food. Ms Sharkey informed the Sub-Committee that it was something that her client applied for, as the area was intended for pre dining area, but was happy to accept a condition limiting the area to only to guest that would be dining. Ms Sharkey stated that it would not be possible for any vehicles to stop outside the premises from 7am to 7pm and that there was a taxi rank opposite the premises and on Raphael Street. Ms Sharkey advised the Sub-Committee that there would be information regarding travel and parking for guest on the premises website. She stated that the premises website would discourage guest from parking on residential streets and the concierge would be onsite to give advice and manage guest arriving.

The Sub-Committee queried why given all the objections, the Applicant had not tried to consult with local resident associations and forums or consultation. Ms Sharkey advised the Sub-Committee that the Application was made last year during lock down. She stated that she did contact the residents above Caffe Concerto once that application was submitted. She also advised that there was a residents' meeting in October.

Mr Watson advised the Sub-Committee that regarding condition 23, it was his recommendation that the Applicant should accept the model condition. He stated that other conditions had been proposed and accepted but it was for the Sub-Committee to decide. Mr Brown advised that there had been 56 objections which all agreed that the application was the wrong location and wrong nature for this large operation and concluded that the application should be refused.

Ms Sharky advised the Sub-Committee that the location for the premises was selected by Mr Hunt, because it was a busy location, a primary retail shopping area, frequented by tourist and residents. She added that her client did consider the operations and hours for the other restaurants in the vicinity and what the Applicant was seeking from the submitted application. Ms Sharkey urged the Sub-Committee to consider the facts and referred to the Hope and Glory case and paragraph 42 which states, *'Licensing decisions are often weighing a variety of competing considerations, the demand for licensed establishments, the economic benefit to the proprietor and locality by drawing visitors and stimulating demand effects on law and order and the impact on the lives of those who live and work in the vicinity etc, sometimes the licensing decision may involve narrow questions such as noise, smells or litter coming from the premises amount to public nuisance.* Ms Sharkey added that these were facts and expected in a location such as this. She stated that the premises were not in the CIA or Special Consideration Zone. Ms Sharkey confirmed that the application was for a restaurant and not for a bar or club, she also confirmed that the taxi rank outside Harrods operated 24/7.

Mr Hunt addressed the Sub-Committee, he confirmed that his premises in Chigwell was exclusive and was operated to a high standard. He stated that the premises did not have any problems and there was always a great atmosphere. Mr Hunt informed the Sub-Committee that he would take great care of the area outside the premises as if it were his own, with door and concierge staff ensuring that things ran smoothly.

He explained that he would ensure that traffic was not congested and that no vehicles stopped or idled outside the premises.

### **Conclusion**

The Sub- Committee has a duty to consider the application on its individual merits and took into account all the committee papers, supplementary submissions made by the Applicant and third parties, and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee felt that it needed to strike the right balance when considering the merits of the application and the evidence before it and did not arrive at the decision to refuse the application lightly having regard to the full set of circumstances of the case. It did properly consider whether the proposed conditions offered would mitigate the concerns of residents but was not persuaded by the Applicant that these would go to the heart of problems associated with nuisance.

The Sub- Committee when looking at the evidence had regard to the policy considerations arising under PN1, HRS1 and RNT1 of the City Council's Statement of Licensing Policy.

The Committee decided that the Applicant had not provided sufficient reasons as to why the granting of the application would promote the licensing objectives and therefore **refused** the application in all the circumstances of the case.

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

**This Decision takes immediate effect.**

**The Licensing Sub-Committee  
16 December 2021**