



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 3rd February, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Jim Glen (Chairman), Melvyn Caplan 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. SOHO ORIGINAL ADULT STORE, 12 BREWER STREET, W1F 0SF

### **WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3**

**Thursday 3 February 2022**

Membership: Councillor Jim Glen (Chairman)  
Councillor Melvyn Caplan  
Councillor Rita Begum

Officer Support: Legal Advisor: Viviane Walker  
Policy Officer: Kerry Simpkin  
Committee Officer: Kisi Smith-Charlemagne  
Presenting Officer: Emanuela Meloyan

**Application for a New Sex Establishment Licence in respect of Soho Original Adult Store 12 Brewer Street London W1F 0SF 22/00106/LISEXN**

### **Full Decision**

#### **Applicant**

Mr. Timothy Hemming

The Committee has considered an application for a new Sex Establishment Licence under the Local Government (Miscellaneous Provisions) Act 1982 as amended ("The Act") for the premises known as Soho Original Adult Store situated at 12 Brewer Street, London W1F 0SF. The Premises have had the benefit of a licence which expired in 2017.

A new licence was applied for and granted in 2017. Annual renewal applications have been submitted and granted by delegated authority. However, it was noted that due to an administrative oversight, the applicant did not renew the licence in 2021 and the licence lapsed.

The Committee having carefully considered the application decided to **grant** the application subject to the conditions specified below.

The Committee noted that there were no objections to the application from the Police or the Licensing Authority.

### **Conditions attached to the Licence**

1. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
2. The premises shall not, for any purpose of the licence, be opened before 09:00 hours and shall not be kept open beyond 00:00 hours.
3. (a) The licensee shall take all reasonable precautions for the safety of the public and employees and except with the consent of the Council, shall retain control over all portions of the premises.  
  
(b) No poster, advertisement, photograph, sketch, synopsis or programme shall be displayed by or on behalf of the licensee at the licensed premises or at any other public place except in accordance with the Town and Country Planning (Control of Advertisements) Regulations 1992 or any Order amending or replacing the same.  
  
(c) The premises may not be used under the terms of the licence unless and until any necessary permission and/or consents have been obtained pursuant to the Town and Country Planning Act 1990, the London Building Acts 1930-1939 and the Building Act 1984 or any legislation amending or replacing the same.
4. (a) The licensee or some responsible person over 18 years of age nominated by him in writing for the purpose shall be in charge of, and upon, the licensed premises during the whole time that they are open to the public. Such written nomination shall be continuously available for inspection by a police officer or an officer authorised in writing by the Council.  
  
(b) The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as

necessary by suitable adult persons to ensure adequate supervision. The person in charge should be conversant with these conditions, a copy of which should be held on the premises.

(c) A notice showing the name of the person in charge of the premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be easily seen by customers.

(d) All members of staff shall be easily identifiable as such. If required by the Council in writing the licensee shall ensure that during the hours the premises are open for business every employee or person (apart from, where employed, hostesses or other companions) working in the licensed premises wears a badge of a type approved by the Council indicating his name and that he is an employee or person working in the premises.

5. The licensee shall maintain good order on the premises and in particular shall ensure that none of the following shall take place:

- (a) Unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971;
- (b) Indecent behaviour, including sexual intercourse;
- (c) The offer of any sexual or other indecent service for reward;
- (d) Acts of violence against person or property and/or the attempt or threat of such acts.
- (e) The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
- (f) The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises, immediately outside the premises or in the vicinity of the premises, nor allow the premises to be used by prostitutes.

Note: Soliciting includes the distribution of leaflets unless authorised by a consent under section 4 of the London Local Authorities Act 1994

- (g) No person under the age of 18 shall be admitted to any part of the premises which is used as a sex establishment or be employed in the business of the sex establishment.
- (h) No poster, photograph, sketch, painting or any form of advertisement or display shall be displayed by or on behalf of the licensee on, outside or within the premises in a position where it is visible to the public if the Council regards it as unsuitable for exhibition to the public. If the licensee is notified in writing that the Council objects under this rule to a poster, photograph, sketch, painting, advertisement or display such poster, photograph, sketch, painting, advertisement or display shall be removed or completely obscured from sight.

6. (a) The entrances to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers-by.  
  
(b) Windows and openings to the premises other than entrances shall either be obscured or with the consent of the Council shall have suspended behind them, in a position and at an altitude approved by the Council, opaque screens or blinds of a type and size approved by the Council.
7. No change of use of any portion of the premises from that approved by the Council shall be made until all necessary consents have been obtained from the Council. For the avoidance of doubt this includes a change from one class of sex establishment (e.g., a sex shop) to a different class of sex establishment (e.g., a sex encounter establishment).
8. No alterations (including temporary alterations) shall be made to the premises, without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works. Where works necessitate the premises being closed for a period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the Council of the satisfactory completion of the work.
9. All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show to persons who are inside the sex shop the respective prices being charged.
10. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the sex establishment.
11. No film or video shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council, and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

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

**Licensing Sub-Committee  
3 February 2022**

**2. CROCKERS FOLLY, 23-24 ABERDEEN PLACE, NW8 8JR**

2.1 This application was withdrawn by the Applicant.

**3. BASEMENT, 22-25 PORTMAN CLOSE, W1H 6BS**

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3**  
**("The Committee")**

**Thursday 3 February 2022**

Membership: Councillor Jim Glen (Chairman), Councillor Melvyn Caplan and  
Councillor Rita Begum

Officer Support: Legal Advisor: Vivienne Walker  
Policy Officer: Kerry Simpkin  
Committee Officer: Kisi Smith-Charlemagne  
Presenting Officer: Emanuela Meloyan

**Application for a New Premises Licence in respect of Basement 22-25 Portman  
Close London W1H 6BS 21/09220/LIPN**

**FULL DECISION**

**Premises**

Basement  
22-25 Portman Close  
London W1H 6BS

**Applicant**

Bb Traders Limited

**Cumulative Impact Area**

None

**Ward**

Marylebone High Street

**Summary of Application**

This is an application for a local Convenience Store to stock goods including alcohol for packaging and delivery to fulfil customers' orders made online.

The Premises are located in the Marylebone High Street Ward but not within the West End Cumulative Impact Zone or the Special Consideration Zone. There is a resident Count of 254.

**Proposed Licensable Activities and Hours**

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

Monday to Saturday 08:00 hours to 23:00 hours

Sunday 09:00 hours to 22:00 hours

Seasonal variations/Non-standard timings: None

### Hours Premises are open to the Public

Monday to Sunday 00:00 hours to 23:59 hours

Seasonal variations/Non-standard timings: None

### Representations Received

- Environmental Health Service (EHS)
- Metropolitan Police Service (Withdrawn)
- Baker Street Quarter Partnership
- 4 local residents
- Willowgreen Limited (Orbiton Estates) (Withdrawn)
- Home House Limited (Withdrawn)

### Summary of issues raised by Objectors

- EHS stated the proposals are likely to increase the risk of public nuisance.
- The Baker Street Quarter Partnership objected to the application on the grounds of public safety, prevention of public nuisance and prevention of crime and disorder.
- Local Residents objected on the grounds of prevention of public nuisance and the prevention of crime and disorder.

### Policy Position

Under Policy HRS1, applications within the core hours set out in the policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy and applications for hours outside the core hours set out in the Policy will be considered on their merits, subject to other relevant policies and with particular regard to the matters identified in Policy HRS1.

Under Policy DC1, applications for a delivery centre outside the West End Cumulative Impact Zone will generally be granted subject to: 1. The application meeting the requirements of policies CD1, PS1, PN1 and CG1. 2. The hours for licensable activities are within the Council's Core Hours Policy HRS1. 3. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone. 4. The premises are not located in a

predominantly residential area and 5. The application and operation of the venue meeting the definition of a delivery centre in Clause D.

### **SUBMISSIONS AND REASONS**

Ms Emanuela Meloyan, Senior Licensing Officer, presented the report that was before the Sub-Committee. She noted that representations had been received from EHS. The premises are situated within the Marylebone Ward and do not fall within any area of cumulative impact.

Mr Rajveer Kohli, for the applicant explained that the application was for a new start up business which is an online store, no customers would visit the premises. He stated that customers can only make orders through Uber Eat and Deliveroo. The office space is very small, and he was using it to test out the demand in the market.

Mr Kohli stated that the business would operate 24 hours per day and is currently selling groceries. However, the sale of alcohol would help the business.

In response to questions from the Sub-Committee, Mr Kohli advised that the wanted to see if there was a market for his type of operation as no other local convenience does this, and DPD does a collection within the area around 2:00 to 5:00 p.m. each day. He stated that his average orders are around £25.00 and are delivered within the same hour. The DPD orders are not doing as well, so he intends to stop that use which was just an extra option to help the business.

Mr Kohli explained that he has a challenge 25 policy, when customers select alcohol, they will have to confirm if they are of the correct age. When delivery drivers dropped off the alcohol, the driver will always ask for proof of ID if the customers looked underage. The delivery driver would refuse the delivery if the customer looked intoxicated. He also stated that deliveries after 23:00 hours would be by non-motorised vehicles only. He is currently collecting data and wants to get investors on board. He works 24 hours on certain days to collect data. He has an average of 7 to 8 orders per day, which is less than one every hour. He would be happy with 20 orders per day.

In response to questions from the Sub-Committee, Mr Kohli explained that because the office is very small the drivers would wait outside the premises on the road and the use of facilities are not available as no one is allowed in or out of the office.

Mr Dave Nevitt, representing the EHS referred to the street view photograph. He stated that the office is very small and there is not much space for storage. If the business increases, he suspected that the applicant would seek a larger office. Mr Nevitt explained that the residents have submitted concerns such as noise impact as there are a number of windows overlooking the premises.

In response to questions from the Sub-Committee Mr Nevitt explained that a number of conditions proposed were agreed by the applicant. It would be necessary to assess how the delivery drivers are managed, are the vehicles noisy and will the drivers congregate outside the premises. He confirmed that the premises are in a predominantly residential area.

Mr Richard Brown, representing a local resident, introduced Mr Clarke to the Sub-Committee. Mr Clarke outlined that his main concerns were the large number of bikes, scooters and cars down the narrow road would cause a noise nuisance, on evenings and during Sundays, there are no parking restrictions which means both sides of the road are occupied and in turn makes it a single lane, the pavement is very narrow, and this would block the pavement making it impossible for prams and wheelchairs to pass by. He stated that residents expected the applicant to engage with them, but he failed to do so.

Mr Kayvan Beklik, local resident stated that there is a licensed premises in the vicinity which cause a nuisance and traffic. This new business will affect residents even more.

In response to questions from the Sub-Committee Mr Clarke stated that he had tried to research the business but could not find anything. He had checked on Uber Eat, there is a website, but it is non-functional.

In response to questions from the Sub-Committee Mr Kohli informed the Committee that if someone placed an order within the same hour, he stands outside and wait for the delivery driver as he tracks them on the App. He stated that there is only one member of staff, and he is the only one doing the deliveries. There will be non-motorised vehicles so not to add to the traffic congestion or disturb neighbours. They have agreed to only deliver goods to the premises between 20:00 and 22:00 hours.

## **Conclusion**

The Sub-Committee had considered the evidence before it and whether the four licensing objectives would be promoted.

The Sub-Committee noted that representations were received from EHS and two local residents, who cited public nuisance as the key issue. It was noted that the Metropolitan Police Service did not make any representations.

The Sub-Committee noted that the premises are not within Cumulative Impact Zones.

The Sub-Committee has a duty to consider the application on its individual merits and took into account all of 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 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.

The Sub-Committee heard evidence from the parties and in light of considering that evidence **refused** the application for the reasons outlined below:

1. There will be no control or any means of ensuring that the licensing objectives would be upheld.
2. The Applicant did not demonstrate that procedures in place for delivery personnel to be trained in order to promote the licensing objectives.
3. The size of the premises is not conducive for the use by delivery personnel.



4. The premises are not suitably located for the proposed type of operation.
5. In terms of policy consideration, the Sub-Committee had regard to Policy HRS1 which states: Applications for hours outside the core hours set out in this policy will be considered on their merits, subject to other relevant policies in the Statement of Licensing Policy (SLP).

The Sub-Committee appreciated it has a discretion when considering the merits of the application but took the view that granting the application would be contrary to other policies. The Sub-Committee had regard to all relevant policies under the SLP in particular Policy PN1: the prevention of public nuisance.

The Sub-Committee also had regard to Policy DC1 and noted that the premises are located in a predominantly residential area.

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

**Licensing Sub-Committee  
3 February 2022**

4. **22 GREAT WINDMILL STREET, W1D 7LD**

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3**  
**("The Committee")**

**Thursday 3 February 2022**

Membership: Councillor Jim Glen (Chairman), Councillor Melvyn Caplan and  
Councillor Rita Begum

Officer Support: Legal Advisor: Vivienne Walker  
Policy Officer: Kerry Simpkin  
Committee Officer: Kisi Smith-Charlemagne  
Presenting Officer: Emanuela Meloyan

**Application for a New Premises Licence in respect of 22 Great Windmill Street**  
**London W1D 7LD 21/06791/LIPN**

**FULL DECISION**

**Premises**

22 Great Windmill Street  
London W1D 7LD

**Applicant**

The Thin White Duke Limited

**Cumulative Impact Area**

West End

**Ward**

West End

**Summary of Application**

This is an application for a New Premises Licence. The premises propose to operate as a Café. The Premises are located in the West End Ward and the West End Cumulative Zone but not within the Special Consideration Zone. There is a resident count of 225.

## **Activities and Hours applied for**

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

Monday to Thursday 23:00 hours to 23:30 hours Friday to Saturday 23:00 hours 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. On Sundays prior to bank holidays 23:00 to 00:00 hours.

### **Sale by Retail of alcohol (On and Off Sales)**

Monday 12:00 hours to 15:00 hours Tuesday to Thursday 12:00 hours to 23:00 hours Friday to Saturday 12:00 hours to 00:00 hours Sunday 12:00 hours to 18:00 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. On Sundays prior to bank holidays 09:00 to 00:00 hours.

### **Hours Premises are open to the Public**

Monday to Thursday 09:00 hours to 23:30 hours Friday to Saturday 09:00 hours to 00:00 hours Sunday 09:00 hours to 22:30 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. On Sundays prior to bank holidays 09:00 to 00:00 hours.

## **Representations Received**

- Local Authority (Karyn Abbott)
- Metropolitan Police Service (Withdrawn)
- Environmental Health Service (EHS) (Anil Drayan)
- Soho Society
- 2 local residents

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

- The Licensing Authority expressed concerns in relation to the application and how it would promote the four licensing objectives.

- EHS stated that the proposals are likely to increase Public Nuisance in the area.
- The Soho Society objected to the application as it was presented, on the grounds of prevention of crime and disorder, prevention of public nuisance, public safety and cumulative impact in the West End Cumulative Impact Zone.
- A local resident objected on the basis of prevention of public nuisance.

### **Policy Position**

Under Policy HRS1, applications within the core hours set out in the policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy and applications for hours outside the core hours set out in the policy will be considered on their merits, subject to other relevant policies and with particular regard to the matters identified in Policy HRS1.

Under Policy RTN1, applications inside the West End Cumulative Impact Zone will generally be granted subject to: 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The hours for licensable activities are within the Council's Core Hours Policy HRS1. 3. The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone. 4. The application and operation of the venue meeting the definition of a restaurant as per Clause C.

### **SUBMISSIONS AND REASONS**

Ms Emanuela Meloyan, the Presenting Officer introduced the application.

Mr Thomas for the Applicant explained that the application was brought by a young couple trying to find their way in difficult times. He stated that they have spent over half a million pounds on this new venture to date. They have a new lease, there is a recording studio in the basement area, although, this area is not part of the application. The café is much auxiliary and supports aspect of the music industry.

Mr Thomas advised the Sub-Committee that one representation was received from the resident above the premises, whose concerns have been addressed by the acoustic reports. He stated that the applicant had followed a pre-application consultation with Environmental Health Service and there will be a very limited drinks list, few house wines, canned beer only, no draught beer and limited spirits.

It was noted that the operation of the premises is within core hours. The applicant amended the licensable hours in order to be able to sell alcohol before 21:00 hours without food.

Ms Stamp, for the applicant stated that the licensed area is a very small space and there is a small preparation kitchen. They wanted to present a flexible menu, but they are going to be primarily a café business in the day. Homemade food will be prepared off site and then heated in the kitchen at the premises.

In response to questions from the Sub-Committee regarding the capacity, Mr Thomas advised that the capacity will be assessed but they can say that there will be

no more 20 persons. Mr Thomas stated that there will be no drinking without food after 21:00 hours. The applicant does not anticipate there will be many smokers. The premises are located next to two bars and customers will be asked to smoke in Archers Street.

Mr Anil Drayan, representing Environmental Health Service advised that he was satisfied with the application and the acoustic report. He stated that he was at the hearing to assist the Sub-Committee.

Mr Drayan stated that the new neighbours have allowed access to their properties in order that noise level could be checked inside their flats and that have been helpful. He confirmed that he was also satisfied with the capacity of 20 persons and that the licensable activities within the premises would not cause public nuisance.

Ms Karyn Abbott, representing the Licensing Authority, advised that the Licensing Authority had maintained their representations as the premises are situated in the West End Cumulative Zone. She stated the premises are a small café and the hours had been reduced and fall within core hours. It was noted that the proposed model condition 66 would make the application fall within Policy RTN1 after 21:00 hours. Before 21:00 hours the application does fall within PB1 Policy and so an exceptional circumstance would be required as to why the application should be granted.

Mr Richard Brown, speaking on behalf of the Soho Society and local residents stated that they had no issues with the premises apart from the bar use of its operation. He noted that Mr Thomas said PB1 Policy was not relevant, but the licence would permit the sale of alcohol and therefore, exception may be needed with a terminal hour no later than 21:00 hours.

Mr Gleeson, speaking on behalf of the Soho Society stated that the street is a very small narrow street. The major issue with this application is that for 12 hours per day the premises could be used as a bar. Twenty extra people in the street would be detrimental.

In response to questions from Mr Gleeson, Mr Drayan stated that EHS would be assessing how the food will be prepared to ensure that there will be no potential odour nuisance and there will be no fumes condition on the Licence.

In response to questions from the Sub-Committee regarding restriction on the number of people who are allowed to drink before 21:00 hours, Mr Thomas stated that the applicant would accept that proposal rather than the Licence not been granted.

Mr Kerry Simpkin, Policy Adviser stated that the application should be considered under the Council's PB1 Policy which has a general presumption to refuse such applications within the Cumulative Impact Zone. Mr Simpkin advised that it was important to note that the policy framework within the Council's Licensing Policy was not designed to be broken up in order to apply to various parts of the days' operation of the premises.

## **Conclusion**

The Sub-Committee has a duty to consider the application on its individual merits and took into account all of 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 under Policy PB1 it is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone unless the applicant can demonstrate genuine exception to Policy.

The Sub-Committee was satisfied that the applicant had demonstrated an exception in this case due to the reduced hours of the operation, and in particular the nature of the applicant's proposed use of the premises, the small capacity and auxiliary use of the premises as a café. Accordingly, the Sub-Committee decided that the applicant had provided valid reasons as to why the granting of the application would not add to negative cumulative impact in the ClZ and thus promote the licensing objectives.

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 of the individual circumstances of this case and the promotion of the four licensing objectives:

1. To grant permission for **Late Night Refreshment** Monday to Thursday 23:00 to 23:30 hours Friday to Saturday 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. On Sunday prior to bank holidays 23:00 – 00:00.

2. To grant permission for the **Sale by Retail of Alcohol (On and Off Sales)** Monday 12:00 to 15:00 hours Tuesday to Thursday 12:00 to 23:00 hours Friday to Saturday 12:00 to 00:00 hours Sunday 12:00 to 18:00 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. On Sunday prior to bank holidays 09:00 – 00:00.

3. To grant permission for the **Opening Hours for the Premises** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 00:00 hours Sunday 09:00 to 22:30 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. On Sunday prior to bank holidays 09:00 – 00:00.

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

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

9. The premises shall only operate as a café:
- (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) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

For the purpose of this condition 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

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

10. (a) Notwithstanding condition 9, alcohol may be supplied and consumed prior to 20:00 hours without a substantial table meal to persons seated and served by waiter/waitress ancillary to the use of the premises as a café and which is auxiliary to the recording studio below the licensed premises.  
(b) Consumption of alcohol in respect of (a) above shall cease by 21:00 hours.
11. 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.
12. 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.

13. 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.
14. An incident log shall be kept at the premises and made available on request 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.
15. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
16. 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.
17. 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.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. 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.
20. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
21. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
22. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.



23. 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 unless collections are arranged during the times for the Council's own commercial waste collection service for the street.
24. 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 unless collections are arranged during the times for the Council's own commercial waste collection service for the street.
25. 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.
26. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke or make a phone call, shall not be permitted to take glass containers with them.
27. 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, but any such capacity will not exceed 20 persons (excluding staff) at any time.
28. 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.
29. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
30. There shall be no sale of take-away food after 23:00 hours.
31. There shall be no off sale of alcohol after 23:00 hours Monday to Saturday and Sundays 22:30 hours.
32. The Premises Licence Holder shall submit a revised plan of the licensed premises to the Licensing Authority.

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

**Licensing Sub-Committee  
3 February 2022**

**5. JERU, 11 BERKELEY STREET, W1J 8DS**

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3**  
**("The Committee")**

**Thursday 3 February 2022**

Membership: Councillor Jim Glen (Chairman), Councillor Melvyn Caplan and Councillor Rita Begum

Officer Support: Legal Advisor: Vivienne Walker  
Policy Officer: Kerry Simpkin  
Committee Officer: Kisi Smith-Charlemagne  
Presenting Officer: Emanuela Meloyan

**Application for a New Premises Licence in respect of Jeru 11 Berkeley Street**  
**London W1J 8DS 21/08226/LIPN**

**FULL DECISION**

**Premises**

Jeru  
11 Berkeley Street  
London W1J 8DS

**Applicant**

88 Hudson Limited

**Cumulative Impact Area**

None

**Ward**

West End

**Summary of Application**

This is an application for a New Premises Licence. The premises propose to operate as a Bakery/Delicatessen with restaurant and bar.

### **Activities and Hours applied for**

#### **Recorded Music (Indoors)**

Monday to Wednesday 23:00 hours to 00:00 hours Thursday to Saturday 23:00 hours to 02:00 hours Sunday 23:00 hours to 00:00 hours.

Seasonal variations/Non-standard timings: From the start time on New Year's Eve to the finish time on New Year's Day.

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

Monday to Wednesday 23:00 hours to 00:00 hours Thursday to Saturday 23:00 hours to 02:00 hours Sunday 23:00 hours to 00:00 hours.

Seasonal variations/Non-standard timings: From the start time on New Year's Eve to the finish time on New Year's Day.

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

Monday to Wednesday 10:00 hours to 00:00 hours Thursday to Saturday 10:00 hours to 02:00 hours Sunday 12:00 hours to 00:00 hours.

Seasonal variations/Non-standard timings: From the start time on New Year's Eve to the finish time on New Year's Day.

#### **Hours Premises are open to the Public**

Monday to Wednesday 07:00 hours to 00:30 hours Thursday to Saturday 07:00 hours to 02:30 hours Sunday 07:00 hours to 00:00 hours.

Seasonal variations/Non-standard timings: From the start time on New Year's Eve to the finish time on New Year's Day.

#### **Representations Received**

- Metropolitan Police Service (PC Dave Morgan) (withdrawn)
- Environmental Health Service (Ian Watson)
- 4 local residents

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

- Environmental Health Service stated that the proposals are likely to increase the risk of public nuisance and may impact upon public safety.

- Local residents objected on the basis of prevention of public nuisance and prevention of crime and disorder.

### **Policy Position**

Under Policy SCZ1, in addition to meeting other policies within the Statement of Licensing Policy, applications within a designated Special Consideration Zone should demonstrate that they have taken account of the issues particular to the Zone, in question as identified within the 2020 Cumulative Impact Assessment and should set out any proposed mitigation measures in relation to those issues within their operating schedule.

Under Policy HRS1, applications for hours within the core hours set out in the policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies within the Statement of Licensing Policy and applications for hours outside the core hours set out in the policy will be considered on their merits, subject to other relevant policies and with particular regard to the matters identified in Policy HRS1.

Under Policy RTN1, applications outside the West End Cumulative Impact Zone will generally be granted subject to 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The hours for licensable activities being within the Council's core hours Policy HRS1. 3. The applicant has taken account of the Special Consideration Zones. 4. The application and operation of the venue meeting the definition of a restaurant as per Clause C.

### **SUBMISSIONS AND REASONS**

Ms Emanuela Meloyan, Licensing Officer, summarised the application as set out in the report before the Sub-Committee. Representations had been received from Environmental Health Service and four interested parties. The premises are situated within the West End Ward and fall within the Special Consideration Zone but not in the Cumulative Impact Zone.

Mr Craig Baylis, solicitor acting on behalf of the applicant, outlined the nature of the application sought. He stated that the premises have a licence for core hours, and they are happy to keep the application to core hours apart from Fridays and Saturdays until 01:00 hours, effectively they were seeking an extra hour. Mr Baylis stated that the new restaurant was opened just before Christmas, it is a successful middle Eastern/Mediterranean restaurant, there will be no vertical drinking. The Police have withdrawn their representations. The applicant will not seek to increase the capacity of 175 persons. The premises have operated using a series of Temporary Event Notices which allowed trading for about 14 nights until 01:00 hours without complaints. He confirmed that the existing licence would be surrendered if the new licence was granted.

Mr Ian Watson, Environmental Health Officer, advised the Sub-Committee that there had been a pre-application consultation. He stated that he was satisfied with the suggested capacity and proposed conditions. There are no recorded complaints regarding public nuisance from the premises.

Mr Watson stated that he did historic checks on the premises to ascertain whether there were any complaints. He stated that the holding area can be used as pre and post dining bar and this would assist with dispersal.

Mr Richard Brown, speaking on behalf of local residents stated that he welcomed the reduced hours from 02:00 hours to 01:00 hours. However, they still object to the application because it is beyond core hours. Mr Brown explained that there is concern relating to people leaving this part of the street which is particularly busy. He stated that the premises have not been opened for that long and so he did not think that noise complaints are that persuasive. The main concern is that the application will add to the cumulative impact on the area. Also, dispersal is an issue, the residents do not know how the applicant will manage dispersal in this area.

In response to Mr Brown's representation, Mr Baylis stated that people will be encouraged to remain on the premises whilst waiting on taxis.

In response to questions from the Sub-Committee, Mr Ozkara, for the applicant confirmed that last drink order will be around 23:30 hours.

Mr Baylis stated that the applicant would be happy to accept a condition for last entry time of 23:30 or midnight.

In response to questions from the Sub-Committee, Mr Baylis confirmed that the applicant would take the last drink orders by 00:30 hours.

### **Conclusion**

The Committee has a duty to consider the application on its individual merits and took into account all of 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 were mindful of the fact that the Metropolitan Police Service had withdrawn their representations following the agreed conditions with the applicant.

The Sub-Committee had to balance the increase in hours sought on Fridays and Saturdays. The Sub-Committee placed significant weight on the detailed conditions offered by the applicant.

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

Having carefully considered the committee papers and the submissions made by all the parties, both orally and in writing, **the 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 **Recorded Music (Indoors)** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 01:00 hours Sunday 09:00 to 23:30 hours.

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

2. To grant permission for **Late Night Refreshment (Indoors)** Monday to Thursday 23:00 to 23:30 hours Friday to Saturday 23:00 to 01:00 hours

Seasonal Variations: Sundays before Bank Holidays 23:00 to 00:00

3. To grant permission for the **Sale by Retail of Alcohol (On and Off Sales)** Monday to Thursday 10:00 to 23:30 hours Friday to Saturday 10:00 to 01:00 hours Sunday 12:00 to 22:30 hours.

Seasonal Variations: Sundays before Bank Holidays 10:00 to 00:00

4. To grant permission for the **Opening Hours for the Premises** Monday to Thursday 09:00 to 23:30 hours Friday to Saturday 09:00 to 01:00 hours Sunday 09:00 to 22:30 hours.

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

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

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

9. Except for the ground floor holding bar area hatched red the premises shall operate as a restaurant:
  - i) In which customers are shown to their table
  - ii) Where the supply of alcohol is by waiter or waitress service only,
  - iii) Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
  - iv) Which do not provide any takeaway service of food or drink for immediate consumption,
  - v) Which do not provide any takeaway service of food or drink after 23:00, and
  - vi) Where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking a substantial table meal 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.

10. Notwithstanding the above condition, alcohol may be sold to and consumed by up to a maximum of 25 persons in the holding bar area hatched red on the plan, prior to and after their meal until 23:30 hours when the area will become a holding area.

11. The supply of alcohol for consumption on the premises within the holding area shall only be to persons seated.
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. There shall be no sales of hot food or hot drink for consumption 'Off' the premises after 23:00 hours.
14. All sales of alcohol for consumption 'Off' the premises shall be in sealed containers only and shall not be consumed on the premises.
15. There shall be no supply of alcohol for consumption 'Off' the premises after 23.00 hours.
16. 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 preceding 31-day period.
17. 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.
18. 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, military ID card, passport or proof of age card with the PASS Hologram.
19. The smoking area for patrons shall be restricted to the private terrace shown on the attached plan.
20. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to the designated smoking area as defined on the licensed plan.
21. Patrons permitted to temporarily leave and then re-enter the premises at ground floor level shall not be permitted to take drinks or glass containers with them.
22. There shall be no smoking on the street immediately outside the premises.

23. The premises licence holder shall ensure that any patrons 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.
24. There shall be no admittance or re-admittance to the premises after 23:30 hours.
25. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
26. 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.
27. After 21.00 hours at least 1 SIA licensed door supervisor shall be on duty at the entrance of the premises at all times whilst it is open for business.
28. 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 and disorder
  - (d) any incidents of disorder
  - (e) any faults in the CCTV system
  - (f) any refusal of the sale of alcohol
  - (g) any visit by a relevant authority or emergency service
29. 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.
30. External doors shall be kept closed after 23.00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
31. Loudspeakers shall not be located in the entrance lobby or outside the premises building, including any external terraces.
32. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence Holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be affected without prior knowledge of an authorised officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.



33. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
34. 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.
35. 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.
36. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
37. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
38. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
39. 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.
40. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
41. 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.
42. 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.
43. With the exception of fresh produce, deliveries to the premises shall only take place between the hours of 07:30 and 12:00 hours (midday) Monday to Saturday and between 09:00 and 12:00 hours Sundays and Bank Holidays.
44. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.

45. 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.
46. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed:  
Ground Floor: 90 persons  
Basement: 90 persons  
With no more than 175 persons at any one time.
47. The Premises Licence Holder shall facilitate a Dispersal Policy which shall include the following provisions:
  - (a) staff and door supervisors to control a slow stream of customers and guests leaving the premises.
  - (b) staff and door supervisors to encourage guests to leave the area quickly and quietly.
  - (c) staff to provide guests with details on transport options and directions for onward travel.
  - (d) Notices will be prominently displayed at exits requesting guests to respect the needs of local residents and to leave the area quietly, in a considerate manner, directing them towards Piccadilly.
  - (e) Staff and security will remain on duty at the premises until 30 minutes after the event ends to assist with the safe dispersal of guests.
  - (f) Guests will be encouraged to remain inside the premises if waiting for taxis, Ubers or chauffeur cars.
48. A copy of the Premises Dispersal Policy shall be made readily available at the premises for inspection by a Police Officer and/or an authorised officer of the Council.
49. The Premises Licence Holder shall submit a revised plan showing the holding area and the designated smoking area to the Licensing Authority.

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

**Licensing Sub-Committee  
3 February 2022**