



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (4)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 28th April, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Karen Scarborough (Chairman), Susie Burbridge and Maggie Carman

#### 1. MEMBERSHIP

1.1 There were no changes to the membership.

#### 2. DECLARATIONS OF INTEREST

2.1 Councillor Karen Scarborough declared in respect of Item 1: Underbelly Festival that she had been approached by a resident who had objected to the Application. Councillor Scarborough advised that she had suggested that they make a representation to the council. She confirmed that she had not given any opinion to this resident.

#### 1. UNDERBELLY FESTIVAL, OPEN SPACE IN CENTRE, CAVENDISH SQUARE, W1G 9DB

### WCC LICENSING SUB-COMMITTEE NO. 4 ("The Committee")

Thursday 28 April 2022

Membership: Councillor Karen Scarborough (Chairman), Councillor Susie Burbridge and Councillor Maggie Carman

Officer Support      Legal Advisor:      Vivienne Walker  
Policy Officer:      Aaron Hardy  
Committee Officer:      Sarah Craddock  
Presenting Officer:      Emanuela Meloyan

Others present: Alun Thomas (Solicitor, Thomas and Thomas), Ed Bartlam (Director of Underbelly Ltd), Bertie Woodhead (DPS, Underbelly Ltd) and Anil Drayan (Environmental Health Service)

**Application for a New Premises Licence in respect of Underbelly Festival Open Space in Centre Cavendish Square London W1G 9DB 22/02072/LIPN**

**FULL DECISION**

**Premises**

Underbelly Festival  
Open Space in Centre  
Cavendish Square  
London W1G 9DB

**Applicant**

Underbelly Limited

**Ward**

West End

**Cumulative Impact**

N/A

**Special Consideration Zone**

West End Buffer SCZ

**Activities and Hours applied for**

**Sale by Retail of Alcohol (On Sales)**

Sunday to Monday: 12:00 to 22:00  
Tuesday to Thursday: 12:00 to 23:00  
Friday to Saturday: 12:00 to 23:15

Seasonal Variations: None

**Recorded Music, Live Music, Plays, Films, Performance of Dance and Anything of a Similar Description to Live Music, Recorded Music or Performance of Dance (Indoors and Outdoors)**

Sunday to Wednesday 12:00 to 22:00  
Thursday 12:00 to 23:00  
Friday to Saturday 12:00 to 23:15

Seasonal Variations: None

## **Opening Hours**

Sunday to Wednesday 12:00 to 22:30

Thursday 12:00 to 23:30

Friday and Saturday 12:00 to 23:45

Seasonal Variations: None

## **Summary of Application**

The Committee has determined an application for a time limited New Premises Licence between the 28 April 2022 to 31 July 2022 under the Licensing Act 2003 ("The Act"). The Premises intends to operate on similar terms as was previously granted to the Applicant in 2021 and the proposed licence conditions are the same as per Premises Licence 21/03706/LIPN. The Underbelly Festival is a live performance venue offering affordable live family entertainment. The Premises are located within the West End Ward and the West End Buffer Special Consideration Zone.

## **Representations Received**

- Metropolitan Police Service (withdrew on 27 April 2022 following agreement of additional conditions to be added to the Premises Licence).
- Environmental Health Service – Anil Drayan
- 4 Local Residents (Opposed the application)
- 

## **Summary of Representations**

- The Environmental Health Service have made a representation in relation to the application as the proposal may undermine the licencing objectives of Public Nuisance, Public Safety and Protection of Children from Harm within the West End Buffer Special Consideration Zone.
- Local residents raised the following concerns: Noise nuisance, restriction of the public space during the course of the event, the location and odour from the porta toilets next to Harcourt House and the diesel fumes from generators being pumped into the air

## **Policy Position**

### **SCZ1**

- Under Policy SCZ1, in addition to meeting the other policies within this statement, 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.

## **CCSOS1**

- Under Policy CCSOS1, applications outside the West End Cumulative Impact Zones 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 taken account of the Special Consideration Zone Policy SCZ1. 4. The application and operation of the venue meeting the definition for a Cinema, Cultural Venue, or outdoor Space as per Clause C.

## **SUBMISSIONS AND REASONS**

The Presenting Officer, Ms Emanuela Meloyan introduced the application and advised that the Premises 'Underbelly Festival' would operate as a live performance venue situated in Cavendish Square for a time limited period between 28 April 2022 to 31 July 2022. She confirmed that representations had been received by the Metropolitan Police Service who had since withdrawn their representation and by the Environmental Health Service and four local residents. She outlined that the Premises are within the West End Ward and the West End Buffer Zone. Ms Meloyan advised of the error in the report regarding the Sale by Retail of Alcohol hours for Tuesday and Wednesday and confirmed that the hours sought by the Applicant for those days were: 12:00 to 23:00.

Mr Alun Thomas, Solicitor appearing on behalf of the Applicant, referred to the Applicant Submissions set out on pages 17 to 24 of the report. He outlined the application before the Sub-Committee emphasising that the application proposes a new Premises Licence on the same terms as the Applicant's summer 2021 time limited Premises Licence except for changes to the proposed hours for licensable activities, resulting in an overall reduction in hours and earlier closing times (albeit with an additional 15 minutes for the sale of alcohol on Friday and Saturday evenings to 23:15) and the amendment to wording of condition 63 relating to searching procedures which had been agreed with the Police Counter Terrorism unit. He confirmed that the Premises Licence was time limited from 28 April to 31 July 2022.

Mr Thomas advised that the Applicant had reached out to all the residents who had made representations against the application but had no response. He confirmed that the Applicant was a very experienced operator and would be happy to engage with all Interested Parties throughout the festival to ensure that any concerns/complaints were dealt with quickly. He advised that there had been one recorded complaint regarding a sound check one afternoon however the Applicant was not aware of any other complaints. He outlined that on the plus side whilst the festival was in operation in Cavendish Square the issues of anti-social behaviour decreased because of the additional security measures put in place by the Applicant.

Mr Ed Bartlam, Director of Underbelly Ltd, advised that the Underbelly Festival had become a recognised and much anticipated part of London's vibrant summer calendar of cultural events. He outlined that the festival was affordable, accessibility and family orientated with all performances being held in the Spiegeltent Theatre and food and beverage units being located around Cavendish Square. He advised that extensive engagement with all Interested Parties would continue throughout the festival and that a letter drop to local residents had taken place. Mr Bartlam

confirmed that public access to Cavendish Square would continue to allow people to enjoy the park and that lots of local businesses and residents had attended the performances last year.

Mr Bartlam outlined that Underbelly Ltd had worked with the Licensing Operational and Safety Planning Group (LOSPG) to formulate a comprehensive Event Management Plan which would promote all four of the licensing objectives. He explained that they had a noise management plan, 24 hours extensive security across the site and a full delivery and servicing plan. He advised that the Police had confirmed that anti-social behaviour had substantially decreased during the running of the festival which had been a benefit for the wider community. He confirmed that the Underbelly festival would not become an annual event at Cavendish Square.

In response to questions from the Sub-Committee, Mr Bartlam advised of the programme of events to be held in the Spiegel tent and that the site mobile phone number would be shared widely with residents. Mr Bartlam confirmed that the toilets would be situated in the same location as last year and that, unlike last year, all waste would go straight into the main sewage system. He further confirmed that steps had been taken to ensure that odours did not emanate from the toilet blocks. Mr Bartlam noted that there were residents now living in a block opposite John Princes Street and that there was a residential block situated in Cavendish Square.

Mr Drayan, representing the Environmental Health Service, confirmed that there were residential blocks located in the area. He advised that he had been comfortable with the location and presentation of the toilet facilities last year. He confirmed that residents always had access to the gardens/square throughout the duration of the festival. He advised that he has spoken to the City Inspectors regarding the complaint about the sound rehearsal and that they had followed it up with no reply. He advised that the City Inspectors regularly visited the square because of the issues with homelessness and street begging there, however these problems reduced dramatically during the festival. Mr Drayan advised that Environmental Health had agreed additional controls on the playing of music which should alleviate residents' concerns regarding public and noise nuisance. He concluded that he was satisfied with the application and had no objections to the time limited Premises Licence.

In response to questions from the Sub-Committee regarding the request for an additional 15 minutes for the sale of alcohol on Friday and Saturday nights, Mr Thomas advised that it gave customers a little longer to finish their drinks, get their belongings together after the last show and calm down before leaving the site. He also added that generally the opening hours of the Premises had been reduced and the additional 15 minutes would help with the dispersal of people and could potentially stop people heading off to another pub in the area. Mr Thomas advised that condition 48 indicated the number of toilets that were required on the site.

Mr Bartlam advised that there would be two units selling alcohol and five units selling street food from around the world in Cavendish Square throughout the festival. He outlined that the capacity of the Spiegel tent was 450 patrons which was a reduction from the previous year. He confirmed that 99% of the power was from mains power and only one small generator was used to power the air conditioning unit.

## **Conclusion**

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

In reaching its decision, the Sub-Committee took into consideration that conditions had been agreed with the Responsible Authorities and the Interested Parties and that due regard had been given to Policy SCZ1 as the Applicant had attempted to address issues particular to the West End Buffer special consideration zone.

The Sub-Committee noted that the Metropolitan Police Service had withdrawn their representation and that the Environmental Health Service had stated that they had no objections to the time limited Premises Licence. The Sub-Committee also noted that the Applicant had agreed to liaise with residents on a regular basis.

The Sub-Committee considered that they would grant the additional 15 minutes requested for Regulated Entertainment, but not for the sale of alcohol as the Premises were after all located in the West End Buffer special consideration zone where there were significant problems with homelessness and street begging.

In reaching its decision, the Sub-Committee concluded that the conditions attached to the licence would alleviate the residents' concerns and were appropriate and would promote the licencing objective.

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

1. **To grant permission for the provision of Recorded Music, Live Music, Plays, Films, Performance of Dance and Anything of a Similar Description to Live Music, Recorded Music or Performance of Dance (Indoors and Outdoors)** Sunday to Wednesday 12:00 to 22:00 hours  
Thursday 12:00 to 23:00 hours Friday to Saturday 12:00 to 23:15 hours

**There are no seasonal variations.**

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

**There are no seasonal variations.**

3. **To grant permission for the Hours the Premises are Open to the Public** Sunday to Wednesday 12:00 to 22:30 hours Thursday 12:00 to 23:30 hours  
Friday and Saturday 12:00 to 23:45 hours

**There are no seasonal variations.**

4. **To grant permission for a time limited Premises Licence** to authorise licensable activities between 28 April 2022 to 31 July 2022.
5. That the Premises Licence shall be time limited for the period 28 April to 31 July 2022 and the licensable activities so authorised shall be restricted to this period after which time this Licence shall cease and have no effect.
6. That the Licence is subject to any relevant mandatory conditions.
7. That the Licence is subject to the following additional conditions and informative 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**

11. At least one SIA licensed door supervisor shall be on duty at each entrance and exit of the premises at all times whilst it is open for business.
12. The operational use of this licence shall be agreed through the Licensing, Operational and Safety Planning Group (LOSPG) process where:
  - i. The LOSPG shall be chaired by a representative of the City Councils City Promotions, Events & Filming Team (CPEF) and
  - ii. Membership of the LOSPG shall normally consist of invited representatives of the designated event organiser, the Metropolitan Police Service, Officers of the City Council from CPEF and the Environmental Health Consultation Team (EHCT), London Fire Brigade and any other appropriate and specialist advisor as required by the chairman of the LOSPG to achieve agreement and to meet the objectives of the Licensing Act.
13. Unless otherwise agreed, no later than 28 days prior to the event the Premises Licence holder must ensure an Event Management Plan is presented to the parties listed in the above conditions for their comments. The Event Management Plan shall include, as a minimum:
  - a. Emergency and Evacuation procedures;
  - b. Crowd management and Dispersal Policy;
  - c. A detailed plan showing site layout and emergency egress points;
  - d. A detailed plan showing CCTV locations installed by the Premises Licence Holder;
  - e. Risk Assessments;
  - f. A schedule detailing types and locations of emergency equipment;
  - g. Sanitary accommodation;
  - h. The capacity of fully enclosed locations where alcohol is sold;
  - i. A detailed Counter Terrorism risk assessment;
  - j. Security/Stewarding arrangements;
  - k. Search Policy.
14. So far as is reasonably practicable the Premises Licence Holder shall ensure that the event is run in accordance with the Event Management Plan.

15. There shall be at least one Personal Licence Holder on site during operational hours. Details of the Personal Licence Holder (including name and contact number) shall be displayed in a prominent position on site.
16. No alcohol shall be taken outside of the boundary of the licensable area.
17. Notices shall be prominently displayed at all exits (including the Spiegeltent) requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
18. 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.
19. A challenge 25 proof of age scheme for the sale of alcohol 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.
20. The age of the audience members to the Spiegeltent shall be appropriate to the performance.
21. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the Police or an authorised officer of the City Council at all times whilst the premises are open.
22. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of the Police or authorised officer throughout the entire 31-day period.
23. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (g) any refusal of the sale of alcohol
  - (h) any formal visit by a relevant authority or emergency service.

24. Any special effects or mechanical installations shall be arranged, operated and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
  - dry ice and cryogenic fog
  - smoke machines and fog generators
  - pyrotechnics including fireworks
  - firearms
  - lasers
  - explosives and highly flammable substances
  - real flame
  - strobe lighting.
25. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased. NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
26. Licensable activities at events in the Spiegel tent shall only be provided to persons who are a ticket holder for that event.
27. The number of persons accommodated in the Spiegel tent (excluding staff) shall not exceed 500.
28. The Licence Holder shall ensure that any queuing for the Spiegel tent performances shall take place within the licensed area.
29. The safe capacity of the Square shall be continuously reviewed, and action taken, if necessary, to ensure the capacity remains at a safe capacity.
30. All drinking vessels used in the venue shall be made from compostable material other than glass, except for wine or sparkling wine (including champagne) in the Spiegel tent. There shall be no glass allowed into the auditorium or external areas.
31. 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.
32. 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.
33. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.

34. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
35. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
36. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
37. The certificates listed below shall be submitted to the Licensing Authority upon written request:
  - a. Any permanent or temporary emergency lighting battery or system
  - b. Any permanent or temporary electrical installation
  - c. Any permanent or temporary emergency warning system
38. There shall be no external entertainment beyond 22.00 hours.
39. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
40. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
41. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties (save insofar as they are necessary for the prevention of crime).
42. No fumes, steam or odours shall be emitted from the licensed area so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
43. A sufficient number of easily identifiable, readily accessible receptacles for refuse must be provided, including provisions for concessions. Arrangements must be made for regular collection. Public areas must be kept clear of refuse and other combustible waste prior to, and so far, as is reasonably practicable, during the licensed event.
44. A minimum of 28 days prior to the event a Noise Management Plan to promote the prevention of public nuisance shall be provided to Westminster City Councils Environmental Health Consultation Team for approval. The Noise Management Plan shall state the maximum permitted music noise level applicable at the nearest noise sensitive premises. Once approved in writing it shall be implemented by the Premises Licence Holder.
45. Residential properties and the relevant amenity group(s) in the immediate vicinity of Cavendish Square will be contacted as soon as reasonably practicable (and in any event no later than 28 days) prior to the Event advising them of the times of the Event and any sound check or rehearsal times and

- giving them a telephone number to contact in the event that they have any complaints.
46. Any generators, refrigerators or other machinery running overnight will be silenced, screened or sited so as not to be audible outside the boundary of the Gardens.
  47. Electrical generators, where used, must be:
    - i. Suitably located clear of buildings, marquees and structures, and free from flammable materials.
    - ii. Enclosed to prevent unauthorised access.
    - iii. Able to provide power for the duration of the event.
    - iv. Backed up electrical generators are to be provided to power essential communications, lighting and safety systems in the event of primary generator failure.
  48. The minimum number of toilet accommodation shall include:  
14 Women's Cubicles  
3 Men's Cubicles  
10 Urinals.
  49. Details of all marquees, tented structures and temporary structures should be provided including emergency exits and signage, fire warning and fire fighting equipment.
  50. Full structural design details and calculations of all and any structures to be erected within the licensed area must be submitted to the Westminster City Council Building Control. A certificate from a competent person or engineer that a completed structure has been erected in accordance with the structural drawings and design specification must be available for inspection prior to a relevant structure being used during the licensed event.
  51. All fabric, including curtains and drapes used on stage for tents and marquees, or plastic and weather sheeting, shall be inherently or durably flame retardant to the relevant British Standards. Certificates of compliance must be available upon request by an authorised officer of Westminster City Council and the London Fire Brigade.
  52. Any moving flown equipment must contain a device or method whereby failure in the lifting system would not allow the load to fall. All hung scenery and equipment must be provided with a minimum of two securely fixed independent suspensions such that in the event of failure of one suspension the load shall be safely sustained.
  53. The Premises Licence Holder must maintain a regular safety patrol at all times when the public are present in the licensed area to check for and guard against possible emergency hazards. The area underneath any stage and fixed seating areas are to be kept clear of flammable materials.
  54. The Premises Licence Holder must ensure that competent persons are employed to assess the electrical requirements at the event and the

compatibility of the electricity supply with the equipment to be used. Appropriate safety devices (such as 30mA Residual Current Devices at Source) must be used for electrical apparatus, particularly for any electrical equipment exposed to adverse conditions or electrical equipment to be used in association with handheld devices (e.g. microphones). The competent person must make a certificate of inspection of the electrical installation available for inspection.

55. All spare fuel, including LPG, must be kept and stored safely in accordance with relevant Health and Safety legislation and suitable safety signage and fire fighting equipment provided.
56. The noise levels within the performance venue shall be monitored and adjusted to ensure that they do not exceed 85dB(A) LAeq over any 15-minute period when measured at the mixing/control desk.
57. For the external entertainment there shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
58. Regulated entertainment shall be restricted to the Spiegeltent.
59. 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 produce has been successfully completed within the preceding 12 months (before the start of the proposed event/open to the public) and that all staff employed by or at the premises, including contracted and 3rd party complete the ACT eLearning training prior to them being employed on the premises.
60. A copy of the premises Dispersal Policy will be available at the premises for inspection by a Police Officer and/or an authorised Officer of Westminster City Council.
61. The Premises Licence Holder shall ensure that alcohol is not allowed to be brought into the licensed area by members of the public.
62. The name and contact telephone number of the Designated Premises Supervisor shall be displayed in a prominent position on site, so that it is clearly visible.
63. A written search policy will be in place and security staff will be briefed on the provisions of such policy to be aware of their responsibilities and actions required by that policy. Such policy will include the procedure for searching prior to entry of customers into the licensed area of Cavendish Square, which will include:
  - a. Randomised body searches at all times
  - b. Risk assessed bag search before 6 pm

- c. Compulsory searches of all bags of persons entering the event by hand after 6 pm  
to ensure that no alcohol or prohibited items are brought on site. Any customer refusing to permit to the search procedure will be refused entry into the licensed area of Cavendish Square. Any queues formed at the entry to the site shall be supervised by security staff to prevent disorder and anti-social behaviour.
64. The Premises Licence Holder shall ensure that:
- (a) All licensed SIA door staff on duty at the event shall be equipped with Body Worn Video (BWV), capable of recording audio and video in any light condition as per the minimum requirements of the Westminster Police Licensing Team;
- (b) All recordings shall be stored for a minimum period of 31 days with date and time stamping and
- (c) the viewing of BWV recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.
65. Beer, Lager or Cider shall not be served in any measure greater than a pint.
66. A minimum of 3 SIA licensed stewards shall be on duty at the premises at all times whilst it is open for business. When more than one of the site entrances are open, a minimum of 4 SIA licensed stewards shall be on duty at the premises at all times whilst it is open for business. The Premises Licence Holder shall regularly risk assess the requirement for additional SIA licensed stewards to be on duty. Regular patrols within the licensed area of Cavendish Square will be conducted by those SIA licensed stewards on duty.
67. All SIA licensed door supervisors will wear high visibility jackets or vests.
68. 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.
69. During the hours of operation of the premises, the Premises 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.
70. No licensable activities shall take place at the premises until the Licensing Authority are satisfied that the premises are constructed or altered in accordance with the appropriate provisions of the District Surveyors Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation

Team, at which time this condition shall be removed from the licence by the Licensing Authority.

### **INFORMATIVE**

- 71. The Sub-Committee welcomed the Applicants' willingness to continue to liaise with residents regarding the soundchecks.**
- 72. The Sub-Committee noted that when the Event is not active access to the gardens will remain unimpeded for the public to enjoy and welcomed that when the Event is active the public shall have access to the gardens subject to capacity.**

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

**The Licensing Sub-Committee  
28 April 2022**

**2. MIZNON, GROUND FLOOR, 8-12 BROADWICK STREET, W1F 8HW**

**WCC LICENSING SUB-COMMITTEE NO. 4**  
**("The Committee")**

Thursday 28 April 2022

Membership: Councillor Karen Scarborough (Chairman), Councillor Susie Burbridge and Councillor Maggie Carman

Officer Support      Legal Advisor:      Vivienne Walker  
Policy Officer:      Aaron Hardy  
Committee Officer: Sarah Craddock  
Presenting Officer: Emanuela Meloyan

Others present: Alun Thomas (Solicitor, Thomas and Thomas), David Goldstein, Ben Matthews and Josh Rose (The Sababah Company Ltd), Julia Wilkinson (Shaftesbury Soho), Anil Drayan (Environmental Health Service), Roxsana Haq (Licensing Authority), Richard Brown (Solicitor, Westminster's Citizens Advice) and Tim Lord (Soho Society and local resident)

**Application for a New Premises Licence in respect of Miznon Ground floor 8-12 Broadwick Street London W1F 8 HW 22/01579/LIPN**

**FULL DECISION**

**Premises**

Miznon  
Ground Floor  
8-12 Broadwick Street  
London W1F 8HW

**Applicant**

The Sababah Company Limited.

**Ward**

West End

**Cumulative Impact**

West End

**Special Consideration Zone**

N/A

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

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

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

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

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

**Seasonal Variations:** From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sundays immediately prior to bank holidays 23:00 to 00:00 hours.

#### **Opening Hours for the Premises**

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

### **Summary of Application**

The Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises intends to operate as a restaurant. The Premises are located within the West End Ward and the West End Cumulative Impact Zone. There is a resident count of 92.

### **Representations Received**

- Environmental Health Service (Anil Drayan)
- Licensing Authority (Roxana Haq)
- 3 Local Residents (Opposed the application)
- The Soho Society (Opposed the application)
- Soho Business Alliance Ltd (supported of the application)
- Shaftesbury Soho (supported of the application)

### **Summary of Representations**

- The Environmental Health Service have made a representation in relation to the application as the proposal may undermine the licencing objectives of Public Nuisance and Public within the West End CIA.

- The Licensing Authority has concerns regarding how the Premises would promote the four licensing objectives.
- Residents raised the following concerns: increase in street drinking, public nuisance such as urination on the streets and noise and difficulties with deliveries and waste collections to and from the Premises because of the narrow streets. The Soho Society considered that the area was already saturated with Premises Licences.
- Soho Business Alliance Ltd welcomed the restaurant to Soho and stated that the Applicant had an excellent international reputation and will promote the Licensing Objectives.
- Shaftesbury Soho welcomed the independent hospitality operator as this is consistent with Shaftesbury's overarching strategy to help maintain Soho's interesting and diverse heritage.

### **Policy Position**

#### **CIP1**

- Under Policy CIP1, it is the Licensing Authority's policy to refuse applications in the Cumulative Impact Area for pubs and bars, fast food premises and premises offering facilities for music and dancing, other than applications to vary hours within the core hours under Policy HRS1. Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies and must demonstrate that they will not add to cumulative impact within the Cumulative Impact Zone.

#### **HRS1**

- 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.

#### **RNT1**

- Under Policy RNT1, 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**

The Presenting Officer, Ms Emanuela Meloyan introduced the application and advised that the application was for a new Premises Licence for a restaurant. She confirmed that representations against the application had been received by the Environmental Health Service, the Licensing Authority, the Soho Society and three local residents. She further advised that representations in support of the application had been received from Soho Business Alliance Ltd and Shaftesbury Soho. She outlined that the Premises are within the West End Ward and the West End Cumulative Impact Zone.

Mr Alun Thomas, Solicitor on behalf of the Applicant, outlined the application before the Sub-Committee. He explained that Miznon was an international fine casual restaurant chain founded in Tel Aviv, Israel in 2010 and the application was the first UK restaurant for the brand to be located at 8-12 Broadwick Street, W1. He advised that whilst there was no licence history for the Premises, it has history of food and beverage operations such as Pret and EAT. He explained that this application was for a restaurant with model condition 66 applying in full and the proposed conditions address the Council's policies in relation to the licensing objectives and cumulative impact within the cumulative impact area. He emphasised that Regulated Entertainment had not been applied for, the hours were in line with the Council's Core Hours policy, the food was tasty and affordable, there was no outside seating and all off sales of alcohol were to be in sealed containers. He added that the application was supported by Shaftesbury Soho who are the freeholder of the Premises.

Mr Thomas referred to the conditions that would be attached to the Premises Licence to promote the four licensing objectives and specially highlighted conditions 9 and 28 which would prevent street drinking. He further pointed out that the Council's model conditions for waste collections had been agreed and would be attached to the Premises Licence. He added that rubbish would not be left on the pavement for more than 30 minutes. He added that an additional condition regarding deliveries would also be attached to the Premises Licence as well as a condition prohibiting off sales of alcohol after 23:00 hours.

Mr Thomas advised that the restaurant had a capacity of 60 patrons (excluding staff) and as the Applicant had agreed to all the relevant model conditions being attached to the Premises Licence, on the balance of probabilities, this new restaurant would not add to the Cumulative Impact Zone in the West End. He referred to the video links that had been circulated to the Sub-Committee and advised that the incidents shown on the video tended to occur in drink led establishments and that such behaviour was highly unlikely to happen in a restaurant.

In response to questions from the Sub-Committee, Mr David Goldstein, from the Applicant Company, advised that the sandwiches were quite large and cost between £10-12. He added that there were also side dishes of cauliflower and potato that customers usually ordered to go with their meal. He advised that Miznon was not a traditional restaurant and that a meal could be made up of lots of small plates of food. Mr Thomas advised that people could order food to take-away however the food would be packaged in such a way that it would not be for immediate consumption.

The Sub-Committee discussed the speed of service and how long people would take to eat their meal to ensure that the Applicant was planning to operate a restaurant and not a fast-food establishment as the Council had a separate policy for fast food establishments. Mr Goldstein advised that the majority of the restaurant's revenue would be from sit down meals and that customers would be in the restaurant for an average 60-90 minutes as all food was cooked from fresh.

Mr Ben Matthews, from the Applicant company, advised that there was a significant difference on how people interacted with the menu between lunch and dinner. He explained that the concept of the restaurant was celebrating the individual ingredient and individual vegetable and that the pittas were substantial meals. He emphasised that the concept was unique. He confirmed that all food orders for take away were packaged in such a way that it was not for immediate consumption.

Mr Thomas referred to the conditions that would be attached to the Premises Licence and advised the Sub-Committee that he was happy to amend the off sales condition to say that any off sales of alcohol needed to be purchased with a substantial meal. The Sub-Committee then briefly discussed the environmental aspects of recycling and that recycling was not actually very environmentally friendly because of all the lorries and vans needed to collect the rubbish/waste generated in the West End.

Mr Drayan, representing the Environmental Health Service, advised that all conditions had been agreed with the Applicant and that he was only present at the hearing to answer the Licensing Sub-Committee questions. He confirmed that the Environmental Health Service were content that this Premises would operate as a full restaurant as the model restaurant condition MC66 was being included on the Premises Licence.

Ms Roxsana Haq, representing the Licencing Authority, advised that the application was within the Council's core hours policy and the Applicant had agreed to an additional condition prohibiting off sales of alcohol after 23:00 hours. She confirmed that the Licensing Authority had maintained their representation because of the resident objections to the application and to assist the Sub-Committee.

Mr Richard Brown, Solicitor, representing the Soho Society and Tim Lord (local resident) advised that he wanted to further explore how this Premises would be operated because, although the concept for this restaurant may be delightful, the Premises Licence is attached to the Premises and not the operator. Mr Brown referred to the Council's Licensing Policies and advised that Policy HRS1 did not say that applications would generally be granted, however, what it did say was that applications were generally granted subject to other licensing policies being relevant to the application. Mr Brown further advised that Policy RTN1 policy stated that the Applicant must demonstrate that they will not add to cumulative impact, and although this Premises would be operated as a small restaurant it would still add to cumulative impact by way of bringing more people into Soho. Mr Brown then advised of the difficulties that may arise from deliveries to the Premises and queuing for take away food because of the narrow street.

Mr Tim Lord, Chair of the Soho Society, and a resident in Broadwick Street, referred to his written representation contained at pages 133 to 141 of the report. He advised that he had lived in Soho for 30 years and that this house was located on the corner of Broadwick Street; 10 yards away from the Premises. He advised that he had spoken to residents in the immediate vicinity who were concerned about this new Premises being licenced and highlighted that there was new housing on Duck Lane which was immediately opposite the Premises.

Mr Lord explained that the north side of Broadwick Street had always contained shops and not restaurants because intrinsically there had always been infrastructure issues about having a restaurant on this block because of waste, access, and deliveries issues. He emphasised that this part of Broadwick Street had always been very quiet because of the narrow pavement/street, however, further along Broadwick Street towards Berwick Street the street became much wider where the restaurants could use their rear entrances for deliveries and waste collections. He stated that post pandemic there had been enormous issues due its change in clientele from people working in Soho and then leaving for home by 9pm to a much younger noisier crowd who started drinking later in the evening and continued into the early hours of the morning. He outlined residents were worried about the continuing impact of both old and new Premises in the street.

Mr Lord referred to the deliveries which the Applicant had advised would take place between 8am and 8.30am and the concern that these deliveries would block the street. He advised that 60 covers twice an evening would generate significant waste and that generally bags of waste left to be collected on Soho's streets were a huge problem for residents as well as the general public walking along the pavements. He added that the Neighbourhood Forum had just spend £20,000 on a waste report trying to work on how to deal with the 130 tons of waste (half of which comes from the food and beverage industry) dropped on Soho Streets every day.

Mr Lord emphasised that this Premises should be a shop and not a restaurant due to the infrastructure of the street and because of the 2600 residents (including 460 children) living in the area. He advised that there were multiple empty restaurants in Soho that the Applicant could use instead of this one and highlighted that the pavement was not big enough to be used by Deliveroo now or in the future. He added that the pavement was a shared resource for the whole public. Mr Thomas confirmed that the restaurant would be taking reservations so that there would be no queuing on the street.

In response to the Sub-Committee, Mr Thomas advised that there were some Premises in Broadwick Street that take deliveries from the front, some from the back and some Premises take deliveries from the front and back of their Premises. He advised that it was such a small restaurant that they would only have one delivery a day by electric vehicles/small vans. He explained that the Applicant wished to operate a sustainable business and therefore would hire a private contractor to collect their waste as Westminster City Council (WCC) collection service did not separate out the waste.

The Sub-Committee discussed the take-away element of the business with all parties. Mr Thomas advised that MC66 stated that a Premises could serve food for takeaway as long as it was not for immediate consumption and that the Applicant

would accept a condition to limit take-away until 23:00 hours. Mr Thomas explained that the Applicant was not in possession of the Premises however once he was, he would sit down with Mr Lord to discuss how the Premises would operate to ensure the minimum disruption to residents. Mr Drayan advised that the Premises was immediately opposite Duck Street so that traffic could pull into that street to prevent blockages in the traffic.

Mr Thomas advised that waste from the Premises would be collected between 8am and 10am and that the waste bags would not be placed on the pavement for any longer than 30 minutes. Mr Lord advised that private waste contractors tended to turn up anytime unlike WCC waste collection which always arrived on time. The Applicant advised that he was more than happy to use WCC waste collection, and he would sit down with Mr Lord to sort out details once he gained possession of the Premises. The Sub-Committee then discussed WCC collection service with the Environmental Health Service and how the City Inspectors worked hard to prevent a build-up of waste on the streets by frequently issuing waste notices to business.

In response to the Sub-Committee, Mr Thomas advised that there was an informative placed on the licence that the operator would work with residents and Mr Brown agreed that ongoing dialogue was important. Mr Thomas explained that the restaurant was not open late at night, was not a drink led establishment and that the conditions that would be attached to the Premises Licence would alleviate the resident's concerns. Mr Thomas advised that the Premises would only have one or two deliveries a day and the Applicant was content to have the model condition regarding queuing added to the Premises Licence. Mr Thomas suggested that the Applicant created a Management Plan which could be shared with the Council and Interested Parties.

## **Conclusion**

The Sub-Committee considered the application on its individual merits. In reaching their decision, the Sub-Committee took into account all the committee papers, supplementary submissions made by the Applicant, and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee was satisfied that, in accordance with the Licensing Act 2003, Home Office Guidance and on the evidence before it, it was appropriate and proportionate, in all the circumstances, to **GRANT** the application.

In reaching its decision, the Sub-Committee took into consideration that conditions had been agreed with the Responsible Authorities and that due regard had been given to the West End Cumulative Impact Area (CIA). The Sub-Committee noted that the Applicant had provided valid reasons as to why the granting of the application would not undermine the licensing objectives. The Sub-Committee also noted that the Applicant had agreed to liaise with residents on a regular basis.

In reaching its decision, the Sub-Committee concluded that the conditions attached to the licence would alleviate the residents' concerns and were appropriate and would promote the licencing objective.

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

1. To grant permission for **Late Night Refreshment (Indoors)** Monday to Thursday 23:00 to 23:30 hours Friday and 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. Sundays immediately prior to bank holidays 23:00 to 00:00 hours.

2. To grant permission for **Sale by Retail of alcohol (On and Off Sales)** Monday to Thursday 09:00 to 23:30 hours Friday and Saturday 09:00 to 00:00 hours Sunday 09:00 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. Sundays immediately prior to bank holidays 09:00 to 00:00 hours.

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

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 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.

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. 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.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.
12. 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.
13. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - a) all crimes reported to the venue
  - b) all ejections of patrons
  - c) any complaints received concerning crime and disorder
  - d) any incidents of disorder
  - e) all seizures of drugs or offensive weapons
  - f) any faults in the CCTV system, searching equipment or scanning equipment
  - g) any refusal of the sale of alcohol
  - h) any visit by a relevant authority or emergency service.

14. 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.
15. 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.
16. 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.
17. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
18. 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.
19. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
20. All sales of alcohol for consumption off the premises shall be ancillary to a substantial takeaway meal, in sealed containers, and shall not be consumed on the premises.  
Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
22. 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.
23. 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.
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. 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.
26. No licensable activities shall take place at the premises until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority.
27. No licensable activities shall take place 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. Such capacity shall not exceed 60 persons (excluding staff) at any time.
28. There shall be no sales for consumption off the premises after 23.00 hours.
29. No deliveries from or to the premises either by licensee or third party or collections to the premises shall take place between 23:00 and 08:00 hours on the following day.
30. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

### **INFORMATIVES**

31. The premises licence holder shall liaise with the interested parties on issues of waste collection and deliveries. The premises licence holder will investigate the possibility of servicing the venue from the rear.
32. The Sub-Committee was pleased to note that the premises licence holder expects to only have 1 - 2 deliveries to the premises per day and encourage the licence holder to maintain this level.

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

**The Licensing Sub-Committee  
28 April 2022**

**3. ST GEORGE MARKET, 112 ST MARTIN'S LANE, WC2N 4BD**

**WCC LICENSING SUB-COMMITTEE NO. 4**  
**("The Committee")**

Thursday 28 April 2022

Membership: Councillor Karen Scarborough (Chairman), Councillor Susie Burbridge and Councillor Maggie Carman

Officer Support      Legal Advisor:      Vivienne Walker  
Policy Officer:      Aaron Hardy  
Committee Officer: Sarah Craddock  
Presenting Officer: Emanuela Meloyan

Others present: Lisa Inzani (Poppleston Allen), Kerry McGowen (Poppleston Allen), Sarah Le Fevre (Barrister), Luca Centaro (DPS, Tocqueville Library Ltd) and Roxsana Haq (Licensing Authority)

**Application for a New Premises Licence in respect of St George Market 112 St Martin's Lane London WC2N 4BD 21/12679/LIPN**

**FULL DECISION**

**Premises**

St George Market  
112 St Martin's Lane  
London WC2N 4BD

**Applicant**

Tocqueville Library Ltd

**Ward**

St James's

**Cumulative Impact**

West End

**Special Consideration Zone**

None

## **Activities and Hours applied for**

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

Monday to Thursday 10:00 to 00:00  
Friday and Saturday 10:00 to 00:30  
Sunday 12:00 to 23:30 hours.

**Seasonal Variations:** Sundays prior to a Bank Holiday Monday 12:00 hours to 23:30 hours. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

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

Monday to Thursday 23:00 to 00:00  
Friday and Saturday 23:00 to 00:30  
Sunday 23:00 to 23:30 hours.

**Seasonal Variations:** Sundays prior to a Bank Holiday Monday 23:00 hours to 00:30 hours. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

### **Provision of Films, Live Music, Recorded Music, Performance of Dance and Anything of a Similar Description (Indoors)**

Monday to Thursday 10:00 to 00:00  
Friday and Saturday 10:00 to 00:30  
Sunday 12:00 to 23:30 hours.

**Seasonal Variations:** Sundays prior to a Bank Holiday Monday 12:00 hours to 00:30 hours. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

### **Opening Hours**

Monday to Thursday 07:00 to 00:00  
Friday and Saturday 07:00 to 00:30  
Sunday 07:00 to 23:30 hours.

**Seasonal Variations:** Sundays prior to a Bank Holiday Monday 08:00 hours to 00:30 hours. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

## **Summary of Application**

The Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises intends to trade as a licensed Premises. The Premises have had the benefit of a Premises Licence since May 2015 which is attached at Appendix 2 of the report. The application was submitted following pre application advice from Westminster Environmental Health Consultation Team. A copy of the report appeared at Appendix 2. The Applicant would like the sale of alcohol to customers who are seated on ground floor to be ancillary to a full table meal after 21:00 hours Monday to Sunday except for 30

persons. The Premises are located within the St James's Ward and the West End Cumulative Impact Area.

### **Representations Received**

- Metropolitan Police Service (withdrew on 12 April 2022 following agreement of conditions with the Applicant).
- Covent Garden Community Association (withdrew on 12 April 2022 following agreement of conditions with the Applicant)
- Licensing Authority (Roxsana Haq)

### **Summary of Representation**

- The Licensing Authority has concerns in relation to how the Premises would promote the Licensing Objectives as the Premises are in the West End Cumulative Impact Area and has requested hours beyond the Council's Core Hour Policy.

### **Policy Position**

#### **CIP1**

- Under Policy CIP1, it is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for pubs and bars, fast food premises and music and dancing and similar entertainment, other than applications to vary hours within the Core Hours under Policy HRS1. Applications for other licensable activities in the Cumulative Impact Zones will be subject to other policies and must demonstrate that they will not add to cumulative impact.

#### **HRS1**

- Under Policy HRS1, applications within the core hours will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy. 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.

#### **RNT1 (B)**

- Under Policy RNT1(B), applications inside the West End Cumulative Impact Zone will generally be granted subject to the application meeting the requirements of policies CD1, PS1, PN1 and CH1.

## **PRELIMINARY SESSION**

The Sub-Committee received written submissions from the Applicant's solicitor advising that the error in relation to the sale of alcohol hours on Thursday was clearly an '**obvious and minor error**'. The Sub-Committee gave the submissions careful consideration and **agreed** with the Applicant that in relation to paragraph 8.26 of the Home Office Guidance the application should not be returned, or the 28-day period

should not be reset as the obvious and minor error can be rectified from the information already in the possession of the authority.

### **SUBMISSIONS AND REASONS**

The Presenting Officer, Ms Emanuela Meloyan introduced the application and advised that the Premises intended to operate as a licensed Premises. She confirmed that representations had been received by the Metropolitan Police Service and by the Covent Garden Community Association who had both since withdrawn their representations as conditions had been agreed with the Applicant. She further confirmed that the Licensing Authority had maintained their representation as the application was for beyond core hours. She outlined that the Premises are located within the St James's Ward and the West End Cumulative Impact Area.

Ms Sarah Le Fevre, Counsel appearing on behalf of the Applicant, outlined the application before the Sub-Committee. She gave a brief overview of the operation of the Premises which would trade as a high-end Italian style market/restaurant. She advised that to date £5 million had been invested into the Premises as it had been in a very dangerous condition when the licence holder had purchased it. She added that the licence holder had 15 years' experience in the restaurant business. She explained that the primary use of the Premises was as a friendly community style restaurant.

Ms Le Fevre advised that the Premises had most recently operated as a hotel with a wide capacity for both hotel guests and members club. She explained that this application was for a first floor restaurant and ground floor bar use. She advised that there had been extensive pre application consultation process with Ian Watson, Environmental Health Service who had provided useful comments to the Applicant as well as input from the Police. She advised that all Interested Parties had withdrawn their representations against the application and emphasised the representation withdrawal by the Covent Garden Community Association who were now satisfied with the application.

Ms Le Fevre referred to the proposed operating hours of the Premises and advised that whilst still being outside of the Council's Core Hours Policy, the hours were still within the hours that were generally associated with restaurant use. She confirmed that the Premises would have a full restaurant on the ground floor after 9pm except for the hatched crossed area on the Premises plan where 30 customers would be allowed to drink alcohol without a table meal. She emphasised that this bar area would be completely invisible to people walking pass the Premises. Ms Le Fevre then referred to the sample menus and the Premises' Dispersal Policy attached to the report.

Ms Roxsana Haq, representing the Licensing Authority, advised that the Licensing Authority had maintained their representation because the Premises are situated in the West End CIA and the hours applied for were outside of the Council's Core Hour Policy. She explained that the Licensing Authority had concerns regarding the 30 customers drinking without needing to purchase a meal on the ground floor and that the application must be considered under policy PB1 which has the presumption to refuse the application unless exceptional circumstances can be proven by the Applicant. She then outlined that the Licensing Authority noted that whilst the bar

area was towards the rear of the Premises and not visible from the street it was still an additional 30 persons that could be potentially vertically drinking in the West End Cumulative Impact Zone. Ms Haq advised that the Licensing Authority was encouraged with the set of conditions agreed with all the interested Parties, however, she emphasised that Members must be satisfied that the Applicant has demonstrated that the Premises will not add to the cumulative impact area in accordance with the Council's policies CIPI and PB1.

Mr Luca Centaro, Designated Premises Supervisor for Tocqueville Library Ltd, advised that customers could either be served drinks via table service or at the bar. He advised that they would not be serving spirits or cocktails. Ms Le Fevre explained that the idea was to have something a little more relaxed at the rear of the Premises to give the Premises an English pub feel to it. She then emphasised that the Interested Parties had not requested the Applicant condition these 30 customers.

Ms Le Fevre explained that the Premises already held a Premises Licence which would be surrendered if this application was granted. She explained that the exceptional circumstances of this application were that the Applicant was giving back 52% of the Premises area with the reduction in capacity allowed for vertical drinking decreasing from 300 customers to 30 customers. Ms Le Fevre advised that she had not taken instructions on take away. The Sub-Committee noted the type of beer on offer and that 'nerds' choice' was a cool Italian beer.

## **Conclusion**

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

The Sub-Committee was satisfied that, in accordance with the Licensing Act 2003, Home Office Guidance and on the evidence before it, it was appropriate and proportionate, in all the circumstances, to **GRANT** the application.

The Sub-Committee took into consideration that the Metropolitan Police Service and the Covent Garden Community Association had withdrawn their representations after agreement with conditions with the Applicant. The Applicant had also provided exceptional circumstances as to why the new Premises Licence should be granted with the surrender of the current Premises Licence with a current capacity of 300 patrons allowed to vertically drink which would be reduced to 30 patrons.

In reaching its decision the Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would not undermine the licensing objectives. The Sub-Committee further concluded that the conditions attached to the licence would be appropriate and would also promote the licensing objective.

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

1. **To grant permission for the Provision of Films, Live Music, Recorded Music, Performance of Dance and Anything of a Similar Description (Indoors)** Monday to Thursday 10:00 to 00:00 hours Friday and Saturday 10:00 to 00:30 hours Sunday 12:00 to 23:30 hours.

Seasonal Variations: Sundays prior to a Bank Holiday Monday 12:00 hours to 00:30 hours. 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 Late Night Refreshment (Indoors and Outdoors)** Monday to Thursday 23:00 to 00:00 hours Friday and Saturday 23:00 to 00:30 hours Sunday 23:00 to 23:30 hours.

Seasonal Variations: Sundays prior to a Bank Holiday Monday 23:00 hours to 00:30 hours. 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 Sale by Retail of Alcohol (On and Off Sales)** Monday to Thursday 10:00 to 00:00 hours Friday and Saturday 10:00 to 00:30 hours Sunday 12:00 to 23:30 hours.

Seasonal Variations: Sundays prior to a Bank Holiday Monday 12:00 hours to 23:30 hours. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

4. **To grant permission for the Hours the Premises are Open to the Public** Monday to Thursday 07:00 to 00:00 hours Friday and Saturday 07:00 to 00:30 hours Sunday 07:00 to 23:30 hours.

Seasonal Variations: Sundays prior to a Bank Holiday Monday 08:00 hours to 00:30 hours. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

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**

11. The premises shall only operate as a restaurant in the areas hatched on the licensing drawings for the first floor: -
  - (i) in which customers make their food and drinks orders at a counter to a member of staff or at a table offered by a member of staff
  - (ii) in which all meals and drinks will be consumed whilst customers are seated.
  - (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 (unless disposable crockery is specifically requested by the guest)
- (iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals.
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 self-service of alcohol.
14. There shall be no takeaway of hot food and hot drinks after 23:00 hours.
15. 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.
16. 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.
17. 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.
18. 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
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. The entrance door and all windows shall be kept closed after 23.00 hours except for the immediate access and egress of persons.
21. 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.
22. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the need of local residents and use the area quietly.
23. 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.
24. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel; at its junction with the kerb edge, is swept and or washed and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
25. No collection of waste or recycling materials (including bottle) from the premises shall take place between 23:00 and 07:00 hours on the following day.
26. No deliveries to the premises shall take place between 23:00 and 07:00 hours on the following day.
27. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
28. The Premises Licence Holder shall ensure that any patrons smoking outside the premises do so in an orderly manner so as to ensure that there is no public nuisance or obstruction of the public highway.
29. 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.
30. 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.
31. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
32. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
33. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

34. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
35. 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.
36. 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. Such capacity shall not exceed 120 persons (excluding staff).
37. 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.
38. On Thursdays, Fridays and Saturdays there shall be a minimum of one SIA door supervisor on duty to manage the entrance, smokers, and assisting with dispersal. They shall display their SIA licence when on duty and wear a high visibility yellow jacket or tabard after 23:00 hours. All other times and numbers of security shall be risk assessed. This document shall be made available to the Responsible Authorities to view, upon request.
39. There shall be no off sale of alcohol after 23:00 hours.
40. All front of house staff shall be WAVE and Ask Angela trained. Periodic refresher training shall be provided, Training records shall be kept, made available to the Responsible Authorities to view, upon request.
41. There shall be a Personal Licence Holder on duty on the premises from 20:00 when the premises are authorised to sell alcohol.
42. There shall be a last entry time of midnight, except for persons temporarily leaving to smoke etc.
43. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area that shall be defined.
44. 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 Westminster City Council.
45. The premises shall only operate as a restaurant in the areas on the ground floor from 21:00 hours Monday to Sunday:
  - (i) in which customers make their food and drinks orders at a counter to a member of staff or at a table offered by a member of staff

- (ii) in which all meals and drinks will be consumed whilst customers are seated.
- (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 (unless disposable crockery is specifically requested by the guest)
- (iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals.

Except for 30 persons in the area crosshatched on the ground floor.

46. No licensable activities shall take place at the premises until Premises Licence Number 21/07527/LIPVM has been surrendered.

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

**The Licensing Sub-Committee  
28 April 2022**

The Meeting ended at 2.35 pm