



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Thursday 17th March, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Murad Gassanly (Chairman), Jacqui Wilkinson and Aziz Toki

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

APPLICATIONS

1. **CHOTTO MATTE, 26 PADDINGTON STREET, W1U 5QY**

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.5

Thursday 17 March 2022

Membership: Councillor Murad Gassanly (Chairman) Councillor Jacqui Wilkinson
and Councillor Aziz Toki

Officer Support	Legal Adviser:	Viviene Walker
	Policy Officer:	Kerry Simpkin
	Committee Officer:	Jack Robinson
	Presenting Officer:	Karyn Abbott

**Application for a Variation of a Premises Licence in respect of Chott Matte 26
Paddington Street London W1U 5QY 21/14438/LIPV**

FULL DECISION

Premises

26 Paddington Street
London W1U 5QY

Applicant

NZR Limited

Cumulative Impact Area

None

Ward

Marylebone High Street

Special Consideration Zone

None

The applicant sought to vary the licence as follows:

- Vary the layout in accordance with the appended plans. The changes include:
- New entrance doors/lobby & cloakroom
- New enlarged bar counter & hatched lounge
- Reconfiguration of fixed seating throughout
- Removal of Private Dining Room licensed area from basement.

The changes shall be subject to the existing works condition.

- Inclusion of off sales of alcohol, subject to the additional conditions:
- Except for any authorised external seating areas, all sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
- There shall be no sales of alcohol for consumption off the premises after 23.00 hours.

Representations received

- Environmental Health Service (Anil Drayan)
- Local Residents (2)

Summary of objections

Environmental Health submitted an objection to this variation on the ground of Public Nuisance and Public Safety. There were two Local residents including the managing agents for residents of the flats above the premises who had submitted objections. The residents had cited the increase of potential for noise from speaker systems and patrons leaving the restaurant as well as the potential for tobacco smoke to drift towards their properties.

Summary of Application

The Sub-Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises proposes to operate as a high-end restaurant with an update layout and change in bar area. The Premises have had the benefit of a licence since April 2016.

There is a resident count of 124.

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 RNT(A), applications outside the West End Cumulative Impact Zone will generally be granted subject to the application meeting the requirements of policies CD1, PS1, PN1 and CH1.

SUBMISSIONS AND REASONS

The Presenting Officer Ms Karyn Abbott introduced the application and advised that the Premises operated as a Japanese restaurant, grill and sushi bar. She confirmed that representations had been received by Environmental Health and one local resident. She outlined that the Premises were located within the Marylebone High Street Ward. The premises have had the benefit of a premises licence since April 2016. Additional information was received from the Applicant regarding their Dispersal Policy which was circulated to all parties prior to the hearing.

Mr Thomas speaking on behalf of the Applicant outlined the nature of the variation sought. He stated that the Applicant had been in contact with local residents over previous months about the proposed changes. Mr Thomas explained that Mr Zdesar is one of the most successful restaurateurs, he runs multiple high ends and well-known businesses in the area and had done for many years. Mr Thomas explained that the Premises have been altered internally with the bar being moved to the back of the venue to reduce noise from those at the bar and to use the space as a waiting area for people awaiting a private hire vehicle to leave the Premises combined with a revolving door. This would help reduce people waiting outside the venue and creating any noise for the residents above. He explained that the Applicant had consulted with residents. Mr Thomas stated that the Applicant had delegated the neighbouring park as the destination for their staff smoking area to ensure this was not taking place outside the premises and directly under the flats of the residents. Mr Thomas also explained that the Applicant did not want to extend their opening hours. Mr Thomas noted that several model conditions from Environmental Health Service had been accepted by the Applicant. The Applicant outlined how they have also taken steps to increase their soundproofing and repositioned their speakers to reduce noise following consultation with residents.

Mr Anil Drayan for Environmental Health Service confirmed that the Applicant had agreed to their Conditions and that the application was essentially a change of the 'premises layout'. The revolving door would help to reduce noise and the larger holding area for patrons inside would ensure individuals leaving the premises would not congregate outside whilst waiting for a private hire vehicle. He stated that the applicant offered soundproofing. Mr Drayan stated that under the Licence Environmental Health Service could not impose a condition for the sound limiter. However, a sound limiter would stop the volume going above a pre-determined level. In response to a question from the Sub-Committee Mr Drayan confirmed there had been positive steps to reduce noise and would offer assistance in installing a sound limiter.

Mr Raafat Amin and Ms Iran Sharifi on behalf of the residents expressed that there had been historic noise management concerns whilst the Premises had been under a different management and explained that staff often smoked outside the venue and the smoke omissions and noise drifted upwards. They stated that they would welcome a sound limiter, but the bar now sat underneath the bedrooms of the properties above the Premises. While they understood the reasons for wanting to move this away from the front doors, this was not without other repercussions. Mr Drayan stated a sound limiter would help to combat any noise regardless of where it was coming from within the premises. Mr Amin and Ms Sharifi acknowledged this

and requested for a doorman to be placed outside the premises to which the Applicant confirmed there would be a staff member or doorman present outside. The Applicant advised that staff would never be allowed to smoke before customers, and they are required to smoke at the local park.

In response to the Sub-Committee Mr. Amin stated that the residents do not object to the application for variation, but they wanted conditions which stipulated that there would be no noise nuisance from the Premises. Mr Drayan reiterated the benefit that a sound limiter would have.

The Applicant stated they had taken everything on board and would continue to address staff smoking outside the premises and would agree for a sound limiter to be installed.

The Council's Legal Adviser, Ms Vivienne Walker noted that the conditions from Environmental Health Service had been agreed and an Informative in respect of the sound limiter should the Application be granted.

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 all parties in attendance during the hearing in its determination of the matter.

The Sub-Committee had regard to the fact that the Applicant is an experienced operator and was known for running renowned premises in the area. The Sub-Committee noted that the Applicant had a detailed operational management and dispersal policy whilst interested parties had expressed concern about dispersal, the Sub-Committee considered the applicant's positive steps to manage patrons leaving would ensure that the licensing objectives were promoted.

The Sub-Committee noted that the Applicant had engaged with local residents and have agreed to liaise with them on a regular basis.

The Sub-Committee noted that the Applicant had proposed to instal a sound limiter to ensure that noise would not escape from the premises and disturb residents.

The Sub-Committee were mindful of the fact that the Applicant had agreed conditions with Environmental Health Service and Environmental Health Service did not appear to object to the application at the hearing. The Sub-Committee were of the opinion that the conditions agreed by the Applicant were appropriate and will ensure that the four licensing objectives are promoted

The Sub-Committee were grateful to the Applicant for seeking to proactively work with the Environmental Health Service in order to ensure the licensing objectives are promoted.

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

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 to vary the layout of the premises in accordance with the plans attached to the Report. The changes include:
 - New entrance doors/lobby and cloakroom
 - New enlarged bar counter and hatched lounge
 - Reconfiguration of fixed seating
 - Removal of the Private Dining Room licensed area from the basement
2. To grant permission for the Sale by Retail of Alcohol off the Premises.
3. That the Licence is subject to any relevant mandatory conditions
4. That the existing conditions on the Licence shall apply in all respects except in so far as they are varied by this Decision.

Conditions consistent with the Operating Schedule

9. The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal. Notwithstanding this condition, alcohol may be supplied and consumed prior to their meal in the ground floor bar area hatched on the plan by up to a maximum of 30 persons at any one-time dining at the premises.
10. The supply of alcohol shall be by waiter/waitress or bar service only.
11. 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.
12. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 130 persons.
13. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
14. A Challenge 21 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. 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.
16. 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.
17. 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.
18. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
19. 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.
20. 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.
21. 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.
22. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

23. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
24. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
25. 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.
26. 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.
27. No deliveries to the premises shall take place between 23.00 hours and 08.00 hours on the following day.
28. 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.
29. 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 reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the Licence.
30. The customer toilet facilities at 26 Paddington Street shall be available at all times to customers from Panetteria at 22 Paddington Street.

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

31. Except for any authorised external seating areas, all sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
32. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
33. 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 to the public highway.
34. 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.

35. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
36. 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.
37. The Premises Licence Holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are properly supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

INFORMATIVE

38. The Premises Licence Holder has agreed to install a noise limiter at the premises.

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

**Licensing Sub-Committee
17 March 2022**

2. BROWNS, PORTLAND HOUSE, BRESSENDEN PLACE, SW1E 5BH

This application was withdrawn by the Applicant.

3. WHYTE AND BROWN, GROUND FLOOR, UNIT 2 AND 1.4 TO 1.6

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

Thursday 17 March 2022

Membership: Councillor Murad Gassanly (Chairman)
Councillor Jacqui Wilkinson and Councillor Aziz Toki

Officer Support: Legal Advisor: Vivienne Walker
Policy Officer: Kerry Simpkin
Committee Officer: Georgina Wills
Presenting Officer: Karyn Abbott

Application for a Variation of Premises Licence in respect of Whyte and Brown
Ground Floor Unit 2 and 1.4 to 1.6 Kingly Court W1B 5PW 21/10287/LIPV

FULL DECISION

Premises

Whyte And Brown
Ground Floor Unit 2, 1.4 to 1.6
Kingly Court
W1B 5PW

Applicant

Whyte & Brown Limited

Cumulative Impact Area

West End

Ward

West End

Special Consideration Zone

N/A

The Applicant sought to amend condition 19 on the Premises Licence to read:
Condition 17 on the Premises Licence shall be suspended for a limited period until
30 September 2022 save that substantial food shall be available throughout the
premises at all times after which time the condition shall be reinstated and remain to
have full force and effect.

Licensable Activities and Hours

Late Night Refreshments (Indoors and Outdoors)

Monday to Thursday: 23:00 to 23:30

Friday to Saturday: 23:00 to 0:00

Sunday: N/A

Sale by Retail of Alcohol (On and Off Sales)

Monday to Thursday: 10:00 to 23:30

Friday to Saturday: 10:00 to 00:00

Sunday: 12:00 to 22:30

Opening Hours of the Premises:

Monday to Thursday: 07:00 to 23:30

Friday to Saturday: 07:00 to 00:00

Sunday: 10:00 to 22:30

Summary of Application

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

The premises trade as a restaurant. The Applicant sought to amend condition 19 to read: Condition 17 on the Premises Licence shall be suspended for a limited period until 30 September 2022 save that substantial food shall be available throughout the premises at all times after which time the condition shall be reinstated and remain to have full force and effect. The Premises have had the benefit of a Premises Licence since 2013.

There is a resident count of 22.

Representations Received

- Licensing Authority (Kevin Jackaman)
- The Soho Society

Summary of Objections

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

- 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.

Policy Position

Under Policy CIP1, A. 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: 1. Vary the hours within Core Hours under Policy HRS1, and/or 2. Vary the licence to reduce the overall capacity of the premises. C. applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact. D. For the purposes of this policy the premises types referred to in Clause A are defined within the relevant premises use policies within this statement.

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 PB1, B. It is the Licensing authority's policy to refuse applications within the West End Cumulative Impact Zone other than 1. Applications to vary the existing licence hours within the Council's Core Hours Policy HRS1. 2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises, subject to the matters set out in the Policy.

SUBMISSIONS AND REASONS

Ms Karyn Abbott, Senior Licensing Officer summarised the application set out in the report before the Sub-Committee. She explained that the application was for a variation of a Premises Licence which sought to vary Condition 19 of the Licence. There were representations received from the Licensing Authority and Mr Richard Brown for the Soho Society. The Premises are situated in the West End Ward and located in the West End Cumulative Impact Zone.

Mr Craig Baylis, Solicitor acting on behalf of the Applicant, outlined the nature of the variation sought the Application was purely a Policy Issue. He stated that there were no objections raised by either Environmental Health Service or the Metropolitan Police. He advised that the previous Application was submitted by the Applicant following the passing of the Business and Planning Act 2020. Mr Baylis advised that due to the Premises' location, Kingly Court, the Applicant was unable to benefit from the pavement licences and had loss trade to neighbouring establishments in Kingly Street and Carnaby Street and other surrounding streets. The Sub-Committee were informed that these establishments were able to apply for pavement licences and this reduced the number of footfalls in Kingly Court. Mr Baylis advised that the former Application had been agreed by the last Sub-Committee due to the Applicants trade been affected by Covid-19 Pandemic and loss in footfall during these periods. He advised that during the former Application, the Applicant had produced figures regarding trade.

Mr Baylis advised that a new Application had been made as there had been no change in in the Applicant's circumstances and the same difficulties encountered remained. He stated that it was acknowledged that it was now a different environment following the removal of all restrictions which had been implemented during the Covid-19 Pandemic. Mr Baylis explained that the Applicant had sought for the suspension of the restaurant condition in the Courtyard area only. He advised that there would be no vertical drinking on any areas of the Premises. The Sub-Committee was informed that the 'bar aspect' of the Application would only be in operation until 21:00 hours and that the restaurant condition would apply after this time frame. He advised that the flexibility would enable patrons to consume alcohol without food and confirmed that the food provision would be available throughout operations. This trade would ensure that the Premises continue to remain viable.

Ms Sarah Clark, Managing Director Whyte & Brown Limited, explained the Sub-Committee that the Applicant operated three restaurants which included two in the Southbank, London and one in Kingly Court. She stated that the Premises were acquired in 2013 and since that period they had not received any complaints regarding the style of operation. She advised that the previous Application which had been granted during the Covid-19 Pandemic had a significant impact on trade and that there had been a significant drop in sales following the end of the temporary extended Licence. Ms Clark informed the Sub-Committee that the Premises operated fully as restaurant and there were no live music and vertical drinking. She advised that during the pre-Covid-19 pandemic alcohol amounted to 40% of the overall sales. This figure increased to 52% when the previous Application was granted. Ms Clark stated that these sales related to patrons who were seated whilst consuming alcohol. She advised that since last September sales of alcohol had reduced to 42% and this has had a significant impact on the business not having that flexibility.

Ms Clark informed the Sub-Committee that the applicant operates a professional business and were seeking more flexibility as this is still the recovery period and it is a difficult market to operate at present.

Mr Baylis advised the Sub-Committee that there was a financial need and the Application had been made for these reasons. He stated that there was still a 'hang over effect' following the Covid-19 Pandemic and this had been demonstrated by the extension of the Business and Planning Act 2021.

Mr Kevin Jackaman, for the Licensing Authority explained that the Licensing Authority had maintained their representation as the Premises fall within in the West End Cumulative Impact Zone. Mr Jackaman advised that the Applicant wished to suspend Condition 17 by way of a variation to condition 19 would bring the premises within Policy PB1. B and there is a presumption to refuse applications that fall within the Cumulative Impact Zone. He stated that it was for Applicant to demonstrate that the variation would not add to the cumulative impact. Mr Jackaman noted that the Applicant had amended the Application and commented that Policy D13 stated that after 21:00 hours there is an increase in terms of crime and disorder. The general presumption is to refuse; however, this could be taken as an exception to the policy where there is a terminal hour of no later than 21:00 hours.

Mr Richard Brown, speaking on behalf of the Soho Society, stated that this application replicated the previous application. However, it was noted that the current Application had been amended and would only be applicable to certain areas of the Premises and operations would be restricted to 21:00 hours. He advised that the Applicant was required to demonstrate that the application was exception to Policy.

Mr Brown advised that there were no concerns regarding the Premises style of operation and noted that Kingly Court housed several food and beverage premises. He stated that the Soho Society strongly objected to any new bar styles establishment being brought into operation in the locality. The 'bar use' accounted for a significant proportion of the overall layout of the Premises. Mr Brown advised that the extension of the external dining under the Business and Planning act 2020 caused less imbalance between the Applicant and neighbouring establishments. He advised that it was acknowledged that Policy D13 indicated that crime and disorder rose after 21:00 hours and commented that activities which occurred prior to this time frame contributed to the anti-social behaviour that occurred in the later hours.

Mr Brown informed the Sub-Committee that the Soho Society were sympathetic to the financial difficulties experienced by the Applicant. He advised the proportion of the 'bar usage' should be considered and commented that neighbouring Premises in Kingly Court did not have the same flexibility as the Applicant. Mr David Gleeson, for the Soho Society, advised that activities in Soho had now returned to the same levels prior to the Covid-19 Pandemic. Mr Gleeson stated that Cumulative Impact Assessment 2020 indicated that cumulative impact continued to increase each year. He advised that the Soho Society had previously objected and that there were no viable reasons to allow the Application to be granted. He advised that Kingly Court was a singular space and would be attractive to patrons.

In response to the Sub-Committee, Mr Baylis explained to the Sub-Committee that there was evidence that the variation had been beneficial to the Applicant and no concerns had been raised regarding the operation of the Premises during this period. He stated that the applicant cannot apply for a pavement licence, so they were at a disadvantage to other premises. The Sub-Committee noted that the absence of complaints was not sufficient, and this could not solely be used as exception to Policy.

In response to the Sub-Committee, Ms Clark explained that between September 2021 and March 2022 sales had dropped by 5% and this equated to a loss of £2500 per week. She commented that the alfresco dining had been extended by Central Government and this was indicative that the economy was still at the recovery stage, and these should be considered as exceptional circumstances. Ms Clark advised that the Premises had loss trade to neighbouring establishments who were permitted to have pavement licence and offered alfresco dining. She advised that less barriers were required which would enable patrons to be served drinks without a meal and commented that the Application was only until 21:00 hours and would be time limited.

In response to questions from the Sub-Committee, Ms Clark confirmed that there was no vertical drinking at the Premises and that patrons in the Courtyard would be informed that consumption of alcohol without a meal was not permitted after 21:00

hours. She stated that patrons would be informed before 21:00 hours when offered a menu. Ms Clark confirmed that a Condition is agreed which required for a signage noting that alcohol cannot be consumed without a meal after 21:00 hours.

Mr Simpkin, the Policy Officer advised the Sub-Committee that Policy D13 referred to Premises whose operational hours concluded at 21:00. The Sub-Committee was advised that Policy D13 was introduced following the Cumulative Impact Assessment 2020 and that the former Policy had a blanket approach and required for there to be a presumption to refuse all establishments. The Sub-Committee was advised that the primary use of a premises was a determining factor under the Policy and was aimed primarily at establishments such as cafés who had a small selection of alcohol. The Sub-Committee were advised that they were required to determine whether the Application was exception to policy and take into consideration the primary use of the Premises.

Mr Baylis advised the Sub-Committee that the Premises primary use was a restaurant and highlighted that there was 120 covers and that the 34 covers in the Courtyard. He advised that the Courtyard would revert back under the restaurant condition after 21:00 hours and there would be signage displayed which informs of this, and staff would also advise patrons of this requirement.

Mr Brown advised that it was acknowledged that there were no concerns raised about the Premises and stated that the wider impact should be considered. Mr Glesson advised that the Soho Society was supportive of local businesses and did not wish for bars, cafes and restaurants to cease trading. Mr Glesson advised that there were concerns with restaurants becoming drink led. In response, Ms Clark stated that there were no plans to turn the Premises into a drink led establishment and that a further extension should not be required as it was anticipated that footfalls would increase alongside trade from international tourist.

Conclusion

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

The Sub-Committee considered the application on its individual merits. In reaching their decision, the Sub-Committee considered 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 noted that the Policy exceptions and that the Applicant had reduced the operational hours to 21:00 and that the variation would only apply to the Courtyard which had 34 covers and this number could not be exceeded. The Sub-Committee noted that the Application was time limited, and the nature of the business would not be altered. The Sub-Committee also noted the financial impact on the Premises in particular the Applicants inability to benefit from the pavement licence.

The Sub-Committee noted that the Applicant was a good operator, and the locality was well managed. The Sub-Committee noted the importance of supporting local business and also addressing the concerns of local residents and their roles in balancing the needs of all parties. The Sub-Committee also noted that the decision was specific to the Application and site and therefore would not create a precedent.

The Sub-Committee were mindful of the fact that the Licensing Authority had maintained their representation, on the basis that the Premises fall within the Cumulative Impact Zone, therefore, the application needs to be considered under CIP1, HRS1 and PB1. B. As such, the Sub-Committee had to be satisfied that the application will not add to the cumulative impact in the Cumulative Impact Zone.

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 Cumulative Impact Zone 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 considering all of the individual circumstances of this case and the promotion of the four licensing objectives:

1. To grant permission to amend condition 19 in the terms specified below.
2. That the varied licence is subject to any relevant mandatory conditions.
3. That the existing conditions on the Licence shall apply in all respects except in so far as they are varied by this Decision.

Conditions consistent with the Operating Schedule

9. 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.
10. 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 to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
11. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
12. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
13. The supply of alcohol shall be by waiter or waitress service, save in the respect of the area hatched black on the approved plan.

14. No striptease, no nudity and all persons to be decently attired at all times except when the premises are operating under the provision of a Sexual Entertainment Venue Licence.
15. There shall be no sale of alcohol for consumption off the Premises after 23:00 hours.
16. The external seating shall not be used after Core Hours, being 22:30 hours Sunday, 23:30 hours Monday to Thursday and Midnight Friday and Saturday.
17. The premises (including the external seating area) shall only operate as a restaurant:
 - (i) in which customers are shown to their table,
 - (ii) 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,
 - (iii) which do not provide any takeaway service of food or drink for immediate consumption, and
 - (iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are seated in the premises and bona fide taking substantial table meals.
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 regards crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
19. Condition 17 on the Premises Licence shall be suspended for the outside courtyard area up until 21:00 hours for a limited period until 30 September 2022 save that substantial food shall be available throughout the premises at all times after which time the condition shall be reinstated and remain to have full force and effect.

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

20. There shall be no vertical drinking allowed on the premises.
21. Only up until the 30 September 2022, the supply of alcohol at the premises (including the external seating area) shall be by waiter or waitress service only.

INFORMATIVE

22. The Premises Licence Holder has agreed to place signage around the premises informing patrons that the use of the Courtyard shall cease at 21:00 hours.

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

The Licensing Sub-Committee

17 March 2022

The Meeting ended at 12.00 pm