



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 31st March, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Jim Glen (Chairman), Barbara Arzymanow 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.

1. **MICBAR KARAOKE AND RESTAURANT, BASEMENT, 46 GERRARD STREET, W1D 5QH**

WESTMINSTER CITY COUNCIL LICENSING- SUB-COMMITTEE NO. 3

Thursday 31 March 2022

Membership: Councillor Jim Glen (Chairman) Councillor Barbara Arzymanow and Councillor Aziz Toki

Officer Support	Legal Adviser:	Vivienne Walker
	Policy Officer:	Kerry Simpkin
	Committee Officer:	Jack Robinson
	Presenting Officer:	Emanuela Meloyan

Application for a New Premises Licence in respect of Micbar Karaoke & Restaurant Basement 46 Gerrard Street London W1D 5QH 21/10964/LIPN

FULL DECISION

Premises

Basement
46 Gerrard Street
London W1D 5QH

Applicant

Micbar Limited

Cumulative Impact Area

West End

Ward

St James'

Special Consideration Zone

None

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises propose to operate as a Karaoke venue and restaurant located in the basement of 46 Gerrard Street. The premises have had the benefit of premises licence since October 2010.

There is a resident count of 142.

Representations received

- Environmental Health Service (Anil Drayan).
- Metropolitan Police (Bryan Lewis) (withdrawn 17/3/22)
- Licensing Authority (Karyn Abbott).
- 1 local resident.

Summary of Objections

- Environmental Health Service expressed concern that the hours requested for the supply of alcohol, late night refreshment and provision of regulated entertainment may undermine the licensing objectives
- Licensing Authority expressed concern as to how the premises would promote the four licensing objectives.

Policy Position

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

Under Policy COMB1, applications inside the West End Cumulative Impact Zones for premises that propose to operate as a 'combined use premises' will be considered on their merits and subject to the matters identified in Policy COMB1.

SUBMISSIONS AND REASONS

Mr Spiegler, Solicitor for the Applicant explained the premises benefits from an existing license and has been recently positively reviewed by renowned food critique Jay Raynor. The application refers to the basement area where the Applicant would like to use this space as a mainly pre-booked karaoke event space, with some alternative events such as dinner parties or birthday parties taking place. The Applicant explained that while they are generally pre-booked, if there were patrons in the restaurant above and the space was available, they would like to accommodate them without pre-booking. Mr Spiegler stated that the premises should not be viewed as a karaoke "bar" but more as a karaoke "venue" and wanted it to be viewed by the Sub-Committee as a restaurant for licensing decisions. He explained pre-prepared food and drinks were available to those in the basement part of the venue that they would like to operate as a karaoke venue.

Mr. Spiegler stated that the basement is already licensed under the current Premises Licence and there is no new licence footprint in the cumulative impact area. The restaurant on the upper floor will operate in the same way. The businesses will trade under different names but will be using the same kitchen facilities.

In response to the Sub-Committee Mr Spiegler explained that although the basement was licensed under the same group of ownership as the other floors in the building

but will trade under a different name with a different manager, License Holder and DPS, there will be some management staff that will oversee the management of both premises.

Mr Spiegler explained the premises were karaoke or special event led and were not aiming to solely be a bar. He also explained that they will advertise it as a 4-hour block of slots with customers also expected to order food. When asked about the nature of the multipurpose room, Mr Spiegler stated this was where separate event such as a birthday party could take place.

Mr Drayan, for Environmental Health Service stated that he was satisfied with the application, and he was there to answer any questions of the Sub-Committee. He confirmed that they have not received any complaints about the business, and it was well run.

Ms Abbott for the Licensing Authority made representations given it is within the Cumulative Impact Area (CIA) and that the applicant has applied for outside core hours and that this should be carefully considered. She stated that the Licensing Authority were encouraged with the conditions proposed by the Metropolitan Police including the dispersal policy and the Sub-Committee should be confident that this should not impact the CIA. They were also content with hours until 00:00 despite it being within in the CIA but would prefer the hours being within core hours.

Mr Kerry Simpkin, the Policy Officer, noted that the application was for the basement area only. In response, Mr Spiegler stated that the restaurant will not be completely excluded from the overall functioning of the basement area. Mr Simpkin stated that if granted, this licence would allow the basement to run independently of the restaurant. The Applicant advised that he was happy to accept conditions linking the basement karaoke venue to the restaurant with a limited food provision to be provided by the kitchen until close and to ensure the toilets were available in the restaurant to those in the basement.

Mr Simpkin referred to the "mini bar" in the multi-function room and asked how it would be controlled. In response, Mr Spiegler confirmed that there will be no self-service of alcohol. He explained that in the pre-booked package for the karaoke they do include alcohol but there would be no self-service.

Mr Drayan stated that other karaoke bars had been granted later hours within the CIA previously with no issues caused. He stated that the pre-booking nature of the premises helps to reduce the potential for public nuisance and highlighted the difference of this venue to a vertical drinking karaoke night in a pub.

The Applicant explained that karaoke is a family event, and they had no large bar area for people to congregate and drink.

The Legal Advisor discussed the wording of the licence with the Applicant and the Applicant was happy to accept the changes to make food available in the basement from the restaurant upstairs and to ensure the sanitary facilities upstairs were available to those in the basement karaoke bar.

Conclusion

The Sub-Committee has a duty to consider the application on its individual merits and took into account all of 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 Applicant had been operating successfully for years and that the Environmental Health Service was in favour of this New Premises Licence and there were no complaints from the premises.

The Sub-Committee noted that representations had initially been made by the Metropolitan Police Service, however, these had been withdrawn following discussions with the Applicant and the Applicant's agreement to a number of conditions proposed by the Police prior to the hearing.

The Sub-Committee noted that the premises would be a valuable addition to the cultural experience in Westminster and that the decision had been balanced to preserve the residential amenity within the Cumulative Impact Area.

The Sub-Committee noted the pre-booking nature of the premises and was satisfied that this would help to reduce the potential for public nuisance.

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 decided that the Applicant had provided valid reasons as to why the granting of the application would not undermine the licensing objectives.

Having carefully considered the committee papers and the submissions made by all the parties, both orally and in writing, **the Committee had 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 **Film, live music, recorded music and anything of a similar description (Indoors)** Monday to Saturday 10:00 to 00:00 hours Sunday 12:00 to 23:30 hours.

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

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

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

3. To grant permission for the **Sale by Retail of Alcohol (On Sales)** Monday to Saturday 10:00 to 00:00 hours Sunday 10:00 to 23:30 hours.

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

4. To grant permission for the **Opening Hours for the Premises** Monday to Saturday 10:00 to 00:30 hours Sunday 12:00 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.

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

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

9. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a karaoke venue and restaurant.
10. The supply of alcohol at the premises shall only be to a person:
 - (a) attending the premises for karaoke entertainment; or
 - (b) seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.

For the purpose of this condition a '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.

11. The supply of alcohol shall be by waiter or waitress service only.
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. 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.

14. 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.
15. A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria:
 - (a) The limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses,
 - (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder,
 - (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team,
 - (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and
 - (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
16. 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.
17. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
20. 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.
21. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 hours on the following day.
22. 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.

23. 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.
24. 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.
25. The premises licence holder shall ensure that any patrons 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.
26. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 50 to be determined by the Environmental Health Consultation Team and this condition to be replaced on the Licence by the Licensing Authority with a condition detailing the capacity so determined.
27. There shall be a minimum of one SIA licensed door supervisor Thursday, Friday and Saturday, between 20:00 until the premises have closed and all customers have left. They shall wear a hi viz yellow tabard or jacket and display their SIA licence at all times. At all other trading times, the requirement for security shall be risk assessed. The risk assessment shall be immediately available for inspection by the Responsible Authorities upon request.
28. There shall be no admittance or re-admittance to the premises after midnight except for patrons permitted to temporarily leave the premises (e.g., to smoke, make a phone call).
29. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke or make a phone call, shall be limited to (6) persons at any one time.
30. 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.
31. 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.

32. There shall be a Personal Licence Holder on duty on the premises after 20:00 hours on Thursday, Friday and Saturday when the premises are authorised to sell alcohol.
33. Licensable activities shall only be provided at the premises at such times that the kitchen on the upper floor is operational and sanitary facilities for the restaurant area are available.

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

**Licensing Sub-Committee
31 March 2022**

2. 145 -147 EDGWARE ROAD, W2 2HR

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.3

Thursday 31 March 2022

Membership: Councillor Jim Glen (Chairman) Councillor Barbara Arzymanow and
Councillor Aziz Toki

Officer Support	Legal Adviser:	Vivienne Walker
	Policy Officer:	Kerry Simpkin
	Committee Officer:	Jack Robinson
	Presenting Officer:	Emanuela Meloyan

**Application for a New Premises Licence in respect of 145-147 Edgware Road
London W2 2HR 21/14599/LIPN**

Full Decision

Premises

145-147 Edgware Road
London W2 W2HR

Applicant

Fancy Delivery UK Limited

Cumulative Impact Area

None

Ward

Hyde Park

Special Consideration Zone

Edgware Road

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises proposes to operate as a hub and supermarket for groceries to be collected in store and for delivery. This will include the sale of alcohol.

There is a resident count of 218.

Representations received

- Environmental Health Service (Maxwell Koduah - WITHDRAWN).
- Metropolitan Police Service (PC Reaz Guerra).
- 1 local resident.

Summary of issues raised by objectors

The Metropolitan Police Service had maintained representation that there had been insufficient detail contained within the operating schedule to promote the licensing objectives provided. Following consultation with the Applicant, Environmental Health withdrew their representation following the adoption of conditions.

One local resident submitted an objection citing noise, hygiene and safety concerns should the licence be granted.

Policy Position

HRS1 – applications within the core hours set out below in this policy will 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 set out in Clause C will be considered on their merits, subject to other relevant policies and with particular regard to the following:

The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance, and the protection of children from harm.

SCZ1 – applications within a designated SCZ 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.

DC1 – applications for a delivery centre outside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the Council's Core Hours Policy HRS1.
3. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.
4. The premises are not located in a residential area and
5. The application and operation of the venue meeting the definition of a delivery centre in Clause D.

SUBMISSIONS AND REASONS

Mr Marcus Lavell, solicitor acting on behalf of the applicant, outlined the application before the Sub-Committee. He advised that this was a mixed use residential and commercial area in Edgware Road and there is a reasonable amount of activity but not saturated enough to warrant being a CIA. He explained that having been identified as a SCZ, this area would be perfectly suited for his clients' business style, quick and quiet grocery delivery. The applicant has an all-electric fleet of pedal bikes and motorbikes that make minimal noise, and they have a local delivery area only wanting to provide their service to those in the local area. The opening hours would be from 08:00 - 22:00 within core hours with delivery continuing until 00:00. Licensable goods would be available until 00:00. They would not allow bikes or rides to congregate outside the premises as they have an internal hub that can store the bikes with space for the riders to await their next order.

In response to the Sub-Committee Mr Lavell explained that the pedal bikes are lightweight enough to be moved inside but the larger motorbikes are also not an issue to bring inside their hub and his clients were happy to accept a condition on this point. He also explained that the premises have a substantial parking area and riders' welfare area. The riders will approach on their vehicles on Edgware Road, wheel the bikes across the road and store the bikes in the delivery centre. Ms Stefanie Webb representing the company explained that the charging points are inside the premises. Their current company policies do not allow for bikes to be left outside any premises but reiterated their acceptance of a condition if required.

Ms Webb confirmed that there would be between 10-20 bikes with capacity for 20-30 in the store. Generally, they would expect very few on site at any one time given the nature of the operation to have riders out delivering when not inside awaiting on orders or charging.

In response to the Sub-Committee the Applicant explained that the riders are trained in relation to their own safety and how to avoid high risk situations. Also, they have an app which tracks the riders and how far away they are from the delivery address. There is a delivery area map which shows the remits of delivery from the premises. Riders are also trained on how to look for correct identification that is valid and the steps required for age verification. With regard to the deliveries, it was explained that orders are between 10-15 items ranging from fruits nappies, pet food and were not explicit for alcohol.

PC Reaz Guerra, representing the Metropolitan Police Service advised that the Police were maintaining their representation on the grounds of prevention of crime and disorder and protection of children from harm. He explained that their objection centred around the fact this application exceeded core hours and would touch on their busiest hours for crime activity between 00:00 and 04:00. PC Guerra explained that although their licensable hours for alcohol do not run until 04:00, having the ability to buy alcohol from another premises in the area should this licence be granted may have an impact on crime. Concerns were also raised about the ability of the delivery drivers to deal with confrontation around refusal of delivery for alcohol should they consider the ID presented were insufficient.

In response to the Sub-Committee Mr Lavell explained that the same concept of any customer buying alcohol in the more well-known supermarkets would apply. The applicant has not experienced that people become confrontation when their order is refused. Ms Webb stated that the safety of their drivers is their number one priority.

Mr Lavell stated that riders do not carry cash, the only risk is likelihood of the bikes being stolen if they are left out on the road which they are not in this case. He confirmed that the premises are closed to the public from 22:00 hours so there is no risk of people congregating outside the premises after this time.

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, submissions made by the Applicant and all other parties, and the oral evidence given by those parties in attendance during the hearing in its determination of the matter.

The Sub-Committee noted that representations had initially been made by Environmental Health Service and the Metropolitan Police Service, however, the Environmental Health Service had withdrawn following discussions with the Applicant.

The Sub-Committee noted that the Applicant operate an all-electric fleet which means that the noise levels from the bikes will be low and that there is suitable provision within the premises for delivery personnel to wait without causing a nuisance to the residents.

The Sub-Committee noted that the premises are in a suitable location and the Applicant satisfies the criteria of Policy DC1 of the Council's Statement of Licensing Policy.

The Sub-Committee was satisfied that the Applicant has clear procedures in which all delivery personnel who are directly employed by the Applicant are trained in order to promote the licensing objectives.

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 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 noted that the Applicant had agreed to additional conditions as set out below in order to 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 had 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 **Sale by Retail of Alcohol (Off Sales)** Monday to Sunday 08:00 to 00:00 hours.

Seasonal Variations: None

2. To grant permission for the **Opening Hours for the Premises** Monday to Sunday 00:00 to 00:00 hours.

Seasonal Variations: None

3. That the Licence is subject to any relevant mandatory conditions.
4. 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. All staff will be fully trained in their responsibilities and with regard to the promotion of the licensing objectives in particular sale of alcohol, and will be retrained every six months, with recorded training records kept for inspection.
10. A CCTV system is in operation for the warehouse, to provide security and identify any culprit who is intent in causing trouble. All images are stored for a period of 31 days after which they can be erased or saved at the request of the police. All current security measures will remain in operation. All staff will be fully trained in the operation of the CCTV to ensure it is operational all the hours of trade. Images will be made available to the police or authorised licensing officer from the council on request.
11. All potential customers must verify on the payment page of the website that they are at least 18 years of age. If the applicant is in any doubt as to the age of the customer, they will only deliver the alcohol if the owner of the card that made the payment is present at the delivery address; Orders will only be despatched to bona fide addresses;
 - i) No deliveries will be made to an open space,
 - ii) All sales of alcohol for delivery must be paid for by credit card, debit card (prepaid or otherwise) or electronic payment,
 - iii) Details of the order (including the type, amount of alcohol, name and address of the customer and delivery address if different) must be included with the order. The detail shall be shown on the electronic receipt provided to the customer through the app.
 - iv) All delivery drivers and riders must allow any police or authorised local authority officers to inspect any alcohol,
 - v) Deliveries only made to those over the age of 18.
12. A challenge 25 age verification scheme will be used. ID will be required for deliveries to customers who do not look 25 years old. They will be required to prove by way of photographic ID, either a passport or driving licence that they are at least 18. The card used for purchase will also be checked against the

ID provided. If the business is in any doubt, then the delivery of alcohol will not be made, and a full refund will be issued. Postal/ carriage deliveries will only be made once a verified payment method has been established, and the customer has confirmed they are 18 or over when making the purchase.

13. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
14. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
15. The Premises Licence Holder shall ensure that riders/drivers will be instructed not to loiter in the vicinity of residential premises.
16. The Premises Licence Holder shall ensure that riders/drivers will not be permitted to congregate in the immediate vicinity of the premises.
17. The Premises Licence Holder shall ensure that riders/drivers will not be permitted to smoke in the immediate vicinity of the premises.
18. Deliveries shall only be made to a bona fide residential or business addresses.
19. Delivery drivers/riders shall wait inside the premises between deliveries/ for deliveries.
20. Delivery drivers/riders shall be given clear written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside of the licenced premises.
21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
22. 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.
23. 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.
24. No super strength beer, lagers, ciders, or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles and cans.

25. The premises shall install and maintain a comprehensive CCTV system as per the 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 the Police or authorised officer throughout the entire 31-day period.
26. 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.
27. All delivery riders will be employed directly by the Licence Holder or a group company of the Licence Holder.
28. There shall be a dedicated waiting area within the premises for delivery drivers waiting to collect customers' orders for delivery. Delivery drivers are not to congregate outside the premises.
29. All vehicles shall be stored inside the premises between deliveries and walked out to the road. Drivers are to be regularly reminded they are not to cycle on the pavement at all.
30. Only electric or pedal powered vehicles shall be used by delivery drivers/riders delivering products sold from the premises to customers.
31. Delivery vehicles shall not be parked on the highway or pavement outside the premises at any time.

If problems are experienced, then an application for a review of the Premises Licence can be made.

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

**Licensing Sub-Committee
31 March 2022**

3. AMERICANA, BASEMENT AND GROUND FLOOR, 11-12 HAYMARKET, SW1V 4BP

(WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 3

Thursday 31 March 2022

Membership: Councillor Jim Glen (Chairman) Councillor Barbara Arzymanow and Councillor Aziz Toki

Officer Support	Legal Adviser:	Vivienne Walker
	Policy Officer:	Kerry Simpkin
	Committee Officer:	Jack Robinson
	Presenting Officer:	Emanuela Meloyan

Application for a New Premises Licence in respect of Americana Basement and Ground Floor 11-12 Haymarket London SW1Y 4BP 21/14563/LIPN

FULL DECISION

Premises

Basement and Ground Floor
11-12 Haymarket
London
SW1Y 4BP

Applicant

Curzon and Haymarket Limited

Cumulative Impact Area

None

Ward

St James's

Special Consideration Zone

West End Buffer

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises proposes to operate as a restaurant within the West End Buffer Special Consideration Zone.

There is a resident count of 22.

Representations received

- Environmental Health Service (Dave Nevitt).
- Metropolitan Police Service (PC Adam Deweltz).

Summary of Objections

- The Metropolitan Police Service objected to the application on the grounds that the premises are situated within the West End Buffer Special Consideration Zone, and they believed if granted, the application could undermine the Licensing Objectives in relation to the Prevention of Crime and Disorder.
- Environmental Health Service objected to the application on the grounds the proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety.

Policy Position

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

Under Policy RTN1, applications outside the West End Cumulative Impact Zone will generally be granted subject to 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The hours for licensable activities being within the Council's Core Hours Policy HRS1. 3. The applicant has taken account of the Special Consideration Zones.

Under Policy SCZ1, 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.

SUBMISSIONS AND REASONS

Ms Emanuela Meloyan, Senior Licensing Officer, summarised the application as set out in the report before the Sub-Committee. She explained that the application was for a new Premises Licence to operate as a restaurant.

Mr James Rankin, Counsel for the Applicant outlined the application. He explained that the premises were already licensed under the previous tenants, but the licence was tied to them. If they did not surrender over their licence, the Applicant could be in a situation where they were suddenly without a licence. The Applicant wanted a licence in their own right.

Mr Rankin explained that the Applicant were not seeking any change in hours but wanted to create an upstate American Bar to service the large United States community in London. He stated that these hours were not different from the previous business in their venue, and this would have limited impact on the Special Consideration Zone. The venue is seeking to offer sports, and this was not a place for general vertical drinking but a destination venue. Mr Rankin advised that there would likely be a reduction between 20 to 30 % in the capacity of the venue compared to the previous tenants due to the layout proposed. He explained the Applicant were seeking to have the hours of 11:00 - 21:00 licensed to serve alcohol without food and a small area for approximately 8 people to vertically drink prior to eating. The Applicant also wished to hold private events mainly for charity fundraising as the owner, Mr Less, had many charitable ventures.

In response to the Sub-Committee Mr Rankin stated that there is a dispersal policy in place and that the area had good transport links with a very low resident count. He confirmed that the dispersal policy had been sent to the Metropolitan Police and they are satisfied with the document.

Mr Rankin advised the Sub-Committee that the Applicant have a large number of on-site staff and phone charging is available for patrons.

Mr Rankin explained to the Sub-Committee that the off sales are within their demise, but that they are not wanting off sales in terms of outside seating on the premises but would like to be able to have this as part of their delivery option which is ancillary to food that are pre-ordered.

In response to the Sub-Committee Mr Rankin explained that sports were largely seasonal for live matches and certain sports are played on certain days. The core idea of the premises is to become a restaurant and no British football or European football will be shown. Mr Rankin confirmed this would likely be a well-attended night and would be shown in the restaurant. The events would either be a closed events or ticketed. He explained that these American sports games are generally watched seated, not standing.

PC Guerra, representing the Metropolitan Police Service advised that the Police had maintained their representation because the application is within the West End Buffer Special Consideration Zone. In response to the Sub-Committee PC Guerra stated that there are general concerns about crime rates. He advised that from recent analysis, the peak times for offences such as thefts and robberies are mid-night to 04:00 hours and there is always the potential that people leaving the premises will have to go through the area to get public transport or venture into the area to continue their night.

Mr Dave Nevitt on behalf of Environmental Health Service advised the Sub-Committee that there was a pre-application discussion with the Applicant, and they had agreed some detailed conditions. He stated that Environmental Health Service concerns were focused on the dispersal policy, the outside area with drinking usually terminated at 23:00 hours and the noise pollution that may be caused by outside patrons. He stated that US sporting events are not the same as British or European sporting events and are seen as less alcohol focused and often watched over food.

In response to the Sub-Committee Mr Nevitt stated that there was an overall reduction in capacity and once the works are cleared Environmental Health Service would look at the capacity.

Conclusion

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

The Sub-Committee had regard to the fact that the Applicant is an experienced operator. The Sub-Committee were mindful that the hours sought were in line with the existing licence.

The Sub-Committee noted that the Applicant had agreed to the conditions proposed by Environmental Health Service, and they had a detailed dispersal policy which the Police had accepted.

The Sub-Committee noted that the screening of American Sports by the Applicant was very interesting and would be a positive addition to the West End.

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

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

1. To grant permission for **Late Night Refreshment (Indoors and Outdoors)** Monday to Tuesday 23:00 to 01:00 hours Wednesday to Sunday 23:00 to 03:00 hours.

Seasonal Variations: On the morning that Greenwich Mean time changes to British Summer Time, one hour shall be added to the terminal hour of any activities and to the closing time where the existing terminal or closing hour for activities for the premises ends after 01:00 hours.

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

2. To grant permission for the **Sale by Retail of alcohol (On and Off Sales)** Monday to Tuesday 10:00 to 01:00 hours Wednesday to Saturday 10:00 to 03:00 hours Sunday 12:00 to 03:00 hours.

Seasonal Variations: On the morning that Greenwich Mean time changes to British Summer Time, one hour shall be added to the terminal hour of any activities and to the closing time where the existing terminal or closing hour for activities for the premises ends after 01:00 hours.

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

3. To grant permission for the **Opening Hours for the Premises** Monday to Sunday 00:00 to 00:00 hours.

Seasonal Variations: None

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 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. 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.
11. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
12. 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.
13. Loudspeakers shall not be located in the entrance and exit of the premises or outside the building.
14. All windows and external doors shall be kept closed after 00.00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
15. There shall be no sales of alcohol for consumption off the premises after 00.00 hours.

16. All sales of alcohol for consumption off the premises shall be in sealed containers only and ancillary to the delivery of take away meals to a bona fide address and shall not be consumed on the premises.
17. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
18. All outside tables and chairs shall be rendered unusable by 00.00 hours each day.
19. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
20. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
21. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
22. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
23. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
24. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day.
25. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed:
 - Mezzanine
 - Rear Room
 - Front room
 - Outdoor Seating (to be determined by Environmental Health Consultation Team upon completion of the works).
26. The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal save for the areas marked rear room on the ground floor colour washed blue and the area marked mezzanine on the deposited plan colour washed blue between the hours of 11.00 and 21.00 on any day and subject to condition 27.

27. Notwithstanding condition 26 alcohol may be supplied and consumed prior to their meal at any time in the bar area hatched green on the plan, by up to a maximum at any one time, of 8 persons dining at the premises.
28. The supply of alcohol shall be by waiter or waitress service only.
29. 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.
30. 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.
31. 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.
32. 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.
33. 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
34. There shall be no sales of hot food or hot drink for consumption off the premises after 00.00 hours.
35. 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.
36. The premises may remain open for the sale of alcohol and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

37. On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00 hours.
38. The sale and supply of alcohol shall be restricted to alcohol consumed by persons who are seated.
39. Staff will receive training in terrorism awareness and procedures adopted by the premises licence holder in the event of a terrorist attack at or in the immediate vicinity of the premises. Such training will be recorded and updated in line with best practice and a copy of the training will be made available to the Metropolitan Police on request. 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.
40. 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.
41. A minimum of 1 SIA licensed door supervisor shall be on duty at the premises from 22:00 hours Wednesday to Sunday. The requirement for door staff shall be risk assessed on Mondays and Tuesdays. The door supervisor will assist in the dispersal of patrons, and they must correctly display their SIA licence when on duty.
42. On Wednesday through to Sunday, there shall be a last entry time of 01:30 hours.
43. Notwithstanding condition 26 the sale, supply and consumption of alcohol as an ancillary to persons taking a substantial table meal shall not apply to persons who are attending a bona fide, private, pre-booked function to which members of the public are not admitted in the area marked 'rear room' on the ground floor colour washed blue and the area marked mezzanine and colour washed blue on the deposited plan.
44. Notwithstanding Condition 38 the sale and supply of alcohol for consumption whilst seated shall not apply to persons who are attending a bona fide, private, pre-booked function to which members of the public are not admitted in the area marked 'rear room' on the ground floor colour washed blue and the area marked mezzanine and colour washed blue on the deposited plan.

INFORMATIVE

45. The Premises Licence Holder has agreed to surrender Licence Number 19/11470/LIPCH should it become available.

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

**Licensing Sub-Committee
31 March 2022**

The Meeting ended at 2.00 pm