



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (6)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** held on **Thursday 7th April, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Murad Gassanly, Susie Burbridge and Maggie Carman

#### 1. MEMBERSHIP

1.1 There were no changes to the Membership.

#### 2. DECLARATIONS OF INTEREST

2.1 THERE WERE NO DECLARATIONS OF INTEREST.

#### 1. 35 CRANBOURNE STREET, WC2H 7AD

### **WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 6** **("The Committee")**

Thursday 7<sup>th</sup> April 2022

Membership: Councillor Murad Gassanly (Chairman)  
Councillor Susie Burbridge and Councillor Maggie Carman

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

Present: Alun Thomas, Thomas and Thomas Solicitors on behalf of the applicant Krystal Moore, Shaftsbury Covent Garden Limited (the applicant)

Dave Nevitt – Environmental Health Services  
Karyn Abbott – Licensing Authority

**Application for a New Premises Licence in respect of 35 Cranbourn Street,  
London WC2H 7AD – 22/00800/LIPN**

**FULL DECISION**

**Premises**

35 Cranbourn Street,  
London  
WC2H 7AD

**Applicant**

Shaftsbury Covent Garden Limited

**Cumulative Impact Area**

West End

**Ward**

St James's

**Licensable Activities and Hours applied for**

**Sale of Alcohol 'On' and 'Off' the premises**

Monday to Thursday 10.00 to 00.00 hours and  
Friday and Saturday 10.00 – 00.30  
Sundays 12.00 to 23.30 hours.

Non-standard timings

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On Sunday before Bank Holidays/Public Holidays until 01.00 hours.

**Recorded Music (Indoors) and Late-Night Refreshment (Indoors)**

Monday to Thursday 23.00 to 00.00 hours and  
Friday and Saturday 23.00 – 00.30  
Sundays 23.00 to 23.30 hours.

Non-standard timings

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On Sunday before Bank Holidays/Public Holidays until 01.00 hours.

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

Monday to Thursday 10.00 to 00.30 hours and  
Friday and Saturday 10.00 – 01.00  
Sundays 12.00 to 00.00 hours.

Non-standard timings

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On Sunday before Bank Holidays/Public Holidays 12.00 until 01.00 hours.

## **Representations Received**

- Environmental Health Service (Dave Nevitt)
- Licensing Authority (Karyn Abbott)
- Metropolitan Police (Withdrawn)
- 5 Local Residents

## **Summary of Objections**

The Environmental Health Services state:

*The hours requested are beyond Core Hours and will have the likely effect of causing an increase in Public Nuisance and may impact Public Safety within the CIZ*

The Licensing Authority state:

*The hours requested are beyond Core Hours and the premises is located within the West End Cumulative Impact Area and as such various policy points must be considered, namely CIP1, HRS1 and PB1. The proposed restaurant condition only applies after 21.00 and therefore prior to that time the premises is a bar.*

The Residents states:

*The premises will add to the cumulative impact of nuisance and crime and disorder as a result of other licensed premises in the area. There will be an increase in noise, traffic, waste collection and the application will affect public safety. The proposal will not promote the licensing objectives. The premises should remain a restaurant during the whole of trading hours.*

## **Summary of Application**

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

The premises intend to operate as a restaurant with external seating area within the premises demise to the front (Cranbourn Street) and to the rear (St Martin's Court).

The premises is located within St James's Ward and West End Cumulative Impact Area.

There is a resident count of 144.

## **Policy Considerations**

### **CIP1**

- It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment. 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. 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.

### **HRS1**

- Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to 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.

### **RNT1**

Applications inside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
5. The application and operation of the venue meeting the definition of a restaurant as per Clause C.

## **DECISION AND REASONS**

Roxsana Haq, Presenting Officer, summarised the application set out in the report before the Sub-Committee. She explained that the application was for a new Premises licence which sought to permit the sale of alcohol for consumption on and off the premises, late night refreshment, recorded music. She further advised that

additional submissions had been received from the applicant which had been circulated to all the relevant parties before the Sub-Committee hearing and that there is already an existing Premises Licence in relation to this premises

Mr Thomas, Solicitor for the applicant outlined the application. He confirmed that the premises is located opposite Leicester Square tube station which would permit easy dispersal of customers. He explained that there is an existing premises licence which had been converted under the Licensing Act 2005. There is permission for unrestricted private entertainment for profit and unrestricted recorded music. There are also a limited number of conditions.

The Sub-Committee were informed that the application mirrors the times on the existing premises licence save for an extra 30 minutes on Fridays and Saturdays as these are the nights the night tube runs.

There has been consultation with the police and the EHO.

Mr Thomas highlighted to the Sub-Committee that the capacity of the whole premises is approximately 120. There is a restricted area, hatched black on the plans and the proposal is to have a capacity of 20 people in that area. Mr Thomas confirmed to the Sub-Committee that the applicant would be happy to have that stipulated on the premises licence as a condition.

Mr Thomas explained to the Sub-Committee that the landlords are a reputable and professional business. He went on to identify that the main issue for the objectors and for the Members to consider are the extension of 30 minutes on Fridays and Saturdays and sale of alcohol without food before 21:00.

The applicant realises a need in the West End to provide facilities for people to have a drink whilst they are shopping which is not a pub style operation. Policy RNT1B will be in force in the area hatched black after 2100 hours and RNT1B continues to apply to the remainder of the premises including the outside areas.

Mr Thomas made representations that Paragraph F98 and D13 is an exception to the usual CIP policies for applications where the terminal hour is no later than 21:00.

The application goes further than this, trade until 12.00 is ancillary to the primary use of the premises as a restaurant with a limited area to which this exception applies. It will have waiter/waitress service, it is limited in terms of the number of persons that can use it and the existing premises licence will be surrendered. It was submitted that this amounted to an exception as to why the Members could depart from their CIP1 policy.

Mr Nevitt confirmed to the Sub-Committee that the application was subject of pre consultation. Mr Nevitt explained that the premises have been empty for a while.

There are three reasons why he made a representation, namely despite the premises being located close to a tube station and bus stop, the application hours proposed are beyond Core Hours. Notwithstanding this, there have been applications granted for other restaurants in the area, all subject to suitable conditions.

The Environmental Health Services have concerns about bar use between the hours of 10:00 to 21:00. He stated that there is allowance for this in the policy, but it is a matter he should raise.

There were also concerns from residents, who live within the locality of the area but not directly opposite, which if raised during the course of the hearing, he would be able to address.

Karyn Abbott, Senior Licensing Officer, Informed the Sub-Committee that there was in effect, a 12 hour bar use at the proposed premises. Therefore, it was the Licencing Authority's view that this operation fell under PB1 policy. As a result, the application time should be reduced to core hours. She continued by reiterating the contents of her written objections to the Members.

In response to the Sub-Committee's questions, the applicants' representative explained that although customers could purchase additional quantities of alcohol prior to 2100 hours to consume after 21.00, the quality of operators engaged by Shaftesbury Covent Garden limited was very high and it is unlikely that this would be permitted to take place. The view from outside the premises would be of a restaurant style operation with tables ready for service. They also have a rear seating area which was historically available at the premises.

The Committee were informed that the applicant has not identified an operator for the premises as yet and therefore menus were not available.

Mr Thomas again confirmed that the restaurants conditions (MC6) would apply not only to the restaurant area but also to the outside areas throughout the trading period and the primary use of the premises would be as a restaurant.

## **Conclusion**

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

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

In reaching its decision, the Sub-Committee took into consideration conditions agreed during the hearing.

The Sub-Committee was also of the opinion that the conditions imposed on the premises licence were proportionate and appropriate and would ensure that the four licensing objectives were promoted.

The applicant provided evidence of exceptional reasons why the Members could depart from Westminster's' CIP1 policy and the Sub-Committee recognised the applicant as a responsible landlord.

The grant of this application is unlikely to add to the cumulative impact in the area and the conditions address the Member's concerns about the premises being in a cumulative impact area.

**The Committee has decided**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives, to permit: -

**1. Sale of Alcohol 'On' and 'Off' the premises**

Monday to Thursday 10.00 to 00.00 hours and  
Friday and Saturday 10.00 – 00.30  
Sundays 12.00 to 23.30 hours.

Non-standard timings

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On Sunday before Bank Holidays/Public Holidays 12.00 until 01.00 hours.

**2. Recorded Music (Indoors) and Late-Night Refreshment (Indoors)**

Monday to Thursday 23.00 to 00.00 hours and  
Friday and Saturday 23.00 – 00.30  
Sundays 23.00 to 23.30 hours.

Non-standard timings

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On Sunday before Bank Holidays/Public Holidays 23.00 until 01.00 hours.

**3. Opening Hours of the Premises:**

Monday to Thursday 10.00 to 00.30 hours and  
Friday and Saturday 10.00 – 01.00  
Sundays 12.00 to 00.00 hours.

Non-standard timings

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On Sunday before Bank Holidays/Public Holidays 12.00 until 01.00 hours.

**4. That the Premises Licence is subject to any relevant mandatory conditions.**

5. The Premises Licence is subject to the plans lodged in support of this application.
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**

#### **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 is 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.
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 is 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. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
12. All outside tables and chairs shall be rendered unusable by 23:00 each day.
13. 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.
14. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
15. 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.
16. Save in accordance with condition **24** below, sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to, a take-away meal.
17. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) on the following day.
18. 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.

19. A record shall be kept detailing all refused sales of alcohol. **The record must be completed within 24 hrs and** 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 is open.
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 visit by a relevant authority or emergency service.
21. 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.
22. Save as provided by condition **23** below, the premises shall only operate as a restaurant
  - (i) in which customers are shown to their table or the customer will select a table themselves,
  - (ii) where the supply of alcohol is by waiter or waitress service only,
  - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table,
  - (iv) which do not provide any take away service of food or drink for immediate consumption,
  - (v) which do not provide any take away service of food or drink after 23.00, and
  - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

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

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

23. a) Before 21:00, in the area hatched black on the licence plans submitted with the application (heard on the 7<sup>th</sup> April 2022), alcohol may only be sold to persons seated and served by waiter/waitress service.
- b) Sale and consumption of alcohol, after 21.00, in the area hatched black on the plans submitted with the application (heard on the 7<sup>th</sup> April 2022), shall be subject to condition 22 above, namely Westminster's Model Condition 66. (restaurant condition).
- c) The maximum capacity of the area hatched black on the plans submitted with the application (heard on the 7<sup>th</sup> April 2022) shall be 20 persons excluding staff.
24. The sale and supply of alcohol for consumption off the premises shall be restricted alcohol consumed (i) at outside tables and chairs within the premises demise as shown on the licence plan; and/or (ii) by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway; and shall be by waiter or waitress service, served only to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal, save where condition **23** applies.
25. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.
26. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
27. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where there are minor changes to the premises layout during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
28. No licensable activities shall take place at the premises until premises licence 21/10737/LIPT (or such other number subsequently issued for the premises) has been surrendered and is incapable of resurrection.

**Conditions proposed by the Metropolitan Police and agreed with the applicant so as to form part of the operating schedule.**

30. All staff at the premises shall receive Welfare And Vulnerability Engagement (WAVE) training, which shall be refreshed annually.
31. 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.

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

**This Decision takes immediate effect.**

**The Licensing Sub-Committee**

**7<sup>th</sup> April 2022.**

2. **50-52 BAKER STREET, W1U 7BT**

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 6**  
**("The Committee")**

Thursday 7<sup>th</sup> April 2022

Membership: Councillor Murad Gassanly (Chairman)  
Councillor Susie Burbridge and Councillor Maggie Carman

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

Present: Mr Leo Charalambides, Counsel for the Applicant.  
Peter Conisbee, PC Licensing  
Ruben Hoque, on behalf of Pinq Limited  
Maxwell Koduah, Environmental Health Officer  
Richard Brown, Citizens Advice *Westminster*, representing Guy Austin  
Guy Austin, Marylebone Association

**Application for a New Premises Licence in respect of Pinq, 50-52 Baker Street, London W1U 7BT – 22/01042/LIPN**

**FULL DECISION**

**Premises**

Pinq,  
50-52 Baker Street,  
London  
W1U 7BT

**Applicant**

Pinq Limited

**Cumulative Impact Area**

No

**Ward**

Marylebone High Street

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

### **Recorded Music (Indoors), Live Music (Indoors) and Late-Night Refreshment (Both)**

Monday to Saturday 23.00 – 05.00  
Sundays 23.00 to 03.00 hours.

Non-standard timings

On Sunday before Bank Holidays 23.00 until 05.00 hours.

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

Monday to Saturday 12.00 – 05.00  
Sundays 12.00 to 03.00 hours.

Non-standard timings

On Sunday before Bank Holidays 23.00 until 05.00 hours.

## **Representations Received**

- Environmental Health Service (Maxwell Koduah)
- Metropolitan Police (Withdrawn)
- Cllr Karen Scarborough, Marylebone High Street Councillor
- Guy Austin Marylebone Association

## **Summary of Objections**

The Environmental Health Services state:

*Regulated entertainment is likely to cause a public nuisance.*

*The provision of LNR and the hours is likely to increase public nuisance and affect public safety in the area.*

Cllr Karen Scarborough states:

*The application will not promote the licensing objective, namely prevention of public nuisance, crime and disorder and children from harm. This is not conducive with a residential area and there is no explanation how the premises will operate.*

Guy Austin States:

*The Marylebone Association has concerns about the late hours requested for trading including live and recorded music. There is a large capacity which may cause dispersal issues. There is a possibility of selling the premises with late trading hours.*

## **Summary of Application**

“The premises is to be a high-class restaurant where diners will be treated to occasional live music to compliment the ambient relaxed setting. The application has been completed for a traditional restaurant serving food and drink, there will be no service of alcohol at the premises.”

The Premises is located within Marylebone High Street Ward and is not in a CIZ or SCZ.

There is a resident count of 99.

## **Policy Considerations**

### **HRS1**

- Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to 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.

### **RNT1**

- 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.
  - The hours for licensable activities being within the council's Core Hours Policy HRS1.
  - The operation of any delivery services for alcohol and/or late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
  - The application and operation of the venue meeting the definition of a restaurant

## **DECISION AND REASONS**

Roxsana Haq, Presenting Officer, summarised the application set out in the report before the Sub-Committee. She explained that the application was for a new premises licence for a premises situated within the Marylebone Ward and which does not fall within an area of CIZ or SCZ.

Mr Charalambides for the applicant presented the application to the Sub-Committee which has been discussed with both Environmental Health and the Police as a result, they have proposed and agreed several conditions.

Counsel submitted that this is an important application as it is concerned with the diversification of use in the night-time economy and promotes the diversification and inclusion of customers.

It is to be a late-night venue which is well managed, fully seated, well lit, food led and alcohol free. Counsel confirmed, on behalf of the applicant, that they are happy to agree a condition that the premises is to be alcohol free.

The premises will operate using a substantial kitchen area to provide an International brasserie offering, which ranges from pastas to grill and also bringing a wide cheesecake offering to the UK. The layout includes a long counter of cheesecake fridges instead of having a bar. Juices and Botanicals will also be provided.

The Sub-Committee were informed that the applicants are proposing a membership scheme for the late evenings and have already had sufficient interest in respect of people willing to pay a premium for membership.

Conditions agreed prevents 3<sup>rd</sup> party delivery services, provides for a capacity, door supervisor presence and a capacity restriction on the smoking area.

The Membership facility is to be externally managed and will be a 3 months, payment up front membership

Mr Koduah, Environmental Health Officer, advised the Sub-Committee that he has had extensive discussions with the applicant, and these have been captured on pages 51-57 of the bundle.

His concerns are primarily public nuisance risks and the hours being sought.

**Mr Brown**, on behalf of Marylebone Association informed the Members that there are concerns about the terminal hour of 5am. There would be no objections to core hours, as this is a niche application focusing on desserts, which is welcomed.

Mr Brown reminded the Sub-Committee that they are licensing the premises itself and not the applicant. The Association are intrigued by the membership concept and would like to know how this would work and whether the public can approach the premises at say 2am, request to be a member and be granted it immediately.

Mr Brown identified that at pages 53/54 of the report, there is a letter which sets out additional conditions, however these conditions are not all in appendix D of the bundle. The Association would welcome these conditions on the Premises Licence.

**Mr Austin** added that there were concerns about the nature of the neighbourhood and questioned whether shisha would be used here?

He identified to the Members that a number of customers coming from further afield, would not have access to public transport that late, so this may increase cars and taxis in the area.

Mr Austin stated that a majority of premises in the area operated to core hours and this premises would be different.

Further oral comments and comments contained in the written objection from Mr Austin resulted in the Chairman reaffirming, in no uncertain terms, that as a Local Authority, Westminster City Council supports and complies with the provisions under section 149 of the Equalities Act 2010 detailed on page 48 of the Agenda bundle.

The Members informed the applicant that they had serious reservations about the lateness of the hours which had been applied for. As a result of further questions from the Sub-Committee, Counsel for the applicant stated that membership can be obtained online. Customer's name and address would be noted and there would be some vetting process. Customers will have to prebook and pay 3 months for their membership in advance (£199 a month).

There is an extensive kitchen, and customers can decide whether they are wanting a full meal or some cheesecake. There will be a full menu food offering.

Counsel confirmed through, Mr Conisbee, to the Members that there is outside seating for a maximum of about 12 patrons.

The Sub-Committee expressed their concerns about the potential for noise nuisance from this late-night venue and asked whether the operator would consider earlier terminal hours. This would give the premises a chance to operate for a period and if there were no issues, the applicant would be at liberty to return with an application to vary the premises licence to later hours, with suitable evidence. Mr Charalambides agreed that a terminal hour of 03.00 Mondays to Saturday and 02.00 on Sundays would be acceptable.

The Legal Advisor questioned whether regulated live and recorded music was required after 23.00, as the applicant would be playing background music. Counsel agreed to withdraw the application for live and recorded music.

In summary Mr Brown, had reservations about customers walking in off the street, the possible ease of obtaining a membership and he further suggested a minimum membership fee. He confirmed to the Members that a reduction in hours is sensible, but core hours are better.

Mr Charalambides highlighted to the Sub-Committee of the principles under Chapter 14 and para 2.21 of the Government Guidance and sec 149(6) of the Equality Act 2010.

## **Conclusion**

The Sub-Committee considered the application on its individual merits. In reaching their decision, the Sub-Committee took into account all the relevant information in



the committee papers and the relevant oral evidence given by all parties during the hearing in its determination of the matter.

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

In reaching its decision, the Sub-Committee took into consideration the evidence, the applicant's agreement to reduce the terminal times of licensable activities and closing, the withdrawal of the application for live and recorded music and conditions agreed during the hearing.

The Sub-Committee was also of the opinion that the conditions imposed on the premises licence were proportionate and appropriate and would ensure that the four licensing objectives were promoted.

**The Committee has decided**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives, to permit: -

**1. Late-Night Refreshment (Both)**

Monday to Saturday 23.00 – 03.00  
Sundays 23.00 to 02.00 hours.

Non-standard timings

On Sunday before Bank Holidays/Public Holidays 23.00 until 03.00 hours.

**2. Opening Hours of the Premises:**

Monday to Saturday 12.00 – 03.00  
Sundays 12.00 to 02.00 hours.

Non-standard timings

On Sunday before Bank Holidays/Public Holidays 23.00 until 03.00 hours.

3. That the Premises 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**

**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 is 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.

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 is 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. An incident log shall be kept at the premises, and made available on request to an authorised officer of the 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 concerning crime and disorder
- d. any incidents of disorder
- e. any faults in the CCTV system
- f. any visit by a relevant authority or emergency service.

12. A supply of first aid equipment and materials must be available on the premises at all times.

13. Customers will be actively discouraged by staff from gathering outside the premises

14. Staff shall carry out regular checks to monitor customer behaviour and to ensure there is no outbreak of noise from the premises.

15. Notices shall be prominently displayed at the exit requesting patrons to respect the needs of local residents and businesses and leave the area quietly

16. During licensable hours there will always be a minimum of two members of staff present.

17. Staff will be trained to identify signs of intoxication, suspicious or aggressive behaviour and how to appropriately deal with such customers so as to provide adequate care and minimise risk.

18. There will be no takeaway service of food for immediate consumption – all food taken away is to be closed/wrapped up.

19. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor by vibration be transmitted through the structure of the premises which gives rise to a nuisance.

20. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

21. No deliveries to the premises shall take place between 2100 hours and 0800 hours the following day
22. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified.
23. The edges of the treads of steps and stairways shall be maintained so as to be Conspicuous
24. No fumes, steam or odours shall be omitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated
25. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
- The police (and, where appropriate, the London Ambulance Service) are called without delay;
  - All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
  - The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
  - Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
26. The licensee will provide adequate bins for use by customers and encourage their use.
27. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between the hours of 22:00 and 08:00
28. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection time
29. 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

**Conditions proposed by the Environmental Health Service and agreed with the applicant so as to form part of the operating schedule.**

30. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as an alcohol-free restaurant and alcohol-free cheesecake café.
31. No deliveries from the premises, either by the licensee or a third party shall take place between **21:00 and 08:00** hours on the following day

32. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority

33. The licence holder shall ensure that there is no queuing outside the premises from 23:00 to closing time.

34. All outside tables and chairs shall be rendered unusable by 23.00 hours each day.

35. All windows and external doors shall be kept closed after 23:00 hours except for the immediate access and egress of persons.

**Conditions proposed by the Metropolitan Police Service and agreed with the applicant so as to form part of the operating schedule.**

36. A minimum of 2 SIA licensed door supervisors shall be on duty from 2200 hours on Sunday to Thursday and 2100 hours on Friday, Saturday and days preceding a bank holiday until **15 minutes after the premises** closes. Whilst on duty they must correctly display their SIA licence(s) when on duty so as to be visible.

37. 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 and that all staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day they start their employment.

**Applicants' conditions agreed by letter in the Agenda and at the hearing**

38. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed 140 persons.

39. From midnight to closing, the premises will operate refreshment for consumption on the premises only.

40. Entry to the premises after midnight will be strictly for members only. A list of the names and addresses of members shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guests introduced by members. Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the council.

41. From 2300 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke or make a phone call, will be limited to 8 persons at any one time.

42. Deliveries to the premises shall not take place on Baker Street.

43. 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.

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

**This Decision takes immediate effect.**

**The Licensing Sub-Committee**

**7<sup>th</sup> April 2022.**

**3. MR DICKY, GROUND FLOOR, 10-11 MOOR STREET, W1D 5NE**

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 6**  
**("The Committee")**

Thursday 7<sup>th</sup> April 2022

Membership: Councillor Murad Gassanly (Chairman)  
Councillor Susie Burbridge and Councillor Maggie Carman

Officer Support: Legal Advisor: Steve Burnett  
Policy Officer: Aaron Hardy  
Committee Officer: Kisi Smith-Charlemagne  
Presenting Officer: Karyn Abbott

Present: Craig Baylis, Kingsly Napley on behalf of the Applicant  
Claudia Mangano on behalf of Vacaros Enterprise Ltd the Applicant  
David Nevitt on behalf of the Environmental Health Services  
Roxsana Haq on behalf of the Licensing Authority  
Richard Brown, Citizen Advice Westminster on behalf of Eric Babak  
and Neil Drinkwater.

**Application for a New Premises Licence in respect of Mr Dicky, Ground Floor,  
10-11 Moor Street, London W1D 5NE – 22/00868/LIPN**

**FULL DECISION**

**Premises**

Mr Dicky,  
Ground Floor,  
10-11 Moor Street,  
London  
W1D 5NE

**Applicant**

Vacaros Enterprise Ltd

**Cumulative Impact Area**

West End

**Ward**

West End

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

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

Monday to Thursday 23.00 – 23.30

Friday and Saturday 23.00 – 00.00

### **Sale of Alcohol (Both):**

Monday to Thursday 10.00 – 23.30

Friday and Saturday 10.00 – 00.00

Sundays 12.00 – 22.30

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

Monday to Thursday 07.00 – 23.30

Friday and Saturday 07.00 – 00.00

Sundays 09.00 – 22.30

## **Representations Received**

- Licensing Authority (Jessica Donovan)
- Environmental Health Service (Anil Drayan)
- 2 Residents
- 1 Resident (Withdrawn)

## **Summary of Objections**

Licensing Authority state:

*The premises is located in a CIZ and therefore policies CIP1, HRS1 and RNT1 is to be considered.*

Environmental Health Services states:

*The provision of late-night refreshment and the supply of alcohol may have an effect on increasing public nuisance.*

Residents states:

*The residents are concerned about smokers, dispersal of customers and music from inside the premises. The opening hours will encourage nuisance and drunkenness.*

## **Summary of Application**

“The premises is to operate as a small restaurant.”

The Premises is located within the West End Ward and is in West End CIZ.

There is a resident count of 82.

## **Policy Considerations**

### **HRS1**

- Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to 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.

### **RNT1**

- Applications inside the West End Cumulative Impact Zone will generally be granted subject to:

The application meeting the requirements of policies CD1, PS1, PN1 and CH1.

The hours for licensable activities are within the council's Core Hours Policy HRS1.

The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.

The application and operation of the venue meeting the definition of a restaurant

### **CIP1**

- It is the Licensing Authority's policy to refuse applications within the West
- End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment, other than applications to:
  - Vary the hours within Core Hours under Policy HRS1, and/or
  - Vary the licence to reduce the overall capacity of the premises.
- 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.
- 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.



## **DECISION AND REASONS**

Karyn Abbott, Presenting Officer, summarised the application set out in the report before the Sub-Committee. She explained this is an application for a new premises licence. During the consultation period, late-night refreshment was reduced on Thursdays to 22:30. The premises are situated within the West End Ward and falls within the West End cumulative Impact Zone.

Mr Baylis, solicitor for the applicant presented the application. He informed the Sub-Committee that this is an application for a core hour, 25 seated, small restaurant where there is no primary cooking or music. One resident, who lives next door has since consultation, withdrawn their objection. The applicant already runs a small takeaway food restaurant in Milan. At the moment the site in Soho is costing £6,000 a month in rent and is currently waiting on an alcohol licence to trade. She wants to open a restaurant where people can also have an alcoholic drink. Claudia confirmed to the Sub-Committee that the premises is to open as an Italian restaurant with alcohol to be served with food.

The Sub-Committee were informed by Mr Baylis that the applicant had Agreed all conditions with EHO, there will be no primary cooking, as there is no kitchen. Food will be prepared offsite.

Mr Nevitt confirmed to the Members that the site is a small ground floor premises. There is only one toilet facility, so 25 people would be the maximum number which could be accommodated. He continued to advise that there is a possibility of a couple of outside tables and this will be operated by way of off-sales ancillary to food (MC66). The premises was a Barber shop (Class A1) which has now changed to a Class E use. The Environmental Health Authority are satisfied that there will be no issue with plant noise or cooking smells and have agreed a number of conditions including a works condition.

Ms Haq, Licensing Authority stated to the Sub-Committee that the applicant has agreed a number of conditions including MC66. It is within core hours. The LA are only really concerned whether the applicant has provided enough evidence to show how the premises will not add to the cumulative impact effect in the area.

Mr Brown informed the Sub-Committee that he is representing 2 residents who live in an area. This premises used to be a Barber shop and now is becoming a restaurant which will be yet another premises with an alcohol licence.

He commented that they have been provided with a copy of the menu which looks to be more like light snacks and salads.

Mr Brown's clients' main concerns are for the premises not to turn in to a bar. In response to the Members questions, Mr Baylis confirmed that the people who will be most affected by this application are the residents who live next door. They withdrew their objections once they met the applicant. He advised that there will be no takeaways and there is no primary cooking at the premises. Claudia confirmed that a 30 minute reduction in the terminal time for the sale of alcohol would be acceptable.

The Policy Officer, Mr Hardy asked what measures are in place to avoid cumulative impact? Mr Baylis responded and stated that the size of the premises and limited capacity of 25 persons.

## **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, and the oral evidence given by all parties during the hearing in its determination of the matter.

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

In reaching its decision, the Sub-Committee took into consideration the evidence, the applicant's agreement to reduce the terminal times for the sale of alcohol, that the hours are Core Hours, the premises will trade as a restaurant and that the premises have a small capacity of 25 persons.

The Sub-Committee was also of the opinion that the conditions imposed on the premises licence were proportionate and appropriate and would ensure that the four licensing objectives were promoted.

**The Committee has decided**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives, to permit: -

### **1. Late-Night Refreshment (Indoors)**

Monday to Thursday 23.00 – 23.30  
Friday and Saturday 23.00 – 00.00

### **2. Sale of Alcohol (Both):**

Monday to Thursday 10.00 – 23.15  
Friday and Saturday 10.00 – 23.45  
Sundays 12.00 – 22.15

### **3. Opening Hours of the Premises:**

Monday to Thursday 07.00 – 23.30  
Friday and Saturday 07.00 – 00.00  
Sundays 09.00 – 22.30

### **4. That the Premises 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**

#### **Conditions consistent with the operating schedule**

9. (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.

(b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.

(c) The CCTV system shall continually record whilst the premises is 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.

(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.

(e) 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 is 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. 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.

12. 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
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

13. The premises shall only operate as a restaurant,

- (i) in which customers are shown to their table or the customer will select a table themselves,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table,
- (iv) which do not provide any takeaway service of food or drink for immediate

consumption off the premises,  
(v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

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

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

14. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.

15. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.

### **Conditions proposed by the Environmental Health**

16. The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.

17. 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.

18. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

19. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

20. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

21. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (08.00) hours on the

following day unless it is during the hours for the Council's own collection times for the street.

22. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) hours on the following day unless it is during the hours for the Council's own collection times for the street.

23. The number of persons permitted in the premises at any one-time (including staff) shall not exceed 25 persons.

24. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority. If there are minor changes to the layout a new plan shall be submitted to the licensing authority when requesting removal of this condition.

#### **Conditions added at the Hearing**

25. There shall be no sales of takeaway food for consumption off the premises.

26. There shall be no primary cooking at the premises

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

**This Decision takes immediate effect.**

**The Licensing Sub-Committee  
7<sup>th</sup> April 2022.**

The Meeting ended at 2.12 pm