



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 29th September, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Angela Piddock (Chair), Judith Southern and Caroline Sargent

Apologies for Absence: Councillor Maggie Carman

1. MEMBERSHIP

- 1.1 It was noted that Councillor Maggie Carman had been replaced by Councillor Piddock.
- 1.2 Nominations for the post of Chair were invited. An nomination was received and seconded for Councillor Angela Piddock. There were no further nominations.
- 1.3 **RESOLVED:** That Councillor Angela Piddock be appointed Chair of the Licensing Sub Committee (2) for this meeting.

2. DECLARATIONS OF INTEREST

- 2.1 There were no declarations of interest.

1. TROPICA, 1 LOWER GROSVENOR PLACE, SW1W 0EJ

WCC LICENSING SUB-COMMITTEE NO. 2
("The Committee")

Thursday 29 September 2022 – Item 1

Membership: Councillor Angela Piddock (Chairman) Councillor Judith Southern and Councillor Caroline Sargent

Officer Support: Legal Adviser: Steve Burnett
Policy Officer: Aaron Hardy
Committee Officer: Sarah Craddock
Presenting Officer: Jessica Donovan

Other Parties: Mr Adriano Dulgher (Applicant),
PC Tom Steward (Metropolitan Police),
Maxwell Koduah (Environmental Health Service),
Richard Brown (Solicitor, Westminster's Citizens Advice
representing Dame Judith Mayhew-Jones, Charles Mander and
Mark Delacour (local residents).

Application for a Variation of Premises Licence in respect of Tropica, 1 Lower Grosvenor Place, London SW1W 0EJ - 22/06523/LIPV

Full Decision

Premises

Tropica,
1 Lower Grosvenor Place,
London SW1W 0EJ

Applicant

Mr Adriano Dulgher

Ward

Knightsbridge and Belgravia

Cumulative Impact Area

N/A

Special Consideration Zone

Victoria Special Consideration Zone (VSCZ)

Activities and Hours applied for

Late Night Refreshment

Sunday to Wednesday 23.00 to 23:45
Thursday to Saturday 23.00 to 01:45

Sale of Alcohol (Both)

Sunday to Wednesday 10.00 to 23:45
Thursday to Saturday 10.00 to 01:45

The Opening Hours of the Premises:

Sunday to Wednesday 10.00 to 00.00
Thursday to Saturday 10.00 to 02.00

Summary of Application

This is an application for a variation of a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises operates as a bar and is seeking to extend the hours for Late Night Refreshment and Sale of Alcohol for Sunday to Wednesday to 23.45 and Thursday to Saturday until 1.45 am, closing Sunday to Wednesday at 00.00, Thursdays to Saturdays at 02.00. The applicant also seeks trade on new year's eve from the end of permitted hours to 05.00 the following day.

The current Premises Licence is at Appendix 2 of the agenda report and Licence History is at Appendix 3 of the agenda report. The Decision Notice from the Licensing Committee held on the 16 June 2022 is at page 30.

The Premises is located in the Knightsbridge and Belgravia Ward and is in the Victoria Special Consideration Zone.

There is a resident court of 362.

Representations received

The Metropolitan Police Service (PC Tom Steward)
Environmental Health Service (Maxwell Koduah)
Fourteen Residents (objecting against the application)

Summary of issues raised by the objectors

The thrust of those objections cites public nuisance and crime and disorder.

MPS stated:

The proposed extension of licensable activities is likely to undermine the following licensing objectives:

- The Prevention of Crime and Disorder

The hours requested are beyond the core hours for a premises of this type and the conditions offered within the operating schedule are insufficient to promote the licensing objectives.

EHS stated:

As presented, the application would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.

The Residents stated:

- Noise will escape and cause a nuisance.
- Area is vulnerable to rowdy customers, drug dealing and anti-social problems.
- It is in a residential area which is unsuitable for a late-night operation.
- The premises currently breached their conditions and also breached them when operating under the TEN.
- It will cause an increase in traffic
- Regular bad behaviour in the square after 03.00
- High music volumes cause a nuisance.

Policy Position

HRS1

- Applications for hours outside the core hours set out in Westminster's Statement of Licensing Policy will be considered on their merits, subject to other relevant policies, and with particular regard to Core Hours Policy HRS1 B 1-14

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.

PB1

- Applications outside the West End Cumulative 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 applicant has taken account of the Special Consideration Zones policy SCZ1 if the premises are located within a designated zone. The application and operation of the venue meet the definition of a Public House or Bar in Clause D.

SZC1

- In addition to meeting the other policies within this statement, applications within a designated Special Consideration Zone should demonstrate that they have taken account of the issues particular to the Zone, in question as identified within the 2020 Cumulative Impact Assessment, and should set out any proposed mitigation

measures in relation to those issues within their operating schedule.

For the purpose of Clause A, the designated Special Consideration Zone is **Victoria**.

SUBMISSIONS AND REASONS

1. Ms Jessica Donovan outlined the application to the Committee. She advised that representations had been received from the Environmental Health Service, the Metropolitan Police and local residents. She further advised the Committee that the Premises was located within the Knightsbridge and Belgravia Ward and in the Victoria Special Consideration Zone.
2. She confirmed that additional submissions from the Interested Parties had been circulated to the Committee.
3. Mr Adriano Dulgher addressed the Committee. He advised that the bar was a family run business and that there were very few independent restaurants left in the area. He outlined that he had operated a successful restaurant at 23 Grosvenor Gardens for 14 years and that there had never been any trouble because he actively promoted the licensing objectives. Mr Dulgher explained that his customers had mainly been locals who worked in the hospitality industry and who had arrived at his bar after their shift at work between 22:00 hours and 01:30 as he wished to continue accommodating these customers, he had applied for a variation to his Premises Licence at 1 Lower Grosvenor Place.
4. He emphasised that he had built up a very strong client base over the years. The Nova Complex had taken away his day trade as all the competing units there had Premises Licences which allowed all-day trading.
5. He advised that he wanted the Committee to only consider the variation to the Premises Licence for Late Night Refreshment and the Sale by Retail of Alcohol on Thursday, Friday and Saturday until 1.45am and that the rest of the week he would continue to operate within the hours outlined in the Council's Core Hours Policy.
6. Mr Dulgher advised that for four weeks he had traded until 3:00am under Temporary Event Notices (TENs) and there had been no noise complaints. He confirmed that the Premises did not have access to the courtyard at the back of the Premises. He advised that when customers left the Premises, they turned right towards Victoria Station so there would be no impact on the residents in Victoria Square. He also informed the Committee that his SIA who always worked on a Thursday, Friday and Saturday had been working for him for over 10 years and knew the customers. He confirmed that he had never received any noise complaints whilst operating at 23 Grosvenor Gardens.

7. Mr Dulgher stated that he actively engaged with the residents and that they all had his direct telephone number. He explained that the Premises was a small bar where local people could come for a drink after work. He outlined how he operated and that he only allowed people he knew into the Premises after 23:00 hours. He confirmed that everyone would be seated in the venue and that there would be no vertical drinking. He advised that there would be background music playing at 30 decibels, in comparison to the traffic in Buckingham Palace Road which generated 78 decibels of noise. Therefore, music could not be heard over the traffic.
8. He confirmed that he complied with every condition attached to his Premise Licence as it was not his intention to cause harm or distress to the residents.
9. In response to questions from the Committee, Mr Dulgher advised that if he was granted the variation to the Premises Licence for Thursday, Friday and Saturday until 1.45am his business would survive because the employees in the local hospitality industry would visit his bar. He confirmed that the Nova Complex had taken away all his day-time trading because he could not compete with the large chain restaurants. He outlined his style of operation and management approach to customers. He emphasised that he knew most of his customers because he had been working in the area for the past 15 years and that around 100-150 regulars visited his previous Premises.
10. Mr Dulgher then discussed with the Committee how he could introduce a membership scheme for customers visiting the Premises after 23:00 hours. Mr Dulgher advised that he was happy to have a condition attached to the Premises Licence where everyone after 23:00 hours needed to register their contact details so they could be contactable if any issues occurred.
11. The Committee were informed that the noise nuisance and crime and disorder that occurred in the Victoria Special Consideration Zone was mainly based around Victoria Station. The Applicant stated that his Premises was hidden away and that it was unlikely that passers-by would recognise it has a bar. This was why he relied on the trade from the employees of the local hospitality establishments. He advised that no music was played during the day, that the front door always remained closed and that he had no access to the outside area at the back of the Premises. He confirmed that the capacity for the upstairs area was 25-30 persons and the capacity for downstairs was around 20 persons. He advised that people were always seated which helped with controlling the environment. He confirmed that the flats located above the Premises were used for commercial purposes only.
12. PC Tom Steward representing the Metropolitan Police Service (MPS), confirmed that the MPS had maintained their representation on the basis that if the application was granted, it would undermine the licensing objectives, namely the Prevention of Crime and Disorder.

13. PC Steward emphasised that nothing had really changed since the Applicant had their application for a New Premises Licence granted in June 2022 (less than 3 months ago) for 1 Lower Grosvenor Place. He advised the Committee that the area was very busy during the evenings and there was twice the number of crimes committed in this area, compared to other places in the borough, particularly around Victoria underground and the national rail stations which were situated only 200 metres from this Premises. He added that because of the close proximity, the bar could become a destination point for people when other Premises closed for the evening. PC Morgan emphasised that the Police would like the hours to remain in line with the Council's Core Hours Policy.
14. Mr Maxwell Koduah, representing the Environmental Health Service (EH), advised that EH had maintained their representation as the hours requested for late night refreshment and the supply of alcohol may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.
15. The EHO added that the Premises had only be operating since the 9 August and therefore it was too early for the Applicant to be applying for a variation to their new Premises Licence, especially for such an extension of hours beyond the Council's Core Hours Policy, as the operators had not shown a history of trouble-free trade. He confirmed that EHs position noted in the Licensing Committee's Decision Notice of the 16 June 2022 had not changed and that the Applicant needed to have regard to the close proximity of residential amenities in relation to this Premises.
16. Mr Richard Brown from Westminster's Citizens Advice and representing local residents, confirmed that nothing has (or indeed, could have) changed since the previous application was determined which could reasonably lead to the Committee reaching a different conclusion in respect of the issues which were expressed at the hearing on the 16 June 2022 and which had been reiterated in representations in respect of this application found in the Agenda.
17. Mr Brown confirmed that there had been thirteen residential objections to this application and that all the reasons for this Premises to remain operating within the Council's Core Hours Policy were set out in the Decision Notice dated 16 June 2022. He highlighted that all customers would have to pass by or through Victoria Gardens to reach the train/tube stations and that any noise was magnified because of the surrounding tall buildings. He explained that this area was becoming increasingly residential. He outlined that people would be attracted to the Premises if it were allowed to be open to 2am whether they were allowed in or not by the Applicant, therefore increasing the number of people in the already very busy Victoria Special Consideration Zone.
18. Mr Richard Brown urged the Committee to not place much emphasis on the historical operation of the Temporary Event Notices as these events did not reflect the operation of a permanent late night Premises Licence. He concluded that the Premises was located within the Victoria SCZ and

therefore the Premises should remain operating in line with the Council's Core Hours Policy.

19. Dame Judith Mayhew-Jonas, local resident, advised that residents were in favour of mixed neighbourhoods and that a vibrant area needed a mixture of residential, commercial, retail and licensed Premises, however it had to be proportionate. She explained that the area was becoming more residential with the building of new flats. The residents firmly supported the Victoria Special Consideration Zone because it gave a good balance with residential living as there are families living in Victoria Square.
20. It was highlighted to the Committee that the Applicant had breached the conditions attached to his Premises Licence by placing tables and chairs outside his Premises and by leaving the window and doors open during the summer months. She further considered that if this application was granted all the Premises in the area would also apply for variations to their Premises Licence. She concluded by asking the Committee to agree with the Licensing Committee's Decision Notice dated 16 June 2022 that the Premises remain operating in line with the Council's Core Hours Policy because the Premises is located in the Victoria Special Consideration Zone and so that Victoria remained a good mix of residential properties and businesses.
21. Mr Charles Mander, local resident, endorsed the comments made by Dame Judith Mayhew-Jonas. He advised that local residents were already disturbed at night by people having loud conversations and worse still antisocial behaviour and this would only worsen if the extended hours were granted. He stated that it would inevitably result in the dispersal of customers late at night into Victoria Square.
22. He highlighted to the Committee the noise issues he had faced with drunken customers congregating in the Square over the past four weeks which had resulted in him having to ask them to leave the area. He concluded by advising that it was an inappropriate location for a late-night bar due to the high number of residents living in the immediate area.
23. Mr Mark Delacour, local resident, echoed Dame Judith Mayhew-Jonas and Mr Charles Mander's submissions and advised that it was important to maintain a balance of residential, retail and commercial properties in the area. He advised that it was tolerable for the Premises to remain open until 23:00 but not until 02:00 hours.
24. Mr Delacour referred the Committee to the photograph of the Premises and indicated that you could clearly see inside through the window of the Premises, that there were tables and chairs located outside and the front door was wide open which was a breach of one of the conditions attached to the Premises Licence. He added that there was also a A4 board on the pavement advising two for one cocktail drinks and he questioned why the Applicant needed the Board when he had stated that his main customer base was local people working in the hospitality industry. He stated that it was unfortunate that the Applicant's business model relied on other Premises

being closed. He advised that the noise from intoxicated people, chatting, smoking and drinking would wake residents in the early hours of the morning.

25. Mr Delcaour advised that the TENS had caused disturbance and complaints had been logged with the Environmental Health Service who could not find a copy of the new Premises Licence in their system. He emphasised that he did not wish the Premises to operate beyond the Council's Core Hours Policy.
26. In response to questions from the Committee, the interested parties advised that they were now, since the premises opened, experiencing noise coming from the back of their houses. They also highlighted how small Victoria Square was, so even people's conversation could be easily heard as the houses were old and had no sound insulation.
27. In response to a question from Mr Steve Burnett, Legal Advisor to the Committee, the Applicant advised that he was happy to have a condition attached to the Premises Licence regarding implementing a Membership Scheme after 23:00 hours at the Premises, if the Committee were minded to grant all or part of the application.
28. During the summing up from the Interested Parties, Mr Brown advised that having a membership condition attached to the Premises Licence did not get the local residents any further in terms of practicalities regarding noise nuisance in the area late at night. He advised that when customers left the Premises some would certainly go near Victoria Square and therefore some would inevitably end up in the Square.
29. Mr Brown urged the Committee to pay particular attention to the decision made at the Licensing Committee on the 16 June 2022 when considering this application.
30. Mr Mark Delacour advised that he considered it inappropriate to have this Premises operating until 02:00 hours because it increased the likelihood of anti-social behaviour in the area. He urged the Committee to confirm that the Premises should operate in line with the Council's Core Hours Policy.
31. During the summing up from the Responsible Authorities, Mr Koduah advised that they had no records of complaints regarding the Premises. However, the numerous detailed representations from local residents were enough for EH to maintain their representation against the application.
32. PC Tom Steward stated that the area was very busy during the evenings and there was twice the number of crimes committed in this area, compared to other places in the borough.
33. During the summing up from the Applicant, Mr Dulgher advised that this was a family-owned business. He emphasised that he would make his telephone number available to residents and wished to have a good relationship with them. He stated that he was attempting to create some day trade by using the A Board located on the pavement outside the Premises to keep his

business viable. He confirmed that he was happy to operate a membership scheme after 23:00 hours and that any noise nuisance was not being created by his Premises nor he did not allow people to stand and drink outside his Premises. He emphasised that he had been operating licensed Premises in the area for 15 years and he considered that customers dispersed towards Victoria Station and not towards Victoria Square.

Decision

34. The Committee has determined an application for a variation to a Premises Licence under the Act which operates as a bar. The Committee realises that it has a duty to consider each application on its individual merits and did so when determining the matter. As a result, whilst the Applicant may have operated his 23 Grosvenor Gardens free from complaint for some 15 years and in accordance with the licensing objectives, this is an expectation of all premises licensed under the Act and 23 Grosvenor Gardens is a different premises to the Premises subject of this application, a different operation and located in a different location.
35. There is no policy presumption to refuse this application, however this is subject to the licensing objectives not being undermined and the Applicant demonstrating as part of its operating schedule or by other evidence that consideration has been given to the Victoria SCZ under Policy SCZ1 and appropriate risk mitigation measures put in place.
36. The Committee when considering the Victoria SCZ had regard to policy SCZ1 on pages 53-54 of Westminster's Statement of Licensing Policy (SLP) and the specific matters contained at paragraphs D54-D56 on page 59 of the SLP which an Applicant is to address as part of their application.
37. **Paragraph D56 states:-**
- "The local issues that need to be considered by applicants are:*
- *Serious violent at night.*
 - *Anti-social behaviour at all times of the day (street drinking and begging).*
 - *Incidents relating to ambulance call outs to the licensed premises for intoxication, injury related to intoxication and/or assault.*
 - *Theft and noise at night.*
38. The Committee concluded that the Applicant's documents and his oral submissions, did not go far enough in tackling the issues in the local area during the proposed extended hours. The Committee was not persuaded that the Applicant had considered Policy SCZ1.
39. The Committee had regard to the Applicant's withdrawal of his application to vary the hours of trade on Sunday to Wednesday and his suggestion that the premises would operate a pseudo membership operation.

40. The Committee also noted that the venue had not shown a history of trouble-free operation since the new premises licence was granted on the 16 June 2022. Indeed, residents had made complaints of nuisance and breach of existing conditions during trade and importantly, when the Applicant also traded later hours under Temporary Event Notices.
41. The Committee noted the concerns of the MPS and the fact that a later terminal hour would cause policing problems in the area and the possibility of the Premises becoming a destination venue for customers already in the area after other licensed premises had closed.
42. It was the Committee's view that a membership style operation would not in itself prevent nuisance or dispersal issues during trade outside Westminster's Core Hours. The residents had given evidence that the effect of nuisance and complaints would be exacerbated if the application was granted to allow the premises to trade until 02.00.
43. The Committee heard further compelling evidence from local residents regarding problems experienced in the area when it came to issues of public nuisance and crime and disorder.
44. The Committee were not persuaded by the Applicant that the hours applied for would promote the licensing objectives, nor had the Applicant provided additional information or conditions which gave them confidence that Policy SZC1 (Victoria) had been sufficiently considered. The Committee therefore concluded that granting the variation to the Premises Licence beyond core hours, until 02:00 was likely to add to public nuisance and crime and disorder in the area and would not promote the licensing objectives.
45. Based on the evidence before it, the Committee considered the right balance had already been struck by the Licensing Committee on the 16 June 2022 when granting the application to core hours under policy HRS1 on all days seven of the week and that there was no new evidence from the Applicant relating to the promotion of the licensing objectives that would justify interfering with that decision.
46. Having carefully considered the committee papers, additional papers and the submissions made by all the parties orally, **the Committee has decided**, after taking into account all the individual circumstances of this case and the promotion of the four licensing objectives to **REFUSE** the application:

This is the Full Decision of the Licensing Sub-Committee.

**The Licensing Sub-Committee
29 September 2022**

2. TACO BELL, 346-348 EDGWARE ROAD, W2 1EA

WCC LICENSING SUB-COMMITTEE NO. 2
("The Committee")

Thursday 29 September 2022 – Item 2

Membership: Councillor Angela Piddock (Chairman) Councillor Judith Southern and Councillor Caroline Sargent.

Officer Support: Legal Adviser: Steve Burnett
Policy Officer: Aaron Hardy
Committee Officer: Sarah Craddock
Presenting Officer: Jessica Donovan

Other Parties: Christopher Rees-Gay (Solicitor, Woods Whur 2014 Ltd on behalf of the Applicant),
Paul Welford (Taco Bell Area Manager - Applicant),
Andy Bamber (Expert witness for the Applicant),

PC Adam Deweltz (Metropolitan Police) and
Dave Nevitt (Environmental Health)

Application for a New Premises Licence in respect of Taco Bell, 346 - 348 Edgware Road, London W2 1EA - 22/05206/LIPN

Full Decision

Premises

Taco Bell
346 – 348 Edgware Road
London W2 1EA

Applicant

Taco-Time Ltd

Ward

Church Street

Cumulative Impact Area

N/A

Special Consideration Zone

N/A

Activities and Hours applied for

Late Night Refreshment

Monday to Sunday 23:00 to 03:00

The Opening Hours of the Premises:

Monday to Sunday 10:00 to 03:00

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Applicant has submitted an application to permit the Premises to trade Mondays to Sundays 10:00 until 03:00. The premises currently operates as a Taco Bell, Mexican quick service restaurant and take-away closing at 23.00 Mondays to Sundays.

The Premises is located in Church Street Ward and is **not** in a CIZ or Special Consideration Zone.

There is a resident count of 345.

Representations received

The Metropolitan Police Service (PC Reaz Guerra) - **MPS**
Environmental Health Service (David Nevitt) - **EHO**
Two Residents (objecting against the application)

Summary of issues raised by objectors

The thrust of those objections received cites public nuisance and crime and disorder.

MPS stated:

The hours sought for licensable activity go beyond Westminster's Core Hours Policy, and if granted, the application could undermine the Licensing Objectives in relation to The Prevention of Crime and Disorder.

EHS stated:

The proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety.

The Residents stated:

Noise and nuisance will be created, and no parking is available

Policy Position

HRS1

Applications for hours outside the core hours set out in Westminster's Statement of Licensing Policy will be considered on their merits, subject to other relevant policies, and with particular regard to Core Hours Policy HRS1 B 1-14

FFP1(A)

A. Applications outside the West End Cumulative Zones will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
3. The 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.

5. The application and operation of the venue meet the definition of a fast-food premises in Clause D.

D. For the purposes of this policy a Fast-Food Premises is defined as:

1. A premises that provides late night refreshment, either by way of fast food over a counter, via a self-seating basis or take away for immediate consumption.
2. Food and drink are:
 - a. Available on the premises for self-selection.
 - b. Prepared on the premises.
 - c. Cooked or produced off the premises but brought to that premises in advance of its sale to customers.
3. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption.
4. A fast-food premises can provide a delivery service as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3.

SUBMISSIONS AND REASONS

1. Ms Jessica Donovan outlined the application to the Committee.
2. The Committee was advised by Ms Jessica Donovan that representations had been received from the Environmental Health Service, the Metropolitan Police

and two local residents. Ms Donovan further stated that the Premises was located within the Church Street Ward and was not in a Cumulative Impact Area or Special Consideration Zone. She confirmed that additional submissions from the Applicant and Responsible Authorities had been received and circulated to the Committee.

3. Mr Christopher Rees-Gay, outlined the application before the Committee. He explained that Taco Time Limited, which was part of the Adil Group, had been established since 1969 and had over 50 years of experience running quick service restaurants around the country. Its brands included KFC, Burger King, Taco Bell and Costa Coffee. He advised that it was one of the UKs fastest growing family business and had all the necessary management and resources to support this application. He emphasised that not one of the Applicant's Premises Licences had ever been before a Licensing Committee for Review.
4. Mr Rees-Gay advised that the Applicant already operated in challenging areas of London such as Cricklewood, Wimbledon and Earl's Court without incident. The Committee was informed that the Adil Group were the freeholder of the Premises building, so they had a vested interest to ensure that the Premises operated without any issues to the neighbourhood. He further advised the Committee that the Area Manager was very happy to provide his telephone number to any concerned local residents so they could contact him directly.
5. Mr Rees-Gay confirmed that the Adil Group partnered with both national and local charities which benefited communities throughout the UK. He stated that if the extra hours were granted it would lead to additional local employment with an additional five full-time and five part-time staff being employed to cover the extra hours.
6. The Committee was advised that the Premises had been operating since the 28 May 2022 up to 23.00 without incident. He explained that written training policies and formal training programmes were in all stores that have late night refreshment, and this ensured that all staff would promote the licensing objectives. He stated that staff were given an induction course and then refresher training was undertaken regularly. These courses consisted of one-to-one training and computer-based e-learning systems.
7. Mr Rees-Gay advised that the standard operating hours for Taco Bell across the country were until 03:00 hours. These premises have not been subject of Licence Reviews and this was why the extra hours had been applied for in this Premises.
8. Mr Rees-Gay informed the Committee that a pre-application consultation had been conducted with the Environmental Health and conditions had been agreed which were contained in the report. He advised, that the SIA Door Staff Condition recommended by the Police had not been agreed by the Applicant as no evidence had been supplied for consideration by their Licensing Consultant, such as crime data that links crime and disorder to food

outlets or late-night food outlets on the Edgware Road, had been received from the Police supporting this requirement.

9. Mr Rees-Gay went on to explain to the Committee how the security StaffSafe™ system operated at their Premises and that this was a valid alternative to door supervisors across their other premises, some of which were located in more challenging areas. StaffSafe™ allowed for 24-hour remote supervision where StaffSafe™ operators monitored the Premises remotely 24 hrs via CCTV and could initiate action via the audio system within the Premises.
10. Mr Rees-Gay advised that the extra hours allowed flexible and key workers to take advantage of their offer especially as London was a 24/7 city. He added, for example, that the Premises were located near St Mary's Hospital.
11. It was emphasised by the Applicant that the Premises was not located in a Cumulative Impact Area or a Special Consideration Zone and that every application should be considered individually on its own merits. He advised the Committee that they had contacted the two residents that had submitted representations against the application, however there had been no response.
12. Mr Rees-Gay referred to the proposed conditions which would be attached to the Premises Licence if the application was granted and emphasised the comprehensive CCTV, public nuisance and delivery and collections conditions.
13. Mr Rees-Gay advised that no other late night refreshment operator along that stretch of Edgware Road were required to have door staff, despite some trading late hours. He added that the Applicant considered the StaffSafe™ system to be a very robust operating system. However, the Applicant would also agree to a condition regularly risk assessing the need for SIA door staff.
14. Mr Rees-Gay further referred the Committee to Andy Bamber's report that stated that during the late hours proposed, both during the week and weekend, there were no homeless, gangs or anti-social behaviour reported, over his three visits that were conducted. It also confirmed that there was no anti-social or nuisance heard along the street at those times.
15. Mr Rees-Gay concluded by emphasising that the Applicant was an experienced operator who would promote the four licensing objectives so there would be no negative impact on the area if the application was granted. He further emphasised that the experts report confirms that the StaffSafe™ system was more versatile and effective than door supervisors at the Premises.
16. In response to questions from the Committee, Mr Rees-Gay advised that the Premises had been operating since the 28 May until 23:00 hours. He advised that Taco Bell's busiest hour was between 22:00 and 23:00 hours and it had been estimated that the Premises would serve around 100 customers per hour until 03:00 hours which included orders for delivery. He added that the Applicant anticipated that 50% of the orders would be for delivery only. He

explained that this was a quick serve restaurant and that customers usually took around 15-20 minutes to eat their food. There was only one entrance into the building and on departing the Premises customers would turn left towards the train/tube stations. He emphasised that there was demand for this type of operation because of the high number of shift workers in the area.

17. In response to question from the Committee regarding the StaffSafe™ system, Mr Rees-Gay, with the assistance of Mr Bamber explained that there was a panic button in all Taco Bell Premises that staff could activate if there was an altercation in the Premises, and this alarm went straight through to the StaffSafe™ system control centre operated 24 hours a day. He added that there were 15 CCTV cameras installed in the Premises as well as a PA system which the safe staff operators would use to advise customers and staff on what to do if there was an incident in the Premises.
18. The Applicant added that the police would be called depending on the severity of the incident, however in his experience, nine out of ten times, as soon as the PA system was activated, the customer(s) causing the problem left the Premises quickly as they became aware that they were being watched. He added that the system was very effective and prevents incidents escalating which could happen whilst staff were waiting for the Police. He advised that there were usually five staff working on every shift.
19. PC Adam Deweltz on behalf of the Metropolitan Police Service informed the Committee that the Police had maintained their representation as the hours sought for Late Night Refreshment, go beyond Westminster's Core Hours Policy and the Applicant would not accept the MPS SIA Door Staff condition. He added that the Police further believed that if granted, the application could undermine the licensing objectives in relation to The Prevention of Crime and Disorder. PC Deweltz referred to the two supporting statements from Dedicated Ward Officers for the area which were contained at Appendix 3 of the report.
20. PC Deweltz confirmed that the Police would like a SIA on the door until closing time at 03:00 hours, if the later hours were granted. He explained that the Police considered that the StaffSafe™ system was no substitute for an experienced door supervisor who could physically detain someone, implement first aid, calm down a potentially volatile situation, ensure that any crime scene was preserved to be used as evidence by the police and help with dispersing people quietly away from the Premises. He added that the presence of a door supervisor was also a reassurance for the staff working in the Premises and because door staff were highly visible, they helped deter criminals from committing crime.
21. PC Deweltz stated to the Committee that because of the gang related crime in the area, the use of the StaffSafe™ system would not be sufficient to prevent crime and disorder and promote the licensing objectives. He confirmed that he was happy with all the other proposed conditions.

22. The Officer went on to inform the Committee that Edgware Road was saturated and hot food is attractive to people who drink alcohol which could make them vulnerable to crime.
23. The Officer then proceeded to give the Committee an overview of the crime which takes place in the area. The evidence was not contained in the Officer's original representation or the supporting evidence for the Committee to consider. The Legal Advisor to the Committee, Mr Burnett asked whether the evidence and information the officer was providing had been disclosed to the Applicant for consideration. The Applicant confirmed that he was aware of the information and that is why he had not previously intervened, and that he was happy with the Officer continuing.
24. PC Deweltz continued and stated that the area has different rival gangs and is an anti-social behaviour hotspot. Mr Rees-Gay intervened stating that he had not received information from the police that the area is a hotspot. PC Deweltz stated that the information had been previously given to the Applicants during earlier meetings. The Members however confirmed that they knew the area well. Mr Burnett at this stage reminded the Parties of procedures, namely that they are permitted to expand on the original representations, but the production of new evidence would require consent. (The Licensing Act 2003 (Hearings) Regulations 2005 Reg 18). No representations in relation to this were made by either party.
25. PC Deweltz identified a serious incident involving a gang member. Mr Rees-Gay expressed concerns that this was new information he was not aware of. The Applicant's representative stated that he did not consent to this being raised. The Officer was informed that as this was new information and the Applicant does not consent, the information should not be raised. The Officer did not make any observations or representations and accepted the position.
26. The MPS concluded by advising that the police objected to the operating hours up to 03:00 hours and requested that the Premises operated in line with the Council's Core Hours Policy. However, the MPS stated that if the Committee was minded to grant a premises licence with a 03.00 trading time Mondays to Sundays, then the police would ask for SIA registered door staff at the premises.
27. Mr Dave Newitt, representing the Environmental Health Service (EH), advised that EH had given pre-application advice to the Applicant and conditions had been agreed which would promote the licensing objectives. Mr Newitt advised that as the Premises was not located in a CIA or SCZ the application would be considered on its merits. However, as the Applicant wished to operate until 03:00 hours, EH had maintained their representation.
28. Mr Nevitt explained that hot food attracted intoxicated people which could have the likely effect of increasing noise nuisance, anti-social behaviour and congestion in the area. He added that EH had concerns regarding the departure and dispersal of customers at 03:00 hours as people had a tendency to congregate and remain in an area which increased nuisance for local residents. Mr Newitt then highlighted to the Committee that there had

been a recent residential development across the road from this Premises because the Committee would need to consider the likely impact on local residents when considering this application.

29. Mr Newitt advised that the Premises was newly refurbished and fully equipped with up to-date public safety features. He added that it was well managed and EH had no concerns regarding its operation and had received no complaints. He advised that EH would maintain their representation because of the increased risk to local residents regarding the late operating hour of 03:00 hours which had the likely effect of causing noise nuisance and anti-social behaviour in the area
30. In response to questions from the Committee about trade of the premises from 23.00 to 03.00 and the sound proofing of the new residential block, Mr Newitt advised that the new residential development would be sound insulated to some degree, however, it would be reasonable to expect residents to be able to open their windows/enjoy sitting out on their balconies without being disturbed by excess noise in the area.
31. Mr Nevitt confirmed that it was standard for tables and chairs to be used and remain outside of a Premises until 23:00 hours. Mr Rees-Gay advised that the Premises did four covers per table per hour and that over 70% of customers would take their food away to consume. He emphasised that it was a quick service restaurant so there never was a long queue.
32. Mr Newitt confirmed that there was adequate internal space between the ordering counter to accommodate a good number of people inside the Premises. He further confirmed there was a disabled toilet provided for customers and there were separate facilities for staff.
33. PC Deweltz advised that the other quick serve Premises in the area operated until either 01.00 or 02.00 and were take-away only and therefore, there was no requirement for a SIA to be present at these Premises.
34. The Committee's legal adviser discussed the numerous conditions with Mr Rees-Gay and the Responsible Authorities and between them agreed amendments, deletions and additions to the conditions that would be attached to the Premises Licence if the Committee was minded to grant the application.
35. Discussions included the undertaking of regular risk assessment for the need of door staff, the Premises capacity and whether the Applicant would consider accepting an earlier terminal hour. Mr Rees-Gay advised that the Applicant considered that they were good operators with a proven history of trade and they had the expertise to operate and promote the licensing objectives until 03:00 hours
36. During the summing up, Mr Nevitt advised that EH would prefer the Committee to grant an earlier terminal hour so the Applicant could prove to the Responsible Authorities that they could promote the licensing objectives.

He added the Applicant could then apply for a variation to the Premises Licence for a later terminal hour.

37. During the summing up, Mr Rees-Gay advised that StaffSafe™ system was a sophisticated system, that no representation had been made by people living in the new flats opposite the Premises, the extra hours would create local employment, the Applicant was a very experienced operator and that there had been no crime statistics or evidence produced regarding crime and disorder occurring at late night refreshment operations in the locality and that the Committee should have regard to the principles in the case of *Daniel Thwaites plc v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin), CO/5533/2006*.

Decision

38. The Committee has determined an application for a grant of a new Premises Licence under the Licensing Act 2003. The Committee is aware that it has a duty to consider each application on its individual merits and did so when determining this application.
39. The Committee had regard to the premises not being located in a Cumulative Impact Area or Special Consideration Zone and Westminster's Statement of Licensing Policy and in particular Fast Food Policy FFP1:

A. Applications outside the West End Cumulative Zones will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
3. The 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 taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meet the definition of a fast-food premises.

The key issues raised in the representations and for consideration falls under points 1 and 2.

40. Evidence had been provided that there is crime and disorder in the area, and the Committee also noted that there was no evidence of the criminal activities mentioned being as a direct result poor management of licensed late night fast-food outlets on the Edgware Road. If this was the case, then the Committee would expect the premises licenses for those sites to be Reviewed and/or a request for those premises to agree to a condition requiring them to have door supervisors.

41. The Committee found the evidence from the Applicant compelling and in particular, the evidence that they were experienced operators and their substantial number of operations had not attracted licensing reviews.
42. The Committee noted that there are a number of licensed late-night fast-food premises in the vicinity, trading until 00:00, 01:00 and 02:00 as detailed in the additional evidence from the Applicant and in the Agenda papers. However, there was an absence of evidence at the hearing directly linking the operation of these premises to crime and disorder or complaints of nuisance during late trading hours.
43. The Committee decided that parts of the evidence against the grant of this application was based on the likelihood or belief that crime and disorder and public nuisance would increase as a result of this premises trading until 03.00 Mondays to Sundays.
44. The Committee considered and gave appropriate weight to the oral and written evidence from PC Deweltz, from Mr Nevitt, the two residents who objected, the Applicant's written dispersal policy and proposed conditions at page 122, 154 and 155 of the Committee papers.
45. The Committee had regard to Westminster's Core Hours Policy HRS1 and noted:
 - that the Applicant are experienced operators with no history of Licence Review action against their existing premises.
 - that the proposed conditions promoted the licensing objectives.
 - that the operation of the Premises under a suitably conditioned premises licence is unlikely to increase nuisance caused to residents in the area.
 - that there is suitable transport for customers away from the premises but in the main, customers are likely to live locally or be shift workers.
 - that the premises is of a limited seated capacity of 20 customers.
 - that there is no application for the sale of alcohol or recorded music at the premises.
 - that the Responsible Authorities, may reduce hours or add conditions if, after review, it is necessary to impose conditions in order to promote the licensing objectives
46. The MPS stated to the Committee that if the application is granted to permit the premises to trade until 03.00 Mondays to Sundays, they will require door staff at the premises.
47. The Committee noted that the Premises is not located in a CIA or a SCZ.
48. The Committee had regard to the Committee papers and PC Deweltz own evidence, that notwithstanding crime and disorder and anti-social behaviour in the area, other quick serve licensed late night refreshment premises in the area, historically operated until either 01.00 or 02.00 without SIA door staff.

49. The Committee noted that the security StaffSafe™ system operated in the Applicants Premises and that this was the alternative to door supervisors at this Premises and across their other operations. StaffSafe™ allowed for 24-hour remote supervision where StaffSafe™ operators monitored the Premises remotely 24 hrs via CCTV and could initiate immediate action via the audio system within the Premises.
50. The Committee was impressed that 24hr operators could call the police and that the system also acted as a deterrent. Mr Bamber's own statement gives a clear example of the operation of the system. Evidence from the Applicant suggests that it prevents incidents escalating which could happen whilst staff were waiting for the Police.
51. The Committee noted that Applicant's Licensing Consultant was impressed with the system and gave evidence of its workings and stated that this was more versatile and effective than door supervisors.
52. In addition to two agreed conditions stating:

A Staffsafe™ system with both audio and visual monitoring capability shall be installed and maintained in the premises. This system should be capable of being activated by either fixed or mobile panic buttons,

and

Signage stating that "Staff Safe antisocial behaviour monitoring system is in place and operating at the premises" shall be displayed at the premises.

The Applicant proposed an additional condition:

The Premises Licence Holder shall undertake a written risk assessment every three months to determine whether or not a SIA licensed door supervisor is required during the hours of 23:00-03:00 and this risk assessment should be available to the Police licensing authority upon request.

53. This condition is not accepted by the MPS. However, the combination of the 3 conditions and the other agreed conditions (page 154 and 155 of the Committee papers) gave the Committee confidence based on the evidence as to how the Premises and Applicant will promote the prevention of crime and disorder.
54. The Revised Guidance under section 182 of the Licence Act 2003 provides the Committee with some guidance in relation to conditions which may be added to a Premises Licence. The Committee noted in particular that conditions must be appropriate for the promotion of the licensing objectives and should be proportionate and justifiable.
55. The Committee was satisfied that, in accordance with the Licensing Act 2003, Home Office Guidance, Westminster's Statement of Licensing Policy and on

the evidence before it, that it was appropriate and proportionate, in all the circumstances, to **GRANT** the application.

56. In reaching its decision, the Committee took into consideration that conditions had been agreed with the Environmental Health Officer and that the Metropolitan Police Force agree all but one condition, as discussed above. The Committee was persuaded by the arguments advanced by the Applicant that they were a responsible operator and that they had provided valid reasons as to why the granting of the application would not undermine the licensing objectives.

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

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

1. To grant permission for Late Night Refreshment Monday to Sunday 23:00 to 03:00.
2. To grant permission for the opening hours of the Premise Monday to Sunday 10:00 to 03:00.
3. The new premises licence shall be subject to any relevant mandatory conditions.
4. The new premises licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions consistent with the operating schedule

10.
 - (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 shall 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 shall 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.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.

12. The Premises Licence Holder shall undertake a written risk assessment every three months to determine whether or not a SIA licensed door supervisor is required during the hours of 23:00-03:00 and this risk assessment shall be available to the Metropolitan Police and Westminster's Licensing Authority immediately upon request.

13. The number of persons permitted to be seated in the premises at any one-time (excluding staff) shall not exceed 20 persons.

14. 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 shall record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

15. The store shall operate a "No Open Alcohol Containers" policy to prevent persons carrying open alcohol into the premises.

16. Signage stating that "no open alcohol containers to be allowed on the premises" shall be displayed at the premises.

17. Signage stating that "anti-social behaviour and/or disorder shall not be tolerated" shall be displayed at the premises.

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

19. All staff to be trained on induction and every 6 months, in relation to conflict management.

This training to be recorded and provided to the Responsible Authorities upon request.

20. A Staffsafe™ system with both audio and visual monitoring capability shall be installed and maintained in the premises. This system should be capable of being activated by either fixed or mobile panic buttons.

21. Signage stating that "Staff Safe antisocial behaviour monitoring system is in place and operating at the premises" shall be displayed at the premises.

22. Members of the public shall be prevented from accessing hot food and preparation areas to prevent risk of scald or burns.
23. 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.
24. All outside tables and chairs shall be rendered unusable by 23.00 hours each day.
25. All tables and chairs shall be moved from the outside area by 2300 hours each day.
26. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
27. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
28. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (08.00) hours on the following day.
29. No deliveries to the premises shall take place between (23.00) and (08.00) hours on the following day.
30. Delivery drivers 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 the licensed premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.
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. 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.
33. 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.
34. 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.

35. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.

36. 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.

37. 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

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

**The Licensing Sub-Committee
29 September 2022**

3. POKEHOUSE, BASEMENT AND GROUND FLOOR, 13 NEW ROW, WC2N 4LF

WCC LICENSING SUB-COMMITTEE NO. 2
("The Committee")

Thursday 29 September 2022 – Item 3

Membership: Councillor Angela Piddock (Chairman) Councillor Judith Southern and Councillor Caroline Sargent

Officer Support: Legal Adviser: Steve Burnett
Policy Officer: Aaron Hardy
Committee Officer: Sarah Craddock
Presenting Officer: Jessica Donovan

Other Parties: Mr Juan Mosqueda (Applicant),
Roxsana Haq (Licensing Authority) and
Anil Drayan (Environmental Health Service)

Application for a New Premises Licence in respect of Pokehouse, Basement And Ground Floor, 13 New Row, London WC2N 4LF- 22/06963/LIPN

Full Decision

Premises

Pokehouse
Basement and Ground Floor
13 New Row
London WC2N 4LF

Applicant

Double Seven Hospitality Ltd

Ward

St James's

Cumulative Impact Area

West End

Special Consideration Zone

N/A

Activities and Hours applied for

Recorded Music

Mondays to Sundays 11.00 to 21.00

Sale of Alcohol

Monday to Sunday 11.00 to 21;00

The Opening Hours of the Premises:

Monday to Sunday 11.00 to 21;00

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The premises currently operates as a quick service restaurant providing poke bowls and drinks.

The application is to permit the Premises to trade Mondays to Sundays 11.00 until 21.00.

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

There is a resident count of 132

Representations received

The Metropolitan Police Service (PC Dave Morgan) - **Withdrawn**

Environmental Health Service (Anil Drayan)

Licensing Authority (Roxsana Haq)

Covent Garden Community Association (not in attendance)

One resident (not in attendance)

Summary of issues raised by the objectors

The thrust of the objections cites public nuisance and crime and disorder.

Licensing Authority Stated:

The Licensing Authority has concerns in relation to this application and how the premises would promote the Licensing Objectives:

- Prevention of Public Nuisance
- Prevention of Crime & Disorder
- Public Safety
- Protection of Children from harm

EHS stated:

The Premises are located in the West End Cumulative Impact Zone.

Representations made against the application as it may adversely impact on the licensing objectives of Public Nuisance and Public Safety.

The applicant has not offered sufficient conditions, the plans are unclear, no capacity has been provided and subsequent sanitary accommodations. In addition,

Environmental Health also wish to assess cooking ventilation scheme to prevent odour nuisance.

The Residents Association stated:

- The CGCA is concerned that if granted as applied for this will fail to support the Licensing Objectives, particularly relating to Public Nuisance.
- Request a condition be added:

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.

The Resident states:

- The premises illegally sell alcohol, the manager is rude and they block residential doors and play loud music.

Policy Position

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.

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.

CIP1(A)

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

RNT1

B. 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 latenight 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.

SUBMISSIONS AND REASONS

1. Ms Jessica Donovan outlined the application to the Committee. She advised that representations had been received from the Environmental Health Service, the Licensing Authority, the Covent Garden Community Association and one local resident. She further advised that the Metropolitan Police Force had withdrawn their representation as conditions had been agreed with the Applicant.
2. The Committee noted that the Premises was located within the St James's Ward and in the West End Cumulative Impact Area. Ms Donovan confirmed that the additional submissions from the Covent Garden Community Association had been circulated to the Committee.
3. Mr Juan Mosqueda addressed the Committee and stated that he was applying for the new Premises Licence so that he could serve a small glass of wine or beer to customers with their meal. He advised that the restaurant promoted healthy living (Californian style) and their most popular items were bottled water and healthy smoothies. He outlined that the alcohol offer would be limited to one brand of red, one brand of white wine and a pale ale. He advised that there had never been any incidents/disturbances in the restaurant.
4. Mr Mosqueda advised that conditions had been agreed with the Responsible Authorities and highlighted that there was CCTV in operation in the restaurant. He confirmed that there was no cooking, except for rice, carried out in the kitchen so there would be no cooking smells or smoke emitted from the Premises. He stated that he had made several attempts to contact his neighbours who had made complaints about the restaurant, however he had received no response but the residents have his email address and mobile phone number.
5. Mr Mosqueda further confirmed that he had no intention of operating the business beyond 21:00 hours, the capacity for the Premises was 60 persons and they sold approximately 150 covers per day.
6. Mr Anil Drayan on behalf of the Environmental Health Service (EH) stated that EH had maintained their representation as the Premises was in the West End Cumulative Impact Area and to assist the Committee should they have any questions regarding the conditions which had been agreed with the Responsible Authorities. He confirmed that there was no cooking, other than rice, carried out on the Premises and that they had been unable to verify the complaints received from the Applicant's neighbours.
7. Mr Drayan confirmed that the EH and the Applicant had discussed the application in detail and the Applicant was aware that he needed to turn off his sound system on the closing of the Premises. He highlighted that the operating hours were well within the Council's Core Hours Policy and that EH

were satisfied with the application and happy to withdraw their representation as all the proposed conditions had been agreed.

8. In response to questions from the Committee, Mr Drayan advised that the Premises was located next to the White Swan pub. He confirmed that the Premises had not been selling alcohol without a Premises Licence and that he had evidence from the City Inspectors to confirm this.
9. Mr Drayan explained that when EH had visited the Premises they had discovered that the Applicant was selling can drinks that contained 0.5% alcohol which they were allowed to sell without a Premises Licence.
10. He advised the Committee that the Applicant was now clear that if any of the conditions were breached the Council had the power to Review the Premises Licence.
11. Ms Haq on behalf of the Licensing Authority confirmed to the Committee that they were satisfied with the agreed conditions, and this had allayed the Licensing Authorities concerns.

Decision

12. The Committee has determined an application for a grant of a new Premises Licence under the Licensing Act 2003. The Committee is aware that it has a duty to consider each application on its individual merits and did so when determining this application.
13. In reaching their decision, the 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.
14. The Committee was satisfied that, in accordance with the Licensing Act 2003, Home Office Guidance, Westminster's Statement of Licensing Policy and on the evidence before it, it was appropriate and proportionate, in all the circumstances, to **GRANT** the application.
15. In reaching its decision, the Committee took into consideration that the Applicant had agreed conditions with the CGCA, Responsible Authorities and that the Metropolitan Police Force.
16. The Committee was persuaded by the arguments advanced by the Applicant that they were a responsible operator and that they had provided valid reasons as to why the granting of the application would not undermine the licensing objectives. The Committee noted that the Premises was closing at 21:00 hours so the Premises would be operating well within the Council's Core Hours Policy and that this was an exceptional reason why the Committee could depart from Westminster's Cumulative Impact Policy.
17. In reaching its decision, the Committee concluded that the conditions attached to the licence would alleviate the residents' concerns and were appropriate and proportionate and would promote the licencing objective.

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

- a) To refuse permission for the **Provision of Recorded Music**.
- b) To grant permission for the **Sale of alcohol** Monday to Sunday 11:00 until 21:00.
- c) To grant permission for the opening hours of the Premise Monday to Sunday 11:00 until 21:00.
- d) The new premises licence shall be subject to any relevant mandatory conditions.
- e) The new premises licence is subject to the following agreed conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions consistent with the operating schedule

1. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a quick service restaurant.
2. Sale of alcohol for consumption on the premises shall only be made to persons seated at a table.
3. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
4. 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.
5. 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.
6. 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.
7. No deliveries to the premises shall take place between 21.00 and 8.00 hours on the following day.

8. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
9. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 21.00 hours and 08.00 hours on the following day unless it is during the Council's own hours for collection of waste for the street
10. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21.00 and 08.00 hours on the following day unless it is during the Council's own hours for collection of waste for the street
11. The number of persons accommodated at the premises (including staff) shall not exceed 60.
12. 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 shall 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 and shall 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.
13. 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.
14. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises, except for designated external seating areas.
15. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a takeaway meal or meal consumed in a designated external seating area.
16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
17. 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.

18. A 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 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 shall 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. There shall be no self-service of alcohol at the premises.
22. 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
23. Deliveries shall only be made to bona fide residential or business addresses.
24. A warning shall be displayed on the digital platform on which an order is placed informing customers that they must be aged 18 or over to make a purchase of alcohol and notifying customers that the delivery personnel shall carry out age verification on delivery. The customer shall be asked to provide ID to prove their age in accordance with Challenge 21 or 25 scheme. If the rider is not satisfied, then the alcohol in the order shall be withheld.
25. The premises licence holder shall ensure that an age verification policy shall apply whereby all delivery personnel shall be trained to ask any customer to whom alcohol is delivered, who appears to be under the age of 25 years to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that shall apply to this licence.
26. All delivery personnel shall receive training in age restricted sales:
 - Induction training must be completed and documented prior to the delivery of alcohol by the rider.

- Refresher/reinforcement training must be completed and documented at intervals of no more than 6 months.
 - Training records shall be available for inspection by a Police Officer or other authorised officer on request. Training records shall be electronically stored by the licence holder for a period of 12 months.
27. All delivery personnel shall be trained to record refusals of sales of alcohol in a refusal's log/register. The log/register shall contain:
- details of the time and date the refusal was made.
 - the identity of the delivery personnel refusing the sale.
 - details of the alcohol the person attempted to purchase.
28. This log/register shall be available for inspection by a Police Officer or other authorised officer on request.
29. Third Party delivery companies shall not be used by the premises unless they provide the Premises Licence Holder with documentary confirmation that the company can comply with conditions 24, 25, 26 and 27. A copy of that confirmation is to be retained by the Premises Licence Holder.

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

**The Licensing Sub-Committee
29 September 2022**

The Meeting ended at 2.20 pm