



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 8th December, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Aziz Toki (Chair), Judith Southern and Caroline Sargent

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. THE MANETTE CAFE AND BAR, BASEMENT AND GROUND FLOOR, 16 MANETTE STREET, W1D 4AR

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.1 ("Committee")

Full Review Decision

Thursday 8 December 2022

Membership: Councillor Aziz Toki (Chair) and Councillor Judith Southern and Councillor Caroline Sargent

Manette Café and Bar, Basement and Ground Floor 16 Manette Street London W1D 4AR ("The Premises")

The Metropolitan Police Service ("Police") made an application which was received by the Licensing Authority on the 11 November 2022 to review the above Premises Licence pursuant to Section 53A of the Licensing Act 2003 (the "Act") as the Police considered the Premises were associated with serious crime. The Premises Licence Holder (PLH) is Mr Brian Kavanagh.

A Licensing Sub-Committee was convened on the 15 November 2022 to consider whether it was necessary to take interim steps pending the determination of the

Review applied for by the Police. At this hearing the Sub-Committee concluded that it was necessary and appropriate to suspend the licence to prevent serious crime with immediate effect to promote the licensing objectives and these interim steps were later confirmed and communicated to the PLH who was not present at the hearing.

Applicant

The Metropolitan Police Service

Premises Licence Holder (“PLH”)

Mr Brian Kavanagh

Designated Premises Supervisor (“DPS”)

Mr Brian Kavanagh

Persons attending the hearing

For the Police:

James Rankin Counsel of Francis Taylor Buildings

PC Steve Muldoon

PC Reaz Guerra

For the Environmental Health Service:

Maxwell Koduah

For the Interested Parties:

Richard Brown of Westminster Licensing Project representing the Soho Society:

The Soho Society: Tim Lord

The Soho Ward Panel: Jane Doyle

Covent Garden Community Association (“CGCA”): David Kaner

Officers present

Presenting Officer – Jessica Donovan

Legal Advisor - Horatio Chance

Committee Officer – Sarah Craddock

Activities and Hours

Sale by Retail of Alcohol

Retail Sale of Alcohol [On Sales]

Monday to Sunday 11:00 to 22:30

Seasonal Variation/Non-Standard Timings: None

Adult Entertainment: None

Opening Hours

**Hours Premises are Open to the Public
Monday to Sunday 07:00 to 23:00**

Preliminary Matters:

1. The Chair introduced the Members of the Sub-Committee and outlined the procedure to the Parties in attendance. The Members confirmed that they had no declarations of interest to make.
2. The Chair noted that the committee agenda consisted of the application for full review, the existing Licence of the Premises and the supporting statements of the Police which had been circulated previously to all Parties which included the PLH Mr Brian Kavanagh who attended the hearing by telephone and confirmed to the Sub-Committee that he was the PLH and DPS of the Premises.
3. Ms Donovan Presenting Officer outlined the application to the Sub-Committee. She advised that this was an application for a full review of the Premises at Manette Café and Bar, Basement and Ground Floor 16 Manette Street London W1D 4AR. The interim steps hearing was held on 15 November 2022 to confirm the steps to be taken while awaiting the full hearing today. Full details of the interim steps can be seen on pages 106-107 of the agenda report. The review has been brought by the Police on the grounds that the Premises are associated with serious crime or serious disorder or both. Full details of the summary of review can be seen on page 5 of the agenda report. She advised that following the advertisement of the review application representations have been received by the Environmental Health Service (Mr Koduah) and 7 interested parties.
4. The Police, Environmental Health Service, and representatives both from the Soho Society and Covent Garden Community Association are in attendance today to give evidence to the Sub-Committee. Mr Brian Kavanagh the PLH and DPS has joined the hearing by telephone. The Premises are situated within the West End Ward and located within the West End Cumulative Impact Zone.
5. In determining this hearing, the Sub-Committee is now required to review the interim steps taken on the 15 November and consider whether it is appropriate and for the promotion of the licensing objectives for the steps to remain in place, or whether they should be modified or withdrawn; and to determine the full review of the Premises Licence pursuant to Section 53C of the Act.

The following parties who made representations attended the hearing and gave their submissions to the Sub-Committee:-

Submissions by the Police

6. Mr Rankin appearing on behalf of the Police advised that this was a relatively straightforward but alarming story. Matters came to the attention of the Police in relation to the oral rape on the night of 29 October last. Mr Rankin advised that the victim had been in the Premises for some time and at 01:30 she went to the basement toilet. There was a gentleman there that offered her drugs which she refused. The suspect went into her cubicle but did not lock the door, and the gentleman went into the cubicle and exposed himself and attempted to put his penis in her mouth.
7. Mr Rankin then went onto explain that the victim immediately went upstairs and reported the incident to her friends and bar staff. The bar staff seemed to know who the suspect was. It is unclear why the victim did not report the matter to the Police until they stopped the Police in the street. The Police immediately went to the Premises to investigate matters but the suspect had left. The Sub-Committee noted that two people at the Premises who appeared to be members of staff tried to bar the Police entry to the Premises.
8. Mr Rankin stated that the Premises have a Premises Licence only until 22:30 hours to serve alcohol with a 30-minute drinking up time. At 02:30 on the night in question there were 20 people inside the Premises where alcohol was being served which is not permitted.
9. Mr Rankin stated that the victim was too drunk to give a statement and was unwilling to progress matters further so that enquiry has now stopped. However, this does not stop the Police raising serious concerns about the operation of these Premises and the undermining of the licensing objectives. It transpired that the two staff that had barred entry to the Police were in the bathroom cleaning.
10. Mr Rankin advised that Brian Kavangh is the PLH and registered DPS who is the brother of Kevin Kavanagh being the owner of the Premises. It is understood that the PLH has not had anything to do with the Premises for over a year and will probably say he gave instructions to his brother not to operate the Premises in such a way.
11. Mr Rankin stated that the Police visited the Premises on 9 November, and they spoke to Kevin Kavanagh and went through an Audit of the Premises Licence.
12. The Premises Licence have a number of comprehensive conditions many of which have been breached. 14 have been breached and only 6 of those conditions appear to be complied with. The breached conditions relate to the requirement of waiter/waitress service, substantial food to be available to seated customers and for the main function of the Premises is to operate as a restaurant only with alcohol served ancillary thereto.
13. Mr Rankin advised that the Works conditions numbered 24 and 25 on the Premises Licence had not been signed off, so the PLH was not authorised to use the Premises Licence in any event and undertake licensable activities namely the sale of alcohol. He advised that the CCTV was not working and it

is the Police's view that it had not been in use for many months despite the licence coming into effect on the 23 September 2021.

14. Mr Rankin advised that the activity and catalogue of events to date were unusual to say the least. The Police are therefore requesting that the Sub-Committee revoke the licence.

Submissions from the Premises Licence Holder

15. Mr Brian Kavanagh who had dialled into the hearing confirmed to the Sub-Committee that he was the PLH and DPS of the Premises. He advised that he has been ill for over a year and has not been involved with the Premises. He stated that he had told Mr Kevin Kavanagh his brother not to operate the Premises Licence. However, despite his strict instructions not to do so he said that his brother went against his word.
16. The PLH confirmed that he had held a Premises Licence in the past and so was fully aware of the rules that needed to be followed in terms of the management of the Premises and compliance with licence conditions so that the licensing objectives were promoted.
17. The PLH said that he wanted the Sub-Committee to revoke the Premises Licence and did not wish to have anything more to do with the Premises and his witness statement supported this stance.
18. In answer to questions from the Sub-Committee the PLH advised that he was not aware of a recent variation application that had been made in his name by the Premises (reference number 22/07368/LIPV) to extend the hours of operation and the sale of alcohol. These details were confirmed by Mr Horatio Chance, the Legal Advisor to the Sub-Committee and a copy of the application was visible on screen so that the PLH could see this.
19. The PLH advised that the Premises is owned by his brother but that the Premises Licence is in his name and this was the agreement they had with each other. He emphasised again to the Sub-Committee that he had been sick for the last year and could not say what had been happening at the Premises during this period of time because he was not involved with the day to day running of the Premises. He said that despite his efforts to contact his brother he was not able to speak to him about such matters.
20. The Sub-Committee made clear to the PLH in no uncertain terms that because the PLH and DPS was the person in charge of the Premises he was legally responsible and could not abrogate his professional duties. If he was experiencing personal problems that affected his ability to run the Premises then he should have informed the Licensing Authority and sought the relevant professional help so the business did not suffer in a way that would have adverse consequences and undermine the licensing objectives.
21. The PLH advised that he had no knowledge of what was going on inside the Premises and that if he knew he would have informed his brother but he does not answer his phone or return calls.

22. The Legal Advisor reiterated to the PLH that if he was experiencing problems and struggling then his first port of call would have been to contact the Licensing Authority so that he could have been given the necessary help and guidance rather than close his mind to the situation as this approach did not help him or assist matters.
23. The PLH reiterated again for the benefit of the Sub-Committee that he was ill and had been in hospital, on prescribed medication, suffering with mental health issues and had a degenerative back complaint which led to mobility issues and these factors led him to be reactive when considering his role at the Premises.
24. The PLH stated again for the record that he was not aware his brother was operating at the Premises illegally without the correct authorisations in place otherwise he would have taken the relevant steps to sort matters out. It was only until the Police had contacted him recently that he truly knew the extent of the problems identified and the questionable practices taking place inside the Premises.
25. The Legal Advisor sought confirmation from the PLH whether he knew that his brother was occupying the Premises. The PLH confirmed to the Sub-Committee that he had no knowledge or reason to believe that his brother was trading at the Premises undertaking licensable activities namely the sale of alcohol to customers who were not authorised to be inside the Premises.
26. The PLH advised that he appreciated the two works conditions had not been signed off by the Environmental Health Service which meant he could not trade from the Premises but his priority at the time was his health because he was in hospital and had other issues on his mind. He said that he was not well enough to attend to such matters otherwise he would have sorted the situation out.
27. In answer to questions from the Sub-Committee the PLH confirmed the following:-
 - That he had received both the Committee Agenda and Additional Papers which included his own personal Witness Statement on page 23 of the original agenda report effectively supporting the Police's recommendation that the Premises Licence should be revoked.
 - That he first became aware the Premises was staying open illegally a couple of months ago and had tried to contact his brother but to no avail.
 - That he has acquired some 30 years' experience running bars and that in the past has held two premises licences.
 - He was unaware the CCTV was not in proper working order but the CCTV engineer works next door to the Premises so does not understand why he was not contacted in any event.
 - Acknowledges without doubt that ultimately, he is responsible as the PLH and DPS and was sorry for what his brother has done but now wants to get rid of the premises licence.

Submission from Environmental Health Service

28. Mr Koduah on behalf of the Environmental Health Service addressed the Sub-Committee. He talked about the recent variation application made by the PLH and how poorly the form was completed and that the relevant fee had not been paid so the application was never validated by the Licensing Authority.
29. He said that he had tried contacting the PLH and was told that he had nothing more to do with the Premises. Mr Koduah said that he called the number on the variation application, and it was answered by a Karen McGregor who identified herself as the Property Manager. She advised the Lease had been sold on and as we speak the PLH and his brother Kevin Kavanagh no longer have an interest in the Premises.
30. Mr Koduah stated that his contact with the Premises is as set out in his witness statement on pages 98-100 of the agenda report. He said the PLH advised the works had been completed and then the condition would be removed but he never heard back from him. Mr Koduah confirmed that the Environmental Health Service is in support of the Police's seeking revocation of the Premises Licence.
31. In answer to questions from the Sub-Committee Mr Koduah advised that he last contacted Brian Kavanagh 3 weeks ago by email and that usually once a licence is granted, the Environmental Health Service would wait to hear from the licence holder in terms of the works being completed so effectively we take their lead.
32. Mr Koduah stated that when he last spoke with the PLH he confirmed that his involvement with the Premises had ceased and that any enquiries should be directed to his brother Kevin Kavanagh.
33. The Legal Advisor for the record requested Mr Koduah to clarify the position regarding the removal of the two works conditions. It was confirmed that the onus is on the PLH to contact the Environmental Health Service to seek their removal. In practice what usually happens is that an appointment would be made to inspect the Premises to see whether the works have been completed to the satisfaction of the Environmental Health Service.
34. It is not uncommon during construction works, that things change like toilets. The Environmental Health Service would then arrange a visit to inspect the premises. This Premises should not have been operating as the capacity had not been confirmed.
35. The Legal Advisor queried whether the Environmental Health Service chased the PLH to get an update if nothing had been heard for some time. Mr Koduah advised that generally it is the responsibility of officers to check that premises within the City of Westminster are operating with the terms of their Licence. This may have been picked up by a City Inspector. The Environmental Health Service would then ask the licence holder to give an indication during the consultation period when they feel the works may be completed in order that the necessary entries are recorded in the Council's record systems to ensure

that a prompt mechanism is in place but in this case the PLH did not give an estimated time for completion of the works.

36. Mr Koduah said that this is an unusual case where the PLH is advocating revocation which the Environmental Health Service supported.

Submissions from Richard Brown, Jane Doyle and Tim Lord

37. Richard Brown appearing on behalf of the Soho Society addressed the Sub-Committee. He referred to the Soho Society's submission on pages 93-94 of the agenda report. He said that the Soho Society and Jane Doyle are maintaining their representation and noted also that the CGCA had made a similar representation in support of the review. Both bodies fully support the actions of the Police in seeking revocation of the Licence.
38. Mr Brown said that the evidence outlined in Mr Rankin's case is in itself enough to revoke the Licence. He said that he would like to make two points that will strengthen the case for revocation. Clearly there has been repeated, fundamental and serious breaches for the majority of the conditions. This is simply not about the serious sexual assault incident but goes to the heart of the operation and management of the Premises.
39. Mr Brown said that complaints have been made to the Premises and the Council about the operation of the Premises, to include noise and are well known to operate beyond the hours, resulting in thefts at the Premises.
40. Mr Brown pointed out that the premises licence is incorrect in that it shows recorded music until midnight, but this was withdrawn, as 23:00 is the cut off for time this licence. In terms of the representations made by the Soho Society in relation to the support for the review they understood that the Premises was going to be a Café with reasonable terminal hours. Clearly the Premises is not being used in this manner and so the recommendation to revoke the premises licence is supported by the Soho Society.
41. Tim Lord addressed the Sub-Committee. He advised that the Soho Society is a Charity staffed by volunteers and have made appropriate comments on Licence applications since the early 1970's. This Premises is in the cumulative impact area. Mr Lord said that this area of London is the busiest in terms of alcohol licences and was wondering why these breaches were not picked up sooner by the Responsible Authorities.
42. Mr Lord referred the Sub-Committee to the City Council's Statement of Licensing Policy (Paragraph D4 on page 56 setting out the reasons for Policy CIP1) where licences are revoked if conditions are breached. Mr Lord said that in his view it would appear that serious non-compliance of conditions were not picked up by the Councils' enforcement teams and that serious crime took place because of this failing.
43. Mr Lord said that he would request that there should be a review by the Council as to whether it has allocated adequate resources to properly ensure compliance with alcohol licence conditions within the CIA.

44. Ms Doyle addressed the Sub-Committee and said that there were a large number of licences in the area with late terminal hours. She commented that there had been a great deal of construction in the area and Manette Street particularly was very dark at night so there is probably less footfall. She felt that the licence should be revoked and the Premises in her opinion should never be allowed to hold a licence again as the Premises seems to have sneaked under the net and radar of the Responsible Authorities.

Submissions from David Kaner

45. David Kaner from the CGCA addressed the Sub-Committee and advised that his representation was on pages 93-94 of the agenda report. He said that the CGCA full supports the recommendation by the Police to revoke the premises licence and is the amenity society for the other side of Soho.
46. Mr Kaner said that the Premises were supposed to be a restaurant, not drink led and were to close at core hours. He explained that the Premises came to the attention of Police due to the serious sexual assault incident that took place. He referred to Page 42 of additional bundle in June 2022 where an allegation had been made by a customer that a theft of a laptop had occurred. This indicated that the Premises was operating well beyond the permitted terminal hour thus breaching their operating hours.
47. Mr Kaner said that the operation of the Premises raises serious concerns when it comes to the Responsible Authorities monitoring of the Premises. He queried the following matters:-
- Why did it take such a serious incident for these further breaches to come to light?
 - Why did the Responsible Authorities not realise these breaches were going on? It then makes you wonder how much problem is going on in the area.
 - If clear and precise conditions are not being checked by the Responsible Authorities then perhaps no further licences should be granted until the Licensing Authority is happy that they are able to notice breaches and enforce them accordingly.

Committee's Decision and Reasons

48. The Sub-Committee noted the submissions from all the parties adjourned the hearing to make its determination and resumed the hearing to announce its Decision and to summarise its reasons which are more fully set out below.
49. The Sub-Committee recognised that the proceedings set out in the Act for reviewing premises licences represent a key protection for the community when problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. The Act provides the Licensing Authority with a range of powers on determining a review that it may exercise where it considers them appropriate and proportionate for the promotion of the licensing objectives. In deciding which of these powers to invoke, the Licensing Authority should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The

remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response. Each case has to be determined on its own merits, on the balance of probabilities.

50. The Sub-Committee was mindful that the Police had reasonable and sufficient grounds for seeking this review. The Sub-Committee noted from the Police evidence that several witness statements had been produced by Police personnel which gave an account of the events following the reporting of the serious sexual assault that took place inside the Premises and the multiple breaches of licence conditions indicating a failure in management.
51. The Sub-Committee recognised that paragraph 11.24 of the Guidance advises that :-

When dealing with reviews in connection with crime, “ Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority’s role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.”

Paragraph 11.25 of the Guidance continues: -

“Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.”

52. The purpose of today’s hearing is twofold: -

Firstly, to consider what appropriate and proportionate steps should be taken for the promotion of the licensing objectives, taking into account any change in circumstances since the suspension was imposed at the Interim Steps hearing and;

Secondly, to review the interim steps taken on 15 November 2021 at the Interim Steps hearing, when the licence was suspended and decide whether it is appropriate for the suspension to remain in place and if so, whether the suspension should continue to have immediate effect.

Review Decision

53. Being mindful of the Secretary of State’s Guidance and having carefully considered the review application and the representations made by all the Parties, both orally and in writing, the Sub-Committee decided that it was,

necessary, appropriate and proportionate in order to promote the licensing objectives, in particular the prevention of crime and disorder objective, to take the following step: -

- To revoke the Premises Licence of the above Premises.

Interim Step Review Decision

54. The Sub-Committee also reviewed the suspension made at the Interim Steps Hearing on 15 November 2022 and **decided** that as there is clear evidence that this Premises is not promoting the licensing objectives, particularly in relation to crime and disorder, that it is necessary, appropriate and proportionate for the promotion of the licensing objectives for :-

- The suspension to remain in force and the suspension shall continue to have immediate effect.
- The removal of the Designated Premises Supervisor.
- To exclude the sale of alcohol from the scope of the licence

Reasons

55. The Licensing Authority received a valid application for an expedited review under Section 53 A-C of the Act from the Police on 11 November 2022. A sexual assault taking place on the Premises is a serious matter and does not promote the licensing objectives.

56. The Sub-Committee accepted the evidence of the Police that they believe that a serious sexual assault took place on the Premises as identified in the Police's written application to the licensing authority. The Sub-Committee concluded that there had been multiple breaches of the Premises Licence and its running of the Premises which undermined the crime and disorder licensing objective.

57. Having carefully considered the overwhelming evidence produced by the Police and the interested parties the Sub-Committee decided that it had lost complete trust, faith and confidence in the PLH's ability to manage the Premises efficiently and effectively which would lead to the promotion of the Licensing Objectives.

58. The Sub-Committee also accepted the evidence of the Police when it came to multiple breaches of the licensing conditions aforesaid and the clear lack of management displayed from the Premises when the Police visited the Premises following the serious sexual assault incident and the initial lack of co-operation by the Premises when the Police were seemingly barred entry to the Premises which surprised the Sub-Committee and does not fit into the concept and positive approach of the PLH being a competent and responsible operator as one would expect.

59. The Sub-Committee noted that the premises licence had been granted 15 months previously by an earlier Sub-Committee on the basis that the Premises would be a Café/restaurant which was to be food led and alcohol

served ancillary to table meal. Instead, the Premises was clearly operating without selling food and this is in direct conflict with the restaurant condition imposed on the licence.

60. Moreover, before the sale of alcohol could take place on the Premises it was the responsibility of the PLH to have ensured that the works conditions which appear as Conditions 24 and 25 on the licence were complied with and signed off accordingly by the Council's Environmental Health Service. This did not happen and the Sub-Committee was concerned that alcohol was being sold to customers when the Premises was not authorised to do so.
61. Conditions were imposed on the licence requiring that the sale of alcohol was to be to customers seated at tables taking a meal by waiter/waitress service. Therefore, the style nature and character of the Premises had changed significantly to what was the intended use for the Premises and this was deemed unacceptable to the Sub-Committee.
62. The Sub-Committee viewed this action by the PLH as a blatant disregard of the licensing process and the licensing objectives which was alarming in the extreme and against the spirit of the Home Office Guidance on all levels as to how a proper and well managed premises is to run that promoted the licensing objectives. In fact, the Sub-Committee would go so far as to say that the PLH did not care about his actions and what impact this would have on its customers and the wider community so long as the Premises was making money illegally and operating without authority.
63. The Sub-Committee was disturbed to find that the CCTV system for the Premises was not working despite this being a condition on the licence. Again, this was not the responsible actions of a PLH or DPS when it came to the management of the Premises particularly when the safety of customers was paramount and the promotion of the licensing objectives.
64. Had the CCTV been in proper working order the serious sexual assault might have captured valuable evidence and assisted the Police's investigations into the serious crime and this failure by the PLH led to the crime and disorder licensing objective being severely undermined.
65. It was apparent to the Sub-Committee that the PLH had simply washed his hands of the Premises and had left the management of the Premises daily to his brother Kevin Kavanagh despite holding himself out with vast experience in the licensing industry.
66. As an experienced operator the PLH will know that the role of the DPS is a responsible one and carries with it a serious commitment to ensure that licensed premises are properly managed at all times and promoted the licensing objectives. The Sub-Committee was of the overall opinion that the PLH and DPS fell below the required standard expected of him to run and manage a licensed premises in the City of Westminster that did not undermine the licensing objectives.

67. The Sub-Committee had some sympathy with the PLH in relation to his personal problems that were advanced in mitigation during his submissions to the Sub-Committee but again as has been highlighted above in paragraph 20 it was nevertheless incumbent upon him to seek professional help as well as notifying the Licensing Authority if he was finding it hard coping with the running of the Premises and reporting such a material change in circumstances that had occurred affecting the business due to his lack of involvement with the Premises.
68. The Sub-Committee concluded that ignoring such important matters has led to the serious catalogue of events and the ultimate revocation of the premises licence which all could have been avoided if the PLH had adopted a different approach in the management of the Premises from day one and was open, honest and transparent about his situation early on when dealing with the Licensing Authority, Police and Environmental Health Service.
69. To say that the Sub-Committee was alarmed about the activities going on inside the Premises is an understatement. It begs the question for what period these unauthorised activities were taking inside the Premises by the PLH. This is not the high standards of behaviour expected of operators experienced or otherwise to be conducting business in this way in respect of its licensed premises in the City of Westminster that will undoubtedly lead to the harming of the licensing objectives and firm action will be taken against those perpetrators by the Licensing Authority where it is appropriate and proportionate to do so.
70. The Sub-Committee decided in all the circumstances of the case it was appropriate and proportionate to revoke the licence. It realises that this is a stringent measure to take but in view of the seriousness of all matters and compelling evidence before it, it was left with no option given that the ultimate test is for the promotion of the licensing objectives.
71. The Sub-Committee would only take such action for revocation of a premises licence as a last resort. However, as a responsible decision maker the circumstances of the case are such that this was the right and proper course of action taken by the Sub-Committee when it considered the safeguarding of the licensing objectives and for those customers entering the Premises.
72. The Sub-Committee when considering the power of revocation considered the effects this decision would have on the business as a whole but needed to strike the right balance when considering the needs of the community and the actions of the PLH which led to the review of the premises licence in the first place.
73. It was noted by the Sub-Committee that the PLH wanted to relinquish all ties with the Premises and produced a witness statement supporting the Police's recommendation for revocation of the premises licence.
74. The Sub-Committee noted the concerns raised by the Soho Society and the Covent Garden Community Association in the area and will be taking the relevant action to address these specific issues going forward.

75. The Sub-Committee takes very seriously indeed licensed premises operating without the proper authorisations being in place under the Act and in this respect had regard to Paragraph 3.35 of the Home Office Guidance on page 20 which states ***“It is a criminal offence under section 136 of the 2003 Act to carry on any of the licensable activities listed at paragraph 3.2 above other than in accordance with a licence or other authorisation under the 2003 Act. The fine for this offence is unlimited. Police and local authorities have powers to take action in relation to premises carrying on authorised activities”***.
76. The interim steps that were imposed by the Sub-Committee previously continue to remain in full force and effect, so the licence remains suspended, the DPS is removed and the sale of alcohol at the Premises is therefore not permitted.
77. The Sub-Committee, therefore, having carefully considered the application for the full review and the evidence presented by the Police and the Licensing Authority, both verbally and in writing, the Sub-Committee concluded that the Premises was associated with serious crime, and it was necessary to revoke the Licence, remove the Designated Premises Supervisor and the sale of alcohol with immediate effect to promote the licensing objectives.

The determination of the revocation does not have effect until the end of the period given for appealing against the reasoned decision, or if the decision is appealed against, until the appeal is disposed of. However, the suspension continues to have immediate effect which means the sale of alcohol cannot take place at the Premises.

The Applicant for the Review, the Premises Licence Holder and any Party who has made a relevant representation to the review application may appeal against this Decision to Westminster Magistrates Court, 181 Marylebone Road, London, NW1 5BR, within 21 days of receiving this Decision.

The Licensing Sub-Committee
8 December 2022

The Meeting ended at 12.25 pm