



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 27th April, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Aziz Toki (Chair), Judith Southern and Melvyn Caplan

1. MEMBERSHIP

1.1 It was noted that there were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 It was noted that there were no declarations of interest.

1. BROADWICK SOHO, 20 BROADWICK STREET, W1F 8HT

WCC LICENSING SUB-COMMITTEE NO.1 ("The Committee")

Thursday 27 April 2023

Membership: Councillor Aziz Toki (Chair) Councillor Judith Southern and Councillor Melvyn Caplan.

Officer Support: Legal Adviser: Horatio Chance
 Policy Officer: Kerry Simpkin
 Committee Officer: Sarah Craddock
 Presenting Officer: Kevin Jackaman

Other Parties: Ms Lana Tricker (Solicitor, for the Applicant (LT Law)), Mr David Monson (Proposed DPS), Mr Ken White (Witness for the Applicant), Ms Ayesha Bolton (Environmental Health Service), Ms Karyn Abbott (Licensing Authority), PC Steve Muldoon (Metropolitan Police Force), Mr Richard Brown (Solicitor, Westminster's Citizens Advice representing The Soho Society), Mr Tim Lord (Chair of the Soho Society and local resident) and Mr Rupert Power (Soho Business Alliance).

**Application for a New Premises Licence in respect of Broadwick Soho 20
Broadwick Street London W1F 8HT 23/00942/LIPN**

Full Decision

Premises

Broadwick Soho
20 Broadwick Street
London
W1F 8HT

Applicant

Broadwick Street Holdings Limited

Ward

West End

Cumulative Impact Area

West End

Special Consideration Zone

N/A

Activities and Hours Applied for

Supply of Alcohol (On and Off) the Premises

Sunday to Thursday 07:00 to 00:00
Friday to Saturday 07:00 to 00:30

Non-Standard timings NYE- from end of permitted hours on NYE to start of permitted hours on NYD (model condition) BST- add 1 hour after 01:00 (model condition)

Performance of Dance, Exhibition of Film, Performance of Live Music, Playing of Recorded Music, Anything of a Similar description

Sunday to Thursday 07:00 to 00:00
Friday to Saturday 07:00 to 00:30

Non-Standard timings NYE- from end of permitted hours on NYE to start of permitted hours on NYD (model condition) BST- add 1 hour after 01:00 (model condition)

Opening Hours to Public

Monday to Sunday 00:00 to 00:00

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence in respect of Broadwick Soho 20 Broadwick Street London W1F 8HT (“The Premises”) under the Licensing Act 2003 (“The Act”). The Premises will operate as a five-star luxury hotel featuring 57 rooms and suites and an exemplary ancillary food and beverage offering. The hotel endeavours to become a valued addition to the local neighbourhood.

The hotel will have a lobby bar and restaurant set over two floors (the ground and lower ground floors) a seventh-floor lounge bar and terrace and a dining room on the eighth floor all open to both residents and the public. Additionally, a ground floor lounge for hotel guests will be present.

The Applicant has sought pre-application advice from the Council’s Environmental Health Service Department. Discussions have also taken place with residents regarding licensing and planning issues.

As the site is located centrally within London, there are extensive local facilities and public transport services available within a short walking/cycling distance. Facilities surrounding the site include London Underground Stations, restaurants, hotels, cafes, retail stores, bus stops and car parks.

The Premises are located within the West End Ward and West End CIZ. There is no policy presumption to refuse applications of this type within the West End CIZ and so the Applicant must prove that other policies will not be adversely affected when it comes to the determination of the application by the Sub-Committee.

There is a resident count of 56.

Representations Received

- Metropolitan Police Service (MPS)
- Environmental Health Service (EHS)
- The Licensing Authority
- The Soho Society
- Soho Business Alliance (in support of the application)
- Three Local residents (one of which is in support of the application)

Summary of Objectives

- *Representation is made in relation to the application, as the proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety.*
- *The proposal made is likely to undermine the Prevention of Crime and Disorder licensing. Crime levels in the West End are extremely high. A new premises within this area will add to cumulative impact and such potentially increase crime figures.*
- *I thank the Applicant for taking the time to meet with me in person and for the time taken to show me around the various parts of the hotel that I had*

potential concerns with. I accept the conditions proposed by the Applicant and have suggested a further three. The Applicant is working on the wording of those and will no doubt submit these in due course.

- Currently the application is outside the licensing policy core hours for hotels. The Applicant must therefore demonstrate that they will not add to cumulative impact within the Cumulative Impact Zone. The Licensing Authority do not consider that the Applicant has satisfied this part of the policy and therefore maintains its representation. Should the Applicant address the points raised in this representation it will reconsider its position.*
- The Soho Society objects to the application for licensable activities which fall outside the hotel core hours policy for the restaurants, bars and pre-booked events which are accessible to the general public. The application as currently presented will fail to promote the licensing objectives and increase cumulative impact in the West End Cumulative Impact Zone.*
- We are concerned that granting any new licences in this area will have an impact on the licensing objectives, Soho has the highest concentration of licensed premises in Westminster, 478 with a large proportion (25%) being late night licences. There are 118 licensed premises between the hours of 1am - 6am, with a capacity of over 22,480. The area is densely populated at night with people creating loud levels of noise causing disturbance, alongside an increase in crime, disorder and anti-social behaviour.*
- Previously a street with few licensed premises we note this is the third application for a new alcohol licence since 2022, all within a small section of Broadwick Street from the junction of Wardour Street to Berwick Street. Past midnight this street is relatively quiet and where residents live, the addition of a new hotel with a considerable food and drink offering and open to the public beyond core hours will have a negative impact.*
- The terminal hours of the restaurants, bars, and pre-booked event space falls outside the policy unlike comparable hotels in Soho, for example the Ham Yard Hotel and Soho Hotel where the restaurants close between 10.30pm and 11pm, and the bar at Ham Yard at 11pm.*
- In relation to Flute the 7th floor bar, we take into consideration the conditions that the bar will not be advertised external to the building, and there will be no direct access to the 7th floor, however, the fact remains that this is a bar in Soho with a capacity of 140 and for events its even higher at 175 where the condition of waiter service and patrons being seated will not apply. It also includes a significant external terrace accommodating 71 people which is a huge selling point and highly popular with members of the public. Overall, this is an increase of 140 drinking until 10pm, and following the closure of the terrace 80 patrons will be permitted to consume alcohol until 1am.*
- In our view the premises being a high-end hotel does not protect it from members of the public attending the bar or an event and from drinking to excess, becoming intoxicated and on leaving the hotel creating havoc in the street. This is a late-night bar open to the public until 1am in an area already under such stress it has been declared a cumulative impact zone with high levels of crime and disorder and noise nuisance.*
- We find no justification to grant any licences in Soho beyond Westminster's own Core Hours Policy.*
- We highlight a number of conditions which raise concern and we ask they are amended to protect the residents living in this area.*

- *There are real concerns amongst residents about the ever increasing numbers of licensed premises, they have been subjected to noise disturbance and anti-social behaviour that is beyond acceptable levels. They are disturbed by the late night activity as people walk by either shouting, screaming or arguing, noise from pedicabs, car doors slamming, horns honking and are subjected to anti-social behaviour with people vomiting and urinating in the street and in their doorways.*
- *This hotel and bar are directly opposite our residential block, which contains 78 apartments. We live on the top floor, Apartment 13, Soho 13. Not only has the bar been designed such that we have a clear view in from all our rooms but the noise that will be created late at night will be intolerable. The noise from the large bar item will be bad enough but for there to be live music licensed each night will make the noise unbearable. My understanding when the planning application for the hotel first went through was that there would not be a late licence and it would be alarming if this were to be changed now.*
- *As a local resident, I am concerned about the impact this new hotel will have on the safety of pedestrians. The high volume of foot traffic in our area, coupled with the increased traffic from the hotel will undoubtedly result in an increased risk of traffic accidents. Furthermore, the proposed hotel will lead to an increase in the amount of alcohol consumption in the area which will have a detrimental effect on the quality of life of residents.*
- *Finally, the construction and operation of the hotel will cause significant disruptions to the daily lives of residents.*
- *The Soho Business Alliance would be grateful for the Licensing Authority's consideration of this representation in support of this application, based upon the promotion of all four licensing objectives.*
- *The hotel will be extremely welcome addition to Soho, transforming a previously dilapidated building into a beautiful, multi-faceted space that can be enjoyed by both visitors and residents. It will enliven the corner of Broadwick Street, invigorating the area and improving security on the streets at night. And in keeping with Soho tradition, it will be independently run.*
- *The dining and leisure options at the hotel will help to further cement Soho's position as a culinary and cultural capital; fresh investment like this - in new spaces with new ideas - is crucial in ensuring Soho maintains its cachet. The broad range of new employment opportunities should also weigh heavily in the licensing decision, with approximately 160 full-time positions promised. Far from adding to Cumulative Impact, the hotel's clientele and staff will enhance the locality, and its economy. Given the nature of the proposed operation, safeguarded as it is by a comprehensive schedule of model licensing conditions and hours, and a rigorous Operational Management Statement (as mandated by the planning), the Soho Business Alliance are confident that the applicant will promote the Licensing Objectives in Soho without adding to Cumulative Impact.*

Policy Considerations

Policies CIP1, HRS1 and HOT1 (B) apply under the City Council's Statement of Licensing Policy ("SLP").

CIP1

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

1. Vary the hours within Core Hours under Policy HRS1, and/or
2. Vary the licence to reduce the overall capacity of the premises.

C. Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.

D. For the purposes of this policy the premises types referred to in Clause A are defined within the relevant premises use policies within this statement.

HRS1

A. 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.

B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:

1. 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.
2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.
3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.
4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.
5. The proposed hours when any music, including incidental music, will be played.
6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.
7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.
8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.
9. The capacity of the premises.
10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.
11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.

12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.

13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.

14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.

C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:

10a. Shops (all licensable activities that are provided as ancillary to the primary use of the premises as a shop except the off sale of alcohol)

Monday to Thursday: 9am to 11.30pm.

Friday and Saturday: 9am to Midnight. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to Midnight.

10b. Shops (off-sales of alcohol where it forms either the ancillary or primary use of the premises)

Monday to Saturday: 8am to 11pm. Sunday: 9am to 10.30pm.

D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

HOT1 (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 late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

4. The sale by retail of alcohol, regulated entertainment and late-night refreshment must be an ancillary function to the primary purpose of the venue as a hotel.

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

6. The application and operation of the venue meeting the definition of a Hotel as per Clause C. C. For the purposes of this policy a Hotel is defined as a premises that is primarily used as an establishment providing overnight accommodation for customers.

SUBMISSIONS AND REASONS

Mr Kevin Jackaman outlined the application to the Sub-Committee. He advised that representations had been received from the EHS, MPS, the Licensing Authority, The Soho Society, Soho Business Alliance (in support of the application) and three local

residents (one of whom was in support of the application). He advised that the Premises is located within the West End Ward and the West End CIZ. He confirmed that additional submissions from the Interested Parties had been circulated to the Sub Committee.

Ms Lana Tricker (Solicitor on behalf of the Applicant) outlined the application before the Sub-Committee. She advised that Broadwick Soho was a luxury five star hotel with 57 luxury rooms and it was the Applicant's vision to provide a premium service and facilities to both overnight guests and non-residents who use its public facilities. Ms Tricker advised that there had been extensive consultation with residents and the Responsible Authorities and the Applicant had sought pre-application advice from the EHS. She added that discussions had taken place with local residents regarding both licensing and planning issues and these discussions would continue when the hotel was open in October 2023. She stated that all staff would undertake a 14 week course covering all aspects of the Licensing Act 2003 and all key management and security staff would complete the WAVE training.

Ms Tricker advised that the grant of the application was consistent with Westminster's relevant licensing policies: Hotel Policy HOT1, Restaurant Policy RNT1 and Bar Policy PB1. She advised that the Applicant had included a detailed management plan and dispersal plan detailing how the Applicant would operate the hotel and control the arrival and dispersal of customers.

Ms Tricker emphasised that the ninety robust conditions that had been offered and agreed with the Responsible Authorities should alleviate resident's concerns. She advised that the building had been acoustically treated and there would be no loudspeakers located outside or within the lobby. She further advised that 98 CCTV cameras would be installed inside and outside of the Premises and SIA security staff would be in attendance. She confirmed that the Premises would operate primarily as a hotel and the Applicant had agreed to the Council's model hotel condition.

Ms Tricker explained the layout of the Premises to the Sub-Committee as follows:

- That the hotel would be accessed from Broadwick Street and the foyer would be public facing. As well as the hotel reception there would be a café/restaurant area which would be open to both hotel guests and non-residents. Guests would be greeted on entering the hotel where there were two lifts to take guests straight up to the 7th and 8th floors.
- That the two new basement levels had been excavated and the three subterranean floors would accommodate plant equipment, a kitchen, back of house facilities and a more formal restaurant called Dear Jackie which would be open to both hotel guests and the public and operated under the Council's Model Restaurant condition MC66. A limited number of private events would be held in this space. There would also be a Rear Ground Floor Hotel Lounge called The Nook offering coffee and cocktails for hotel guests only.
- That the 57 hotel rooms would be located on the first to sixth floors and the price for an overnight stay ranged from £605 per night to £6,495 per night for the penthouse suite.

- That on the seventh floor, the restaurant and bar known as the Flute would have a wraparound outdoor terrace offering guests spectacular views over the Soho Streets. This terrace would close at 10pm and guests would then only be allowed out on the terrace to smoke (without drinks). Guests would be served by way of waiter/waitress service only and the capacity would be 170 persons reducing to 80 persons when the terrace closed. An SIA would be available from 8pm.
- That on the eighth floor the restaurant and bar would be known as the Dining Room which could seat up to 22 guests and offered stunning views of the city. Guests would be serviced by way of waiter/waitress service only and the Applicant would be promoting this room for a variety of different purposes such as for private dining or dinner functions. Some events would have live entertainment or music and dancing and that was why the Applicant had requested regulated entertainment to be included in the Premises Licence.

Ms Tricker explained that all events would be managed by the hotel team, that the Applicant would continue to engage with the community and that the extensive conditions to be attached to the Premises Licence would alleviate resident's concerns. She advised that this would be a high-end quality hotel and that £95 million had been spent on redeveloping the site. She outlined that it would not add to cumulative impact in the West End or create further anti-social behaviour on the streets. She explained that all planning permissions had been granted with the exception of the seventh floor which was still subject to a minor variation planning application. She outlined that the Applicant needed the ability to hold private events to generate income and emphasised that the Council's model restaurant condition MC66 would be attached to the Premises Licence. She added that risk assessments would regularly take place and the robust noise management plan, dispersal plan and operating schedule would ensure the promotion of the licensing objectives.

Mr Kenneth White, local resident, advised that he was very much in support of the application and considered the hotel would bring versatility to the West End and boost the local economy.

In response to questions from the Sub Committee, Ms Tricker advised that the Applicant had spent a great deal of time with the Environmental Health Service discussing the Premises plans and the conditions that needed to be attached to the Premises Licence. She confirmed that the Applicant had agreed all the proposed conditions. She emphasised that the Premises falls within the Council's Hotel Policy HOT1 and its primary use was a hotel. She further confirmed that the hotel had a number of different areas within it and these had been conditioned accordingly. She confirmed that after discussions with the Interested Parties this morning that a condition had been agreed with all parties that restricts smokers taking drinks onto the terrace after 22:00 and that the Applicant was content to reduce the numbers of bona fide guests of hotel guests to 4 persons.

Ms Karyn Abbott representing the Licensing Authority, advised that the Premises was located within the West End Cumulative Impact area and the hours sought were beyond the Council's Core Hours Policy. She confirmed that the application was consistent with Westminster's relevant licensing policies: Hotel Policy HOT1, Restaurant Policy RNT1 and Bar Policy PB1 and that the Applicant had applied for

extensive pre-application advice. She requested that the following condition be added to the Premises Licence

'Patrons permitted to temporarily leave and then re-enter the smoking area on the 7th floor after 22:00, e.g., to smoke or make a phone call, shall not be permitted to take drinks or glass containers with them'.

Ms Abbott advised it was, for the Sub-Committee to be satisfied that there was an exception to the Council's Licensing Policy.

Ms Ayesha Bolton, representing the Environmental Health Service, (EHS) echoed the Licensing Authority submission. She confirmed that all EHS's proposed conditions had been agreed by the Applicant and that EHS was content with the application.

PC Steve Muldoon, representing the Metropolitan Police Service, advised that the MPS had maintained their representation so they could attend the Licensing Sub Committee to answer Members' questions. He confirmed that the Applicant had sought pre-application advice and the Applicant had agreed to all the Police's proposed conditions. He referred to the Police's written submission contained at Appendix 6 of the report which set out the crime statistics for this particular area of the West End. He confirmed that he considered there were no further conditions that could be added to the Premises Licence to promote the licensing objectives.

Mr Richard Brown, Solicitor, Westminster's Citizens Advice representing The Soho Society, advised that the Soho Society had no objection to the application being granted as all licensable activities would be ancillary to the Premises being operated as a hotel. He explained, however, that the Soho Society requested that the Sub Committee grant all licensable activities up to core hours only in the first instance to see how the Applicant operates the Premises and because of the compelling evidence contained in the Soho Society's (the sleep survey) and the Metropolitan Police Forces (crime figures) submissions. He emphasised that no amount of good management within the hotel could prevent the crime and disorder and anti-social behaviour in the Cumulative Impact Area. He outlined that although the hotel may have installed triple glazed windows most local residents would not have the luxury of such windows. He advised that there was some vertical drinking in the hotel which was also a concern to the Soho Society. Mr Brown advised that he welcomed the additional condition suggested by the Licensing Authority.

Mr Tim Lord, Chair of the Soho Society, advised that he lived on the corner adjacent to the hotel. He explained that there were housing up and down Berwick Street (including a block of housing association flats) and there were also residents living on Duck Lane. He outlined that it was important to reflect that this was a new hotel with an entirely new operator. He outlined that the building was previously an office block. He requested that the Sub Committee grant the application to core hours so that residents could experience how the Applicant would operate the hotel. He highlighted that there could be significant dispersal issues around cars dropping and collecting customers because of the narrow streets.

Mr Lord referred to the vast amount of street drinking in the street and how the demographic had changed since COVID. It had typically been middle aged men

who came for drinks on Thursday or Friday night after work and who left around 9pm to go home. However, the area has now attracted a much younger crowd who liked to carry on drinking as long as possible. He advised that he considered that it was reasonable for residents to request granting the application to core hours only. He confirmed that the Applicant had engaged with the residents and they could not have done a better job in keeping them up to date on the site. He confirmed that most residential buildings did not contain triple glazing because the buildings were controlled by the conservation rules so there was a limit to what residents could do regarding sound proofing their properties. He outlined the difficulties of controlling drunk and disorderly people once they left licensed premises.

Mr Rupert Power, representing the Soho Business Alliance, advised that given the nature of the proposed operation and the comprehensive schedule of model licensing conditions the Soho Business Alliance were confident that the Applicant would promote the Licensing Objective in Soho without adding to the Cumulative Impact of the West End area.

Mr Horatio Chance, Legal Advisor to the Sub Committee, discussed conditions with all parties regarding private and pre-booked events, leaving and re-entering the smoking area on the seventh floor and making the licence personal to the Applicant. Ms Tricker confirmed that the Applicant agreed to these proposed conditions. During his summing up, Mr Brown requested that the Sub Committee grant the application in accordance with the Council's core hours policy.

During her summing up, Ms Tricker referred the Sub Committee to the planning permission that was in existence for the Premises and emphasised the extensive conditions that would be attached to the Premises Licence. She advised that the Applicant had gone even further and restricted the number of bona fide guests of hotel guests to 4 persons. She referred to the condition which stated that the Premises must operate primarily as a hotel and explained that the Applicant would not create noise nuisance. She concluded by advising that it was the Council's presumption to grant such an application under the Council's hotel policy and that the EHS had advised that they were satisfied with the application.

Conclusion

The Sub-Committee realises that it has duty to consider each application on its individual merits and did so when determining the application.

The Sub-Committee welcomed that the Applicant had obtained pre-application advice and had worked well with the Responsible Authorities and engaged effectively with residents in reaching agreement regarding the set of comprehensive conditions now imposed on the licence.

The Sub-Committee noted that there was no presumption to refuse the application as the Premises primary use was to operate as a hotel and therefore the application was considered under Policies HOT1 and HRS1 of the Council's SLP. The Sub Committee noted that the Applicant had agreed to the Council's Model Restaurant Condition MC66 in respect of the Flute room which was to be a bar and restaurant.

The Sub-Committee having carefully considered the matter and the evidence before it decided to grant the Premises Licence with the licensable activities and hours applied for noting the terminal hour 00:30 Friday and Saturday. It did not consider it appropriate to grant core hours due to having heard the oral submissions from Ms Tricker into the daily running of the Premises and the robust management practices the Applicant was to employ as well as the many offered conditions which would have the desired effect of promoting the licensing objectives.

The Sub Committee decided to include two further conditions regarding pre-booked private events to be kept within the control of the Premises Licence Holder and the Terrace area where drinks are not to be taken after 22:00 hours. The Applicant is to supply a revised premises plan demarking the smoking area by reference to cross hatching. Bona fide guests have now been reduced to 4 with the agreement of the Applicant.

The Sub-Committee concluded based on the evidence and the agreement by the EHS that they were content with the application, together with the offer of conditions would ensure the application would not undermine the licensing objectives.

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

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

1. To grant permission for the **Sale by Retail of Alcohol** (On and Off Sales) Sunday to Thursday 07:00 to 00:00 hours and Friday to Saturday 07:00 to 00:30 hours

Non-Standard timings NYE- from end of permitted hours on NYE to start of permitted hours on NYD (model condition) BST- add 1 hour after 1am (model condition)

2. To grant permission for **Performance of Dance, Exhibition of Film, Performance of Live Music, Playing of Recorded Music, Anything of a Similar description** Sunday to Thursday 07:00 to 00:00 hours and Friday to Saturday 07:00 to 00:30 hours.

Non-Standard timings NYE- from end of permitted hours on NYE to start of permitted hours on NYD (model condition) BST- add 1 hour after 1am (model condition)

3. To grant permission for the **Opening Hours for the Premises to the Public** Monday to Sunday 00:00 to 00:00
4. That the Licence is subject to any relevant mandatory conditions.

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

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

6. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a five-star luxury Hotel.
7. The Sale and supply of alcohol between the hours of 07:00 and 10:00 Monday to Sunday where permitted shall be limited to persons seated taking a table meal except for hotel residents and up to 4 of their bona fide guests.
8. There will be no self-service of alcohol except in the guest bedrooms.
9. There shall be waiter/waitress service available throughout the entire premises with the exception of hotel bedrooms.
10. The reception desk on the ground floor shall be staffed at all times the premises are in operation.
11. There shall be no advertising of the bar facilities or alcohol sales external to the premises building.
12. The exhibition of film is permitted in the hotel bedrooms and as an ancillary to other licensable activities throughout the premises.
13. Between the hours of 20:00 and 01:30 there shall be a personal licence holder on the premises whenever alcohol is sold at the premises.
14. From 20:00 until the close of all public restaurant/lounge spaces a minimum of 2 SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open to the public, who will be wearing distinctive uniforms. Such door supervisors shall be trained in conflict management. Further door supervisors shall be provided on a risk assessed basis
15. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of

recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

16. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
17. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: a. all crimes reported to the venue b. all ejections of patrons c. any complaints received concerning crime and disorder d. any incidents of disorder e. all seizures of drugs or offensive weapons f. any faults in the CCTV system, searching equipment or scanning e equipment g. any refusal of the sale of alcohol h. any visit by a relevant authority or emergency service.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
20. 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.
21. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

22. A direct telephone number for the manager of the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
23. From 19.00 the licence holder or duty manager shall make regular patrols at no less than hourly intervals around the perimeter of the premises when regulated entertainment is taking place
24. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to designated smoking areas on the ground floor and supervised by staff after 22:00. All designated smoking areas shall be monitored by CCTV.
25. Smokers shall be limited to 10 persons at any one time in the designated smoking area on the ground floor, as hatched in red.
26. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke, shall not be permitted to take drinks or glass containers with them.
27. The licence holder shall implement a dispersal and outdoor management policy. This policy shall deal with, as a minimum, the entry and entrance of patrons and staff to the Hotel, the management of smoking areas and the duty of staff and security to ensure the prevention of public nuisance is being upheld. This policy shall be made available to local residents and responsible authorities upon request. All necessary staff, including security shall be trained on the contents and implementation of the dispersal policy and records of training shall be retained by the licence holder. The dispersal policy shall be reviewed regularly, at least annually, or whenever a complaint is received (whichever is the earlier) and thereafter amended if needed to respond to such complaint.
28. 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.
29. Other than in hotel bedrooms there shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
30. Substantial food and non-alcoholic beverages including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for the consumption on the premises.

31. There shall be no sales of hot food or hot drink to the public for consumption 'Off' the premises after 23:00 hours
32. All sales of alcohol for consumption 'Off' the premises to the public shall be either (a) in sealed containers or (b) restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway, and where the supply of alcohol is by waiter or waitress service only
33. Prior to any event/function being taken at the premises a risk assessment for that event/function shall be undertaken which will address as a minimum entrance and dispersal of patrons, provision and service of alcohol and the monitoring of consumption of alcohol and whether the provision of SIA shall be required. This risk assessment shall be retained at the premises for 31 days after the event takes place and must be made available on request to the Responsible Authorities and signed off by a person with management responsibilities and must contain information and assessments, as a minimum, on the following aspects where relevant:
 - i. Details of responsible persons present including at least one person with management responsibilities of the licence holder
 - ii. Stewarding
 - iii. Ticketing and entrance check arrangements, e.g., bag search
 - iv. Non-glass drinking receptacles
 - v. Emergency Evacuation
 - vi. Maximum Capacity for the function space
 - vii. Temporary Structures including any licensing requirements
 - viii. Use of Special effects such as dry ice, cryogenic fog, smoke machines, firearms, pyrotechnics, real flame, strobe lighting, lasers etc
 - ix. Noise Management Plan including arrival and dispersal arrangements.
34. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
 - a. The police (and, where appropriate, the London Ambulance Service) are called without delay.
 - b. All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police.
 - c. The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
 - d. Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
35. No unauthorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.

36. 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.
37. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours or as in compliance with Westminster City Council's own waste contractor collection hours.
38. No deliveries to the premises shall take place between 23:00 hours and 07:00 hours on the following day.
39. All waste shall be stored internally prior to collection.
40. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
41. No licensable activities shall take place at the premises until the Environmental Health Consultation Team has determined the capacity of the premises and the Licensing Authority has replaced this condition on the licence with a condition detailing the capacity so determined
42. The licence holder, duty manager or member of security shall make regular patrols at no less than hourly intervals around the perimeter of the premises when regulated entertainment is taking place.
43. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given. a. dry ice and cryogenic fog b. smoke machines and fog generators c. pyrotechnics including fireworks d. firearms f. lasers g. explosives and highly flammable substances f. real flame g. strobe lighting.
44. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
45. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.

46. All emergency doors shall be available at all material times without the use of a key, code, card or similar means.
47. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
48. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
49. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
50. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
51. 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.
52. The premises may remain open for the sale of alcohol, regulated entertainment and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
53. On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00.
54. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
55. The licence will have no effect until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyors Association – technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.

56. Loudspeakers shall not be located on any terraces or outside the building.

Conditions specific to the lower ground and ground floor restaurant area, also known as Dear Jackie

57. With the exception of condition [62], the ground and lower ground hotel restaurant shall only operate as a restaurant,
- (i) in which customers are shown to their table or the customer will select a table themselves,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table,
 - (iv) which do not provide any takeaway service of food or drink for immediate consumption off the premises,
 - (v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
 - (vi) For the purpose of this condition 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.
 - (vii) Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
58. The sale of alcohol in the restaurant shall be to persons seated at tables and as ancillary to table meals as per condition [61] except to:
- a) persons in the holding bar area hatched on the plans at Annex 4 and limited to 8 persons, where alcohol may be supplied and consumed prior to their meal.
 - b) persons attending a bona fide pre-booked private function to which members of the public cannot attend.
 - c) hotel residents and their bona fide guests.
 - d) Employees, Performers and/or Artistes and their bona fide guests.
59. The restaurant shall be laid out as a restaurant except when there is a pre-booked private function.
60. With the exception of the holding bar area, as hatched in condition [56] the supply of alcohol in the restaurant shall be by waiter or waitress only.
61. A register of persons attending any private prebooked events shall be kept for a minimum period of 31 days at the premises and made available for immediate inspection by police or an authorised officer of the Council

throughout the entire 31 day period. A register will not be required for “drop in” events such as exhibitions or auctions.

62. The number of persons permitted at any one-time (excluding staff) shall not exceed [100] persons.

Conditions specific to the 7th floor, also known as Flute

63. The sale and supply of alcohol shall be by way of waiter/waitress and only to seated customers, with the exception that seated and standing customers may be served at the bar in the area hatched on the plan. There shall be a minimum of 8 seats at the bar
64. Condition [67] shall not apply to persons attending a private pre-booked function to which members of the public have no access, a list of which shall be retained for a period of 31 days and made available for immediate inspection by police or an authorised officer of the Council throughout the entire 31 day period
65. The main terrace hatched in red on the 7th floor shown on the approved plan at Annex 4 shall not be used between 22:00 and 07.00.
67. The smoking terrace hatched in green on the approved plan at Annex 4 shall not be used between 23:00 and 0700 Sunday to Saturday
68. Entrance to the 7th floor for patrons shall be via a reception/host
69. From 20:00 there shall be a minimum of 1 door supervisor on duty dedicated to the 7th floor, unless otherwise agreed in writing with the Westminster Police Licensing Team. Further door supervisors shall be provided on a risk assessed basis
70. A register of persons attending any private prebooked events shall be kept for a minimum period of 31 days at the premises and made available for immediate inspection by police or an authorised officer of the Council throughout the entire 31 day period. A register will not be required for “drop in” events such as exhibitions or auctions.
71. With the exception of private prebooked events to which members of the public are not invited, the number of persons permitted at any one-time (excluding staff) shall not exceed (140) persons.

72. With the exception of private prebooked events to which members of the public are not invited, after 22.00 the number of persons permitted at any one-time (excluding staff) shall not exceed (80) persons.
73. When the 7th floor operates for a private prebooked event to which members of the public are not invited the number of persons permitted at any one-time (excluding staff) shall not exceed {175) persons

Conditions specific to the 8th floor, also known as The Dining Room

74. With the exception of condition 78, the 8th floor shall only operate as a restaurant/private dining room,
- (i) in which customers are shown to their table or the customer will select a table themselves,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table,
 - (iv) which do not provide any takeaway service of food or drink for immediate consumption off the premises,
 - (v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
 - (vi) For the purpose of this condition 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.
 - (vii) Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
75. The sale of alcohol shall be to persons seated at tables and as ancillary to table meals (in accordance with condition 77) except:
- a) persons attending a bona fide pre-booked private function to which members of the public cannot attend; and/or
 - b) to hotel residents and their bona fide guests (up to a maximum of 5 guests per resident); and/or
 - c) guests of the proprietor; a list of such guests shall be maintained at reception and/or
 - d) Employees, Performers and/or Artistes and their guests.
76. Entrance to the 8th floor for patrons shall be via a reception/host
77. A register of persons attending any private prebooked events shall be kept for a minimum period of 31 days at the premises and made available for

immediate inspection by police or an authorised officer of the Council throughout the entire 31 day period. A register will not be required for “drop in” events such as exhibitions or auctions.

78. The 8th floor shall be laid out as a restaurant except when there is a private pre-booked function to which members of the public have no access on this floor.
79. The supply of alcohol shall be by waiter or waitress only.
80. The number of persons permitted at any one-time (excluding staff) shall not exceed 30 persons.
81. When the 8th floor operates for a private prebooked event to which members of the public are not invited the number of persons permitted at any one-time (excluding staff) shall not exceed {50} persons.

Rear ground floor Hotel Lounge known as ‘The Nook’

82. Licensable activities in the rear ground floor Hotel Lounge, shall only be to:
 - a. residents of the hotel and their bona fide guests (up to a maximum of 5 guests per resident).
 - b. guests of the proprietor; a list of such guests shall be maintained at reception.
 - c. Artistes or persons employed on the premises.
 - d. Proprietors, directors, shareholders and management of the operating company and their bona fide guests.
 - e. persons attending a bona fide pre-booked private function to which members of the public cannot attend.
 - f. persons who are having a substantial table meal in the ground/basement restaurant known as Dear Jackie
83. A register of persons attending any private prebooked events shall be kept for a minimum period of 31 days at the premises and made available for immediate inspection by police or an authorised officer of the Council throughout the entire 31 day period. A register will not be required for “drop in” events such as exhibitions or auctions.
84. The sale and supply of alcohol shall be by waiter or waitress service and only to seated customers except when there is a private pre-booked function in this area of the Hotel

85. The rear ground floor Hotel Lounge, shall close to non-hotel residents and their bona fide guests between the hours of [00.00 -0700 Sun-Thurs and 00.30 -0700 Fri-Sat]
86. The number of persons permitted at any one-time (excluding staff) shall not exceed 45 persons.
87. There shall be a written training document/policy for dealing with 'vulnerable people'. This document/policy shall be reviewed every year on or before 1st April and signed each year as current by the DPS.
88. The premises licence holder shall ensure that the management team and all relevant staff as agreed with the Police Licensing Team, at the premises complete the nationally recognised counter terrorism training product referred to as ACT eLearning package within 3 months of the licence becoming operational.
89. The premises licence holder shall ensure that the management team and all relevant staff as agreed with the Police Licensing Team, at the premises complete Welfare And Vulnerability Engagement (WAVE) training within 3 months of the licence becoming operational.
90. All private and pre-booked events held at the premises shall be managed and kept within the control of the premises licence holder at all times.
91. Patrons permitted to temporarily leave and then re-enter the smoking area on the 7th floor after 22:00, e.g., to smoke or make a phone call, shall not be permitted to take drinks or glass containers with them.

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

**The Licensing Sub-Committee
27 April 2023**

2. DEVELOPMENT SITE AT FORMER WESTCOURT HOUSE, OLD MARYLEBONE ROAD,

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

Thursday 27 April 2023

Membership: Councillor Aziz Toki (Chair), Councillor Judith Southern and Councillor Melvyn Caplan

Officer Support: Legal Adviser: Horatio Chance
 Policy Officer: Kerry Simpkin
 Committee Officer: Sarah Craddock
 Presenting Officer: Kevin Jackaman

Other Parties: Mr Tim Shield (John Gaunt & Partners) on **behalf** of Whitbread Group PLC (the Applicant), Ms Caroline Burt (Estate Development Project Manager) on behalf of the Applicant Whitbread Group PLC and Ayesha Bolton (Environmental Health Service).

Application for a New Premises Licence in respect of Development Site at Former Westcourt House Old Marylebone Road London 23/00868/LIPN – Item 2

Full Decision

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence in respect of Development Site at Former Westcourt House Old Marylebone Road London ("The Premises") under the Licensing Act 2003 ("The Act").

The Premises is currently a development site with the intention to create a Premier Inn Hotel at the location. There will be a ground floor reception area, entrance and associated licensed food and beverage area. Bedrooms will be located in the basement and on the ground floor through to the thirteenth floor.

The Premises are located within the Marylebone Ward and not in any area of Cumulative Impact. There is no policy presumption to refuse the application.

There is a resident count of 121.

Premises

Development Site at Former Westcourt House
Old Marylebone Road
London

Applicant

Whitbread Group Plc

Cumulative Impact Area

N/A

Activities and Hours

Performance for the Exhibition of Films

Monday to Sunday 10:00 to 23:00

Seasonal Variation Residents – 24 hours To extend the licensing hours on New Year's Eve: 10:00 to New Year's Day 23:00 (being 2nd January)

Supply of Alcohol (On and Off) the Premises

Monday to Sunday 10:00 to 23:00

Seasonal Variation Residents – 24 hours To extend the licensing hours on New Year's Eve: 10:00 to New Year's Day 23:00 (being 2nd January)

Opening Hours to Public

Monday to Sunday 06:00 to 23:30

Seasonal Variation the Premises shall remain open 24 hours for hotel residents.

Representations Received

- Environmental Health Service (Ayesha Bolton) (EHS)
- One Local Resident

Summary of issues raised by Objectors

- *The hours requested for the Regulated Entertainment of Films will have the likely effect of causing an increase in Public Nuisance within the area.*
- *The hours requested for the Supply of Alcohol will have the likely effect of causing an increase in Public Nuisance within the area and may impact on Public Safety.*
- *With the 2-way systems introduced in Baker Street and Gloucester Place, which is causing non-stop traffic jams, pollution and in my opinion, more accidents, a licence for this establishment would create more traffic jams and more pollution - and probably more drunks on the road, who think they have right of way over a road, which is also used by motor vehicles. Enough is enough please do NOT make the area worse than it is!*

Policy Considerations

Policies HRS1 and HOT1 apply under the City Council's Statement of Licensing Policy ("SLP").

HRS1

A. 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.

B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:

1. 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.
 2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.
 3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.
 4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.
 5. The proposed hours when any music, including incidental music, will be played.
 6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.
 7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.
 8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.
 9. The capacity of the premises.
 10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.
 11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.
 12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.
 13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.
 14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.
- C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:

10a. Shops (all licensable activities that are provided as ancillary to the primary use of the premises as a shop except the off sale of alcohol)

Monday to Thursday: 9am to 11.30pm.

Friday and Saturday: 9am to Midnight. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to Midnight.

10b. Shops (off-sales of alcohol where it forms either the ancillary or primary use of the premises)

Monday to Saturday: 8am to 11pm. Sunday: 9am to 10.30pm.

D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

HOT1

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

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities being within the council's Core Hours Policy HRS1.
3. The sale by retail of alcohol, regulated entertainment and late-night refreshment must be an ancillary function to the primary purpose of the venue as a hotel.
4. The applicant has taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meeting the definition of a Hotel as per Clause C.

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 sale by retail of alcohol, regulated entertainment and late-night refreshment must be an ancillary function to the primary purpose of the venue as a hotel.
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 Hotel as per Clause C.

C. For the purposes of this policy a Hotel is defined as a premises that is primarily used as an establishment providing overnight accommodation for customers.

SUBMISSIONS AND REASONS

Mr Kevin Jackaman Presenting Officer outlined the application to the Sub-Committee. He advised that representations had been received from the EHS and one local resident who was not in attendance. He advised that since the application further conditions had been agreed between the Applicant and the EHS. He advised that the Premises is located within the Marylebone Ward and not in any Special Consideration Zones. He confirmed that the additional submissions from the Applicant and the Interested Parties had been circulated to the Sub Committee.

Mr Tim Shield Solicitor appearing on behalf of the Applicant outlined the application before the Sub-Committee. He explained that this was an application for a New Premise Licence for a Premier Inn. Premier Inn had over 800 hotels across the UK with one in every major city. They have been operating many hotels within Westminster for many years without issue.

He advised that this particular application was for a Premier Inn Hub which had smaller rooms and was more technologically advanced than a regular Premier Inn Hotel. The first Premier Inn Hub opened in Westminster on St Martin's Lane in Covent Garden.

He advised that this application has had two representations submitted which had not been withdrawn, one from the Environmental Health and one from a single resident who lived a 10-minute walk away from the planned hotel which was a significant distance.

Mr Shield advised that customers knew what they are getting from a Premier Inn. He advised that the food and beverage area was shown in the Premises plans and the Applicant had confirmed that there would be about 100 covers. The site had a double entrance lobby to help ease concerns about noise escape. He advised that no Regulated Entertainment had been requested except for films which was for the films streamed in customer rooms on demand which was a standard across the estate. He advised that access to the Premises after 23:00 was only possible with a key card or getting buzzed in by reception.

Mr Shield advised that the hotel had bedrooms on every floor from the basement and ground floors to the upper floors with 294 rooms. The application was for licensable activities until 23:00 for non-residents which was within the core hours and within their planning restriction. The conditions offered were an amalgamation of the original application and additional conditions proposed from the EHS. He advised that the three strands of the application were the sale of alcohol for non-residents with a terminal hour of 23:00, sale of alcohol for residents and then films. It was confirmed that this Premises Licence was only for the food and drink area on the ground floor only and not for throughout the hotel.

In response to questions from the Sub Committee, Mr Shield confirmed that there would be no private events held in the hotel as the hotel had no function or meeting rooms and the brand did not use external promoters. He advised that the off sales were to merely allow customers that wish to take a bottle of wine following dinner off the estate or back to their room.

Ms Ayesha Bolton representing the EHS, advised that they had agreed conditions with the Applicant and that that they were satisfied with those conditions. She confirmed that they had maintained their representations to answer any questions that Members or the local resident should he had turned up. She confirmed she had nothing further to add.

Conclusion

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

In reaching its decision, the Sub-Committee noted that there was no presumption to refuse the application as the Premises primary use was to operate as a hotel and therefore the application was considered under the Council's HOT1 and HRS1 polices. The Sub Committee noted that the Applicant had agreed to the Council's Model Restaurant Condition MC66 so that alcohol could only be served with a substantial meal and that all members of the general public had to exit the Premises by 23:00 hours.

The Sub-Committee took into consideration that conditions had been agreed with the EHS who were generally satisfied with the application. The Sub Committee further noted that the Metropolitan Police Service and the Licensing Authority had not made representations against the application and that the Premises were not located in the West End CIZ or Special Consideration Zone. The Sub-Committee noted that the application had been made within the Council's Core Hours Policy.

In reaching its decision, the Sub-Committee concluded that the conditions attached to the licence would alleviate the residents' concerns and were appropriate and would help promote the licencing objectives.

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

1. To grant permission for **the Exhibition of Films** Monday to Sunday 10:00 to 23:00 **Seasonal Variation:** Residents - 24 hours to extend the licensing hours on New Year's Eve: 10:00 to New Year's Day 23:00 (being 2nd January)
2. To grant permission for the **Sale by Retail of Alcohol (On and Off the Premises)** Monday to Sunday 10:00 to 23:00 **Seasonal Variation:** Residents - 24 hours to extend the licensing hours on New Year's Eve: 10:00 to New Year's Day 23:00 (being 2nd January)
3. To grant permission for the **Opening Hours of the Premises** Monday to Sunday 06:00 to 23:30 **Seasonal Variation:** The Premises shall remain open 24 hours for hotel residents.
4. That the Licence is subject to any relevant mandatory conditions.
5. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

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

6. The supply of alcohol from 23.00 to 10.00 hours at the premises shall only be to hotel residents and their bona fide guests.
7. The supply of alcohol to non-hotel residents shall be between 10:00 to 23:00 hours.

8. Save for the consumption of alcohol by residents of the premises in their rooms, all sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
9. Save for the consumption of alcohol by residents of the premises in their rooms, there shall be no sales of alcohol for consumption off the premises after 23.00 hours.
10. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the City of Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall always be on the premises when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
12. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport, or proof of age card with the PASS Hologram.
13. Children under the age of 16 shall not be permitted to enter the premises after 21.00 hours unless dining with an adult or attending a pre booked function or resident in the hotel.
14. An incident log shall be kept at the premises and made available on request to an authorised officer of the Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service
15. Other than in hotel bedrooms there shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.

16. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
17. 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.
18. No fumes, steam or odours shall be emitted from the licensed premises to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
19. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
21. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
22. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall not be permitted to take drinks or glass containers with them.
23. A direct telephone number for the manager at the premises shall always be publicly available whilst the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
24. 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.
25. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
26. 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.
27. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 on the following day.
28. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.

29. 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.
30. Before the premises open to the public, the plans as deposited will be checked by the Environmental health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where there are minor changes to the premises layout during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
31. No licensable activities shall take place at the premises until the capacity of the (licensed area) 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.

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

**The Licensing Sub-Committee
27 April 2023**

3. THE PIANO WORKS WEST END, SUB-BASEMENT, BASEMENT PART AND GROUND FLOOR PART, CLAREVILLE HOUSE, 47 WHITCOMB STREET, WC2H 7DH

Membership: Councillor Aziz Toki (Chair) Councillor Judith Southern and Councillor Melvyn Caplan.

Officer Support: Legal Adviser: Horatio Chance
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Kevin Jackaman

Other Parties: Mr Gary Grant (Counsel for the Applicant), Mr Michael Watson (Agent for the Applicant), Mr Tristan Moffat (The Piano Works), Ms Abi Casson Thompson (The Piano Works), Ms Ayesha Bolton (Environmental Health Service), Ms Karyn Abbott (Licensing Authority) and PC Tom Stewart (Metropolitan Police Service).

Application for a New Premises Licence in respect of The Piano Works - West End Sub-Basement, Basement Part And Ground Floor Part Clareville House 47 Whitcomb Street London WC2H 7DH 23/00731/LIPN

Full Decision

Premises

The Piano Works
West End Sub-Basement,
Basement Part And Ground Floor
Part Clareville House
47 Whitcomb Street
London
WC2H 7DH

Applicant

TDC Ents Limited

Ward

St James's

Cumulative Impact Area

West End Cumulative Impact Zone ("West End CIZ")

Activities and Hours Applied for

Supply of Alcohol (On and Off) the Premises

Monday to Tuesday 10:00 to 01:00

Wednesday	10:00 to 02:00
Thursday to Saturday	10:00 to 03:00
Sunday	12:00 to 22:30

Non-Standard Timings: On the morning of the beginning of the British Summer time the finish hour will be 04:00 hours

For the Sub Basement only: From the end of the permitted hours on New Year's Eve to the start of the permitted hours on the following day

Performance of Dance, Exhibition of Film, Performance of Live Music, Anything of a Similar description

Monday to Tuesday	10:00 to 01:00
Wednesday	10:00 to 02:00
Thursday to Saturday	10:00 to 03:00
Sunday	12:00 to 22:30

Non-Standard Timings: On the morning of the beginning of the British Summer time the finish hour will be 04:00 hours

For the Sub Basement only: From the end of the permitted hours on New Year's Eve to the start of the permitted hours on the following day

Late Night Refreshment (indoors)

Monday to Tuesday	23:00 to 01:00
Wednesday	23:00 to 02:00
Thursday to Saturday	23:00 to 03:00

Non-Standard Timings: On the morning of the beginning of the British Summer time the finish hour will be 04:00 hours

For the Sub Basement only: From the end of the permitted hours on New Year's Eve to the start of the permitted hours on the following day

Opening Hours to Public

Monday to Tuesday	09:00 to 01:30
Wednesday	09:00 to 02:30
Thursday to Saturday	09:00 to 03:30
Sunday	12:00 to 00:00

Non-Standard Timings: On the morning of the beginning of the British Summer time the finish hour will be 04:00 hours

For the Sub Basement only: From the end of the permitted hours on New Year's Eve to the start of the permitted hours on the following day.

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 (“The Act”). The Premises operates as a live music venue with a restaurant and bar. The Premises has had the benefit of a Premises Licence since 2014. The current premises licence (22/11676/LIPDPS) can be viewed at Appendix 3 of the report along with the history at Appendix 4. This application replicates the same hours, licensable activities and conditions as 22/11676/LIPDPS save that the existing capacity of 400 persons is increased to 700 in the sub-basement. On the grant of this new licence in the terms applied for the existing licence will be surrendered.

The Applicant has provided the following submissions:

- Applicant’s written submissions
- Presentation
- Appendices
- Support Letter from Kate Nicholls OBE of UK Hospitality
- Support Letter from Sue Uings
- Safe Occupancy Assessment

Copies of the documents can be found at Appendix 2 of the report.

The Premises are located within the St James’s Ward and West End Cumulative Impact Zone. There is a policy presumption to refuse applications of this type within the West End CIZ and so the Applicant must prove an exception to policy.

There is a resident count of 56.

Representations Received

- Metropolitan Police Service (PC Tom Stewart) (MPS)
- Environment Health Service (Ayesha Bolton) (EHS)
- The Licensing Authority (Angela Seaward)

Summary of Objectives

- *The Regulated Entertainment and the hours requested will have the likely effect of causing an increase in Public Nuisance within the area and may impact on Public Safety.*
- *The Late Night Refreshment and the hours requested will have the likely effect of causing an increase in Public Nuisance within the area.*
- *The Supply of Alcohol and the hours requested will have the likely effect of causing an increase in Public Nuisance within the area and may impact on Public Safety.*
- *In respect of the proposed increase in capacity from 400 to 700, the Police submit that if granted, this application would likely undermine the licensing objective ‘the prevention of crime and disorder’, as well as adversely effecting cumulative impact within the West End Cumulative Impact Zone.*
- *The Licensing Policy advises that in terms of capacities ‘each incremental increase in capacity contributes in part to increasing the attraction of the area as a “honey pot” destination for night life and to the cumulative problems*

created by such a high concentration of activity in the area. The applicant is required to demonstrate how this increased capacity will be managed and what policy they hold in place for dispersals.

- The applicant is required to provide an exceptional circumstance as to why the application should be granted in contrary to the Westminster Licensing Policy, however, it is noted that the applicant has provided no submissions to this effect.*
- Although the applicant has offered upon grant of this application to surrender 22/11676/LIPDPS, as conditioned within the operating schedule, the premises in which this application relates to is still located in the cumulative impact zone and any increase in capacity is likely to add to the cumulative stress in that area and therefore will need to demonstrate an exceptional circumstance as to why increase in capacity of another 300 customers should be granted.*
- It will be for Licensing Sub-Committee Members to determine this application, given its location within the West End Cumulative Impact area and the proposed increase of capacity.*

Policy Considerations

Policies CIP1, HRS1 and MD1 apply under the City Council's Statement of Licensing Policy ("SLP").

CIP1

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

1. Vary the hours within Core Hours under Policy HRS1, and/or
2. Vary the licence to reduce the overall capacity of the premises.

C. Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.

D. For the purposes of this policy the premises types referred to in Clause A are defined within the relevant premises use policies within this statement.

HRS1

A. 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.

B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:

1. 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.
2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.

3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.
 4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.
 5. The proposed hours when any music, including incidental music, will be played.
 6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.
 7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.
 8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.
 9. The capacity of the premises.
 10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.
 11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.
 12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.
 13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.
 14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.
- C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:
- 10a. Shops (all licensable activities that are provided as ancillary to the primary use of the premises as a shop except the off sale of alcohol)
Monday to Thursday: 9am to 11.30pm.
Friday and Saturday: 9am to Midnight. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to Midnight.
 - 10b. Shops (off-sales of alcohol where it forms either the ancillary or primary use of the premises)
Monday to Saturday: 8am to 11pm. Sunday: 9am to 10.30pm.
- D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

MD1

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

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities being within the council's Core Hours Policy HRS1.
3. The 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 taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meet the definition of a music and dance premises or similar entertainment in Clause D.

B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:

1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1, and/or,
2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.

C. The applications referred to in Clause B1 and B2 will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. 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.
3. The application and operation of the venue continuing to meet the definition of a music and dance premises in Clause D.

D. For the purposes of this policy a music and dance premises is defined as a premises whereby the primary purpose of the venue is to:

1. Provide regulated entertainment in the form of music, either in the form of live performances or recorded, to customers.
2. Provide regulated entertainment in the form of music, either as live performances or recorded, and provide facilities for the provision of dance.
3. The sale by retail of alcohol may be provided as either a considerable element of the operation of the premises or ancillary to the provision of regulated entertainment.
 - a. Examples of venues that would fall within this policy are night clubs or bars that provide music and dancing.
 - b. De-regulated entertainment (as set out in the glossary will not be subject to this policy).

SUBMISSIONS AND REASONS

1. Mr Kevin Jackaman outlined the application to the Sub-Committee. He advised that representations had been received from the EHS, MPS and the Licensing Authority. He confirmed there had been no representations made by Interested Parties. He outlined that the Premises is located within the St James's Ward and the West End Cumulative Impact Zone.

2. Mr Gary Grant (Counsel on behalf of the Applicant) outlined the application before the Sub-Committee. He explained that the Piano Works was an important live music led venue for the UK where songs were played in response to audience requests. He advised that it was the largest employer of live musicians in London and probably the UK with over 19 musicians currently employed offering a very significant live musical experience for Londoners and visitors alike. He emphasised that the Premises was food led and offered extensive menus throughout its operating hours.
3. Mr Grant stated that this application had been made to increase the maximum capacity of The Piano Works (West End) from 400 to 700 customers (before 01:00) by way of a new Premises Licence application and that if granted the existing Premises Licence would be surrendered. He said that the operating hours and licensable activities remained unchanged and the conditions on the current licence were replicated but with nine additional significant and robust conditions now proposed to be added to the Operating Schedule.
4. He further added that the Piano Works was such a unique and worthy venue to the London's West End and the UK's live music culture and its customer base demonstrably so unproblematic, that an exception to policy was justified on the very special circumstances of this venue.
5. Mr Grant advised that not one resident or residential group had objected to this application because it was a very popular and important venue in the West End. He added that the three Responsible Authorities had made representations on policy grounds only. He outlined that the Premises had welcomed over 1,000,000 customers since opening in January 2018 and there had not been a single significant violent incident or complaint as the venue did not attract customers who were likely to cause issues in the cumulative impact area.
6. He added that their customer base was made up of 75% women and the average age of their patrons were 30 years old. He stated that this late-night venue in the West End did not attract vertical drinkers age between 18 to 25 years old who created all sorts of problems in the cumulative impact area.
7. Mr Grant outlined the support that the Premises had received from the Arts Council of England from their Culture Recovery Fund because of its local and regional significance in contributing to employment within creative communities and driving innovation in their art.
8. Mr Grant then advised how the application before the Sub Committee was essentially for the survival of the Premises because the Premise had been closed for 19 months during the COVID pandemic and their debts now exceeding £1 million (with monthly loan payments of £45,000). He explained that the Premises currently operated at half capacity by virtue of the condition on the existing Premises Licence and that the Applicant now wished to replicate the capacity of 800 granted by way of planning permission.
9. Mr Grant briefly stated that the Premises had previously been a problematic vertical drinking nightclub which was why the capacity had initially been

capped at 400 persons. He advised that it had been the Applicant's hope and intention at the time, which was expressed to the Responsible Authorities, that once they proved themselves and that the exceptional nature of this Premises did not add to cumulative impact in the West End CIZ area they would come back to the Sub Committee and request an increase in capacity to the full 800 patrons.

10. Mr Grant referred to the appeal case of Forster and advised that the Licensing Sub Committee was entitled to have regard to decisions made by their Planning Committee and therefore the Applicant wished the Sub Committee to have regard to the 800 capacity granted under planning.
11. Mr Grant stated that the problem of the current capacity was twofold. Firstly, it meant that there were hundreds of customers queuing outside of the Premises late at night particularly on Friday and Saturdays because the Premises had to operate an one in one out policy (and this was despite of 85% of their customers pre booking tables and most of those eat in) so if this application was granted it would take hundreds of people off the street and allow them in within the safety of the Premises. Secondly, there were numerous theatre producers, cinema groups, businesses and charities that wished to hire out a large venue for special events and currently the Applicant had to turn this business away.
12. Mr Grant advised that the Council's SLP recognised that different types of Premises could have different impacts on the cumulative impact area. He gave the following example that 1000 junior doctors and nurses marching through London protesting against their wage cuts would have less impact than 100 football hooligans running a mob; so: it was not simply about numbers. He considered that the Sub Committee could take into consideration the customer base of a Premises and that this particular Premises had demonstrated over the past five years that their customers were not troublemakers. He added that it would be better for the area to allow people into the venue rather than make them stand outside or force them to visit drink led establishments and/or nightclubs. He advised that the Council's SLP promoted such venues within their policies and the Piano Works played a full part in promoting diversity and mental health in London.
13. Mr Grant referred to Appendix 5 of the report which outlined the nine additional measures (conditions 71 to 80) proposed to mitigate any additional potential impact of having more people permitted in the Premises. He emphasised that there would not be 700 persons at the Premises after 01:00 when the Police were perhaps most stretched and that the increased capacity of 700 customers before 01:00 would only apply when the venue operated as a live music venue. He added that this condition future proofed the Premises Licence and prevented it being transferred and operated as a nightclub.
14. He outlined that there would now be a last entry condition on the Premises Licence, that there would be a minimum of two street marshals on duty on a Friday and Saturday night, the Premises would double the ratio of SIA security staff and that there would be a minimum of 350 seats laid out at

tables whilst licensable activities were taking place to prevent vertical drinking.

15. Mr Grant emphasised that proposed condition 76 regarding queueing would take hundreds of people off the streets. He set out that the Applicant was content to agree that no more than 60 persons were permitted to remain in the queue outside the Premises after 23:00 instead of midnight. He confirmed that the Applicant was willing to reduce the current closing hour of midnight to 23:00 on Sundays.
16. Mr Grant summarised by setting out that the PLH had proven exceptional circumstances by offering to attach the nine additional robust conditions to their Premises Licence and that the granting of this application was necessary for the survival of this unique Premises in the West End area.
17. In response to questions from the Sub Committee, Mr Grant advised that the nine additional conditions to be attached to the Premises Licence were the exceptional circumstances being offered by the Applicant. He stated that the patrons attending this Premises did not cause trouble after leaving the venue as they were amongst the demographic that usually went straight home to relieve babysitters.
18. He confirmed that there had been no incidents in the Premises in the past five years and that this was wholly exceptional for Premises situated near Leicester Square operating with their current capacity and operating hours. Mr Grant stated that the Applicant was offering two street marshals to help look after people left within the immediate vicinity and doubling the number of SIA security staff to greatly assist dispersal of patrons. Mr Grant again emphasised his example of the junior doctors (outlined above) and that it was not all about numbers but about the type of people visiting a Premises.
19. He advised that the Premises caused no issues even though it was open late at night and the Sub Committee should take this into consideration when considering the merits of this application.
20. Mr Tristan Moffat, representing The Piano Works, advised that 85% of their guests pre-booked and a reservation needed to be made around 3-4 weeks before visiting the Premises. He outlined that the Premises was actually trying to reduce the cumulative impact in the West End area by allowing people to come into the Premises straight away on arrival.
21. Mr Moffatt then described the daily operation of the Premises from morning brunch to the evening and advised that there was usually no queue outside of the Premises after 23:00. The Sub Committee advised that they expected every operator to be good at managing their Premises and that being a good operator was not an exceptional circumstance.
22. Ms Karyn Abbott appearing on behalf of the Licensing Authority advised that the Premises was a live music venue and therefore should be considered under the Council's Music and Dancing Policy (MDP1) which states that the Applicant needs to provide an exceptional circumstance as to why the

application should be granted contrary to the SLP. She advised that the Licensing Authority welcomed the nine additional conditions offered by the Applicant and the detailed dispersal policy however the Premises in which this application relates was still located in the West End CIZ and any increase was likely to add to the cumulative stress in the West End area.

23. Ms Abbott advised it was, therefore, for the Sub-Committee to be satisfied that the increase in capacity of 300 people would not add to the cumulative impact within the West End CIZ.
24. Ms Ayesha Bolton appearing on behalf of the EHS advised that the service's representation had been maintained on policy grounds. She echoed the submission of the Licensing Authority and added that with regards to Public Safety the Premises could accommodate 700 patrons. She confirmed that the Premises had never received any noise complaints.
25. PC Tom Stewart appearing on behalf of the MPS advised that the Premises did not cause the Police any concerns and that the Police had a good working relationship with the operator. He confirmed that the Police welcomed the nine additional conditions particularly regarding the street marshals and extra SIA security guards.
26. He referred to the Police's crime figures contained in the report and emphasised that most crime and disorder occurred between 23:00 and 04:00. He added that it was unlikely that the patrons attending this venue would commit crime and disorder or anti-social behaviour, however, he wanted to stress that they could become victims of crimes at the times they were to leave the Premises. He advised, therefore, that it was for the Sub-Committee to decide whether the Applicant had proven exceptional circumstances as to why the application should be granted contrary to the requirements of the SLP.
27. Mr Kerry Simpkin, Policy Advisor to the Sub Committee, stated that the increase in capacity in the cumulative impact area was a fundamental consideration for the Sub-Committee and that the general volume of people impacted the area in terms of infrastructure, transportation and crime and disorder.
28. Mr Simpkin drew the Sub-Committee's attention to paragraphs D14 and D16 of the SLP. These were read out to assist the Sub-Committee's understanding of the policy implications that underpin the exceptionality argument.
29. He emphasised that the Sub Committee would need to consider whether the proposals put forward by the Applicant demonstrated exceptional circumstances within the wider West End area.
30. During his summing up, Mr Grant advised that patrons attending the Premises would not contribute to the crime and disorder in the cumulative impact area. He emphasised that the Council's policy was to promote cultural venues, especially live music venues, that offered a diversity beyond the vertical drinking clubs and bars that attracted 18-25 year olds.

31. He highlighted the nine additional robust conditions that had been offered by the Applicant and emphasised that the Applicant was an experienced operator. He added that surely it was better for patrons to be inside a venue rather than queuing on the pavement/street in the busy West End Stress Area.
32. Mr Grant advised that the Applicant would be content to accept a 600 capacity instead of a 700 capacity.

Conclusion

33. The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining the application.
34. In accordance with paragraph D11 on page 47 of the SLP there is an automatic presumption to refuse applications of this nature in the West End CIZ. It is for the Applicant to prove exceptional reasons as required by paragraph D12 of the SLP. The list for exceptional reasons need not be exhaustive, however, in considering whether a particular case is exceptional the Licensing Authority will consider the reasons underlying the West End CIZ special policy and the relevant premises use policies when considering applications.
35. The Premises are a popular venue and adds to the London's live and grassroots music culture right in the heart of the West End providing a diverse cultural offering in Westminster attracting an older clientele with the majority being female customers as highlighted by the Applicant in their written submission at paragraph 20 on page 161 of the agenda report.
36. The Sub-Committee had no question to doubt that the Applicant was a good and responsible Applicant as this was apparent from the evidence before it and the Applicant's proven track record when running the Premises as amplified in some detail by Mr Grant as being an iconic musical venue right in the heart of the west end providing excellent live music to a respected audience.
37. Moreover, as was stated in the hearing by the Policy Advisor and in accordance with Paragraph D14 of the SLP Licence Holders are in any event expected to comply with their licence conditions and promote the licensing objectives and on this basis cannot be considered an exception to policy.
38. The Sub-Committee noted the high level of support the Applicant received in respect of the application including from the Arts Council of England, The Mayor of London's Night Time Czar, UK Hospitality, The Night Time Industries Association, the Music Venue Trust, the Songwriting Academy, Heart of London Business Alliance charities, musicians and local residents and this was to be commended.

39. The Premises are popular; however, popularity is not one of the licensing objectives under the Act and so the correct test to be applied is whether granting the application would have the desired effect of promoting the licensing objectives if exceptionality were to be proven by the Applicant.
40. The Sub-Committee's number one focus was on the additional numbers (in this case an increase from 400 to 700 people even with the later suggestion by the Applicant to reduce to 600) entering the West End CIZ if the application were granted and the effect those numbers would have on the CIA overall. This was the true crux of the matter.
41. The Sub-Committee noted that the Premises has incurred debts since the Covid-19 pandemic and has every sympathy along with other operators within Westminster that are faced in similar positions and are struggling financially and acknowledged that it will take some time for businesses to get back on an even keel to pre-pandemic levels.
42. The Sub-Committee noted the comment made by Mr Grant that large queues form outside of the Premises because of the venue's popularity once the current capacity of 400 is reached and entry to the Premises is on a one-in/one out basis. However, this was in direct conflict with Mr Moffatt submissions when he advised that after 23:00 hours there was hardly any queuing outside of the Premises.
43. The Sub-Committee noted the evidence from the MPS which stated that crime did peak between 23:00 and 04:00 hours. However, it was unlikely that the patrons attending this Premises would commit crime and disorder or anti-social behaviour, but more that they could become victims of crimes at the times they were to leave the Premises. This was an important factor for the Sub-Committee to consider because the Applicant confirmed that three quarters of its patrons were female, and it was therefore not beyond the realms of possibility that this specific group could become victims of crime from 23:00 hours onwards.
44. In terms of the proposed nine additional measures and conditions which are effectively the exceptional reasons set out by the Applicant in his written submission at paragraphs 44-45 on pages 168-170 of the report to rebut the policy presumption to refuse the application these various comments were noted by the Sub-Committee and are dealt with in each turn as follows:-
45. **The capacity of the Premises shall be no more than 400 persons (excluding staff) after 01:00.**

The Sub-Committee contended that even with this restriction in place on capacity the West End CIZ would still be negatively impacted and did not consider this time bar exceptional.

46. **The increase in capacity of 700 customers before 01:00 shall only apply when the venue operates as a venue where live music is played.**

The Sub-Committee contended that even with this personal condition restricting the Premises use to that of a live music venue the numbers in the West End CIZ still exist and therefore this could not be considered exceptional.

47. **No entry or re-enty after 01:00 save for persons who have temporarily left the premises eg to smoke.**

The Sub-Committee did not consider this exceptional because the Premises proposal was to limit the capacity to 700 (even with the added suggestion of 600) in any event. The Sub-Committee always has the power to restrict numbers in any event after consulting the views of the Responsible Authorities and imposing a capacity condition and this in itself is not exceptional.

The Sub-Committee also did not except the argument of “containment” advanced by the Applicant meaning that patrons would stay in the venue and not visit other premises within the West End CIZ.

In the Sub-Committee’s considered view this was a weak argument and could not be considered exceptional because patrons are free to leave the Premises at any time and are not tied to any specific premises.

48. **There shall be a minimum of 350 seats laid out as tables whilst licensable Activities are taking place.**

The Applicant confirmed that the Premises is food led and this was evidenced by the various food menu choices on offer and produced as evidence in the agenda report. The Sub-Committee considered that with those number of seats waiter and waitress service is to be expected in any event so this could not be considered an exceptional reason.

The Sub-Committee took the view that any competent operator running a hugely popular venue with such a high patronage frequenting the Premises would employ good practices as this was part and parcel of the daily running and management of the Premises in accordance with proposed Condition 17 which states “*when the sale of alcohol shall be ancillary to the provision of music and dancing and substantial food throughout the licensable hours*” so again this was not considered exceptional.

49. **No more than 60 persons are permitted to remain in the queue outside the premises after midnight.**

The Sub-Committee did not consider this exceptional because it expects queues to be properly managed by the Applicant in any event and the Applicant in evidence advised that there were hardly any queues outside of the Premises after 23:00.

50. **The Premises shall operate in accordance with a dispersal policy drawn up in consultation with the licensing authority and the police.**

The Sub-Committee expects all licence holders to put appropriate measures in place to promote the licensing objectives. With the high volume of footfall at the Premises a dispersal policy is to be expected in any event given the large numbers expected in the West End CIZ as this would help mitigate any potential public nuisance issues. This measure is not exceptional.

The Sub-Committee expects the Applicant to identify what preventative measures are to be in place in an application of this type and what conditions are to be covered in the operating schedule. These measures are not over and above what an operator is expected to do to ensure compliance with its licence conditions and the promotion of the licensing objectives.

51. **The premises shall deploy a minimum of 2 street marshals on a Friday and Saturday from 23:59 hours until 30 minutes after the premises closes to the public to patrol the vicinity around the premises. At all other times street marshals shall be deployed on a risk assessment basis.**

The Sub-Committee did not consider this proposal exceptional. It expects licence holders to put such measures in place when it comes to the promotion of the crime and disorder licensing objective particularly when crime in the West End CIZ peaks after 23:00 hours so it would be appropriate and proportionate for the Premises to have sufficient security measures in place.

52. **On Fridays and Saturdays, the ratio of SIA security staff to customers shall be increased to 1:50 (unless the police agree in writing to a different number for a particular event.**

The Sub-Committee did not consider this exceptional as crime in the West End CIZ peaks after 23:00 where customers of premises are likely to be targets of crime which would include this Premises patrons. Additional security at the Premises goes to the core management practices of the Premises to promote the licensing objectives and again these measures are not over and above what a good operator is expected to carry out in any event.

53. The Sub-Committee did not come to the Decision lightly to refuse the application because it realises that the operator runs his Premises well and is a popular venue within the West End CIZ. However, the Sub-Committee has a duty to safeguard the reasons that protect the very foundations of the CIP1 policy and the global impact granting such an application would have within the cumulative impact area.

54. Without doubt the Applicant is a good operator, but this alone is not sufficient to demonstrate an exception. Similarly, the Sub-Committee considered the mitigation measures advanced by the Applicant when considering the global and cumulative effects of licences on the area as a whole but these proposed

measures did not go far enough in addressing these specific issues as more detailed in paragraphs 45-52 above.

55. The key consideration which the Sub-Committee had to grapple with was whether granting the application would have a negative impact on the West End Cumulative CIZ and this ultimately was the overriding factor and test for the Sub-Committee to decide. It concluded that granting the application would have such negative impact.
56. In arriving at this Decision, the Sub-Committee considered the evidence of the Applicant and of the Responsible Authorities who had objected to the application both orally and in writing.

The Sub Committee noted D12 of the SLP, which states that –

“D12. Applicants for premises uses that have a presumption to refuse will be expected to demonstrate an exception as to why their licence application should be permitted. It is not possible to give a full list of examples of when the council may treat an application as an exception. However, in considering whether a particular case is exceptional, the Licensing Authority will consider the reasons underlying the West End Cumulative Impact Zone special policy when considering applications”

And D16 which states that –

“D16. The Licensing Authority’s policy, in relation to the West End Cumulative Impact Zone, is directed at the global and cumulative effects of licences on the area as a whole. Therefore, a case is most unlikely to be considered exceptional unless it is directed at the underlying reason for having the policy. Exceptions to the West End Cumulative Impact Zone policy to refuse certain types of applications must be for genuinely exceptional reasons.”

57. In terms of exceptional circumstances, the Applicant relied on their oral and written submissions. As made clear in the SLP, there is no definitive list of what constitutes an “exceptional circumstance”. However, in considering whether a circumstance is in fact exceptional, regard will be had to the reasons underlying the West End CIZ that are directed at the global and cumulative effects of licences in the area as a whole.

The Sub Committee noted D14 - D15, which state that –

“D14. The Licensing Authority will not consider a case to be exceptional merely on the grounds that the premises have been or will be operated within the terms of the conditions on the licence, or that are or will be generally well managed because of the reputation or good character of the licence holder or operator. This is expected in the conduct of all licensed premises. Moreover, licences are for premises and can be easily transferred to others who intend to operate within the scope of the licence and its conditions. Neither will the licensing authority consider the case to be exceptional merely because the capacity of the premises, or any proposed increase in capacity is small. The high number of premises within the West End Cumulative Impact Zone means

that a small increase in capacity in each premises would lead to a significant increase overall within that area. It has been commonly argued that customers will be drawn from other premises and there will be no increase in people within the area. The experience of the council is that this is not the case. The massive increase in capacities in the past and, the continuing number of further applications and the observable night-time occupancy levels of premises serve to discredit the argument. Each incremental increase in capacity contributes in part to increasing the attraction of the area as a “honey pot” destination for night-life and to the cumulative problems created by such a high concentration of activity in the area.

D15. Any list of circumstances where exceptions may be granted is not definitive. One example might be a proposal to transfer an existing operation from one premises to another, where the size and location of the second premises is likely to cause less detrimental impact and will promote the licensing objectives, and where the existing operation would otherwise continue as before in the first premises. In order for this to be treated as a consideration justifying an exception to policy, the council will need to be satisfied that the necessary legal mechanisms are in place to ensure that the original premises licence will cease to be operable and cannot be transferred once surrendered. In considering whether there is likely to be less detrimental impact, the Licensing Authority will consider the actual operation of the premises which it is proposed should close, and it will take into account any future proposals which would affect the continued operation of those premises.”

58. Taking everything into account, it was the Sub Committee’s considered view that the exceptional circumstances advanced by the Applicant did not amount to exceptional circumstances as, in the Sub Committee’s view, they did not go to the reasons underlying the West End CIZ when having regard to the fact that even a small change in the West End CIZ contribute to cumulative problems created by such a high concentration of activity in the area even would still be negatively impacted because of the increase in numbers overall even with the slight reduction in any event to 600 patrons.
59. The Sub Committee did not doubt the quality of the management of the Premises. However, as made clear by D14 *“The Licensing Authority will not consider a case to be exceptional merely on the grounds that the premises have been or will be operated within the terms of the conditions on the licence, or that are or will be generally well managed because of the reputation or good character of the licence holder or operator. This is expected in the conduct of all licensed premises”*.
60. The Applicant’s proposed conditions were considered by the Sub-Committee but it was felt that these would not address the immediate concerns of the parties, the various policy considerations when looking at the West End CIZ and the promotion of the licensing objectives.
61. The Sub-Committee realises that it has a duty to strike the right balance when considering the needs of the Applicant and those parties that had objected to the application and took the view that the right balance has been struck when

considering the global impact granting such an application would have on the overall effect for the area. It therefore concluded that an increase of 200-300 people would have a negative impact on the cumulative impact area leading to the licensing objectives being undermined which is not what the Act is designed to do.

62. The Sub-Committee will of course appreciate that the Applicant will be disappointed with this Decision but after very careful consideration of the application and the proposed conditions that were offered to mitigate the concerns of all parties that objected exceptionality was not proven.

Accordingly, the Sub-Committee decided that the Applicant had *not* provided sufficient reasons as to why the granting of the application would promote the licensing objectives and therefore ***refused*** the application.

In all the circumstances of the case the approach taken by the Sub-Committee is considered appropriate and proportionate. The application is ***Refused***.

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

**The Licensing Sub-Committee
27 April 2023**

The Meeting ended at 3.05 pm