



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 5th October, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Aziz Toki (Chair), Judith Southern and Jacqui Wilkinson

1. MEMBERSHIP

1.1 It was noted that there were no membership changes.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. THE UNIVERSITY WOMEN'S CLUB, 2 AUDLEY SQUARE, W1K 1DB

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 1

5 October 2023

Membership: Councillor Aziz Toki (Chair) Councillor Judith Southern and Councillor Jacqui Wilkinson

Officer Support Legal Adviser: Horatio Chance
Policy Officer: Daisy Gadd
Committee Officer: Jack Robinson-Young
Presenting Officer: Roxsana Haq

Application for a New Premises Licence in respect of The University Women's Club 2 Audley Square London W1K 1DB 23/03384/LIPN

Other parties present: Thomas O'Maoileoin (Thomas and Thomas Solicitors), Alex Maitland (General Manager), Sally Fabbriatore (Environmental Health Service), Ms A, Ms G, Mr A (Local residents)

Full Decision

Premises

The University Women's Club
2 Audley Square
London
W1K 1DB

Applicant

The University Women's Club Ltd

Cumulative Impact Area

N/A

Ward

West End

Special Consideration Zone

N/A

Activities and Hours

The Exhibition of Films, Live Music, Recorded Music, Performance of Dance, Anything of a similar description that falling within (e) (f) (g)

Monday to Sunday 07:00 to 01:00

Late Night Refreshment (Indoors)

Monday to Sunday 23:00 to 01:00

Sale by Retail of Alcohol (On and Off the Premises)

Monday to Sunday 23:00 to 01:00

Opening Hours of the Premises

Monday to Sunday: 00:00 to 00:00

Sunday 12:00 to 01:30

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

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act") in respect of the University Women's Club 2 Audley Square London W1K 1DB ("The Premises"). The Premises intends to operate as private member's club. The Premises currently benefits from a Club Premises Certificate (06/07833/WCCMAC).

The Applicant has sought pre-application advice from the Council's EHS and seeks to replace the Club Premises Certificate with a new Premises Licence as follows:

- a) ***Regularise the permitted hours for alcohol and other licensable activities to 07:00 to 01:00 Monday to Sunday - i.e. actually reducing the hours for regulated entertainment (which are currently unrestricted, 24/7); and***
- b) ***Permitting alcohol to be supplied to persons attending bona fide pre-booked functions and events, alongside standard supplies to members of the Club and their guests.***

The Premises history can be found at **Appendix 3** of the agenda report.

The Applicant has provided documents that include an introduction and description of the application, the pre-application advice report, list of proposed conditions, the Club's dispersal policy and a letter to interested parties. This can be found at **Appendix 2** of the report. The proposed 20 conditions can be found at **Appendix 4** of the report.

The Premises are located within the West End Ward but not located in either the West End CIZ or Special Consideration Zone. There is no policy presumption to refuse applications outside of the West End CIZ. The matter was assessed on its individual merits having regard to the evidence before the Licensing Sub-Committee and the promotion of the licensing objectives.

There is a resident count of 155.

Representations were received from the Environmental Health Service and 29 local residents all citing concerns regarding public nuisance and public safety.

Representations received

- Environmental Health Service (Sally Fabbriatore) (EHS).
- 29 Local residents.

Summary of issues raised by objectors

- *The provision of the Supply of Alcohol may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.*
- *The provision of Late-Night Refreshment may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.*

- *The provision of Regulated Entertainment may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.*
- *The non-standard timings may cause an increase in Public Nuisance in the area.*
- *The applicant did seek pre-application advice, 23/00855/PREAPM. Further information has been provided, including proposed conditions. Further conditions may be proposed by Environmental Health in order to promote the Licensing Objectives.*
- *The granting of the new Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the area and may impact on Public Safety.*
- *I object to the up mentioned application for the reason is that the licence application for the university woman's club is to play music, and sale of alcohol, from 07 am until 1 am at night, Monday to Sunday that would cause me and my family nuisance due to the generated noise and that is detrimental to our peace and quiet enjoyment.
Plus, we are already suffering from the construction noise from Audley Square development and now adding this on top that would be an unbearable disturbance to us and to other residents I presume.*
- *I and my partner request that you reject this proposal in its entirety. We live in Chesterfield House and this is a quiet residential building. Approving this application will allow for late night noise from music and patrons. The area already has an issue with anti-social behaviour of noise on Curzon Street, that the police cannot get a grip on. Cars will loudly and dangerously show off creating noise and disturbance to residents in this building. Approving the application for The University Woman's Club will only add to this anti-social behaviour, by the noise the club will make AND give further opportunities for these dangerous drivers to show off to the patrons coming and going from the club on South Audley Street.*
- *Last year there was an issue with live and recorded music coming from 3 Audley Street, starting in the early evening till very late. The noise was unbearable as it reverberates around the courtyard that Chesterfield House has. My partner and I are shift workers in safety dedicated roles and we were forced to go to work not fully rested because of the noise from 3 Audley Street. The University Woman's Club is closer to us and therefore will cause even more noise and disturbance. Please keep in mind that there are plenty of other similar venues in the vicinity so there doesn't need to be anymore. Why should the long standing residents of Chesterfield House be subjected to this? There is also the question of, do we need to provide more outlets for people to binge drink, further developing an epidemic in the UK, especially London. The residents of Chesterfield House are subjected to noise all day from the current construction at Audley Square, so please don't provide more opportunities for noise in the evening.*
- *I am writing to voice my strong objection to the above application to allow parties where alcohol will be served to the early hours.
As a resident in Chesterfield House located to the south of the University Women's Club, my flat will be adversely affected by the noise generated by alcohol-fuelled party-goers until 1am in the morning. It will be intolerable. Allowing such revelry in this quiet residential area will fundamentally alter the nature of this peaceful corner of Mayfair.*

The application claims that "external doors leading into the rear garden shall be maintained closed after 22.00 hours or whenever regulated entertainment is provided in the ground floor dining room", but how will that be enforced? Or, "The provision of licensable activity in the rear garden shall cease at 23.00 hours daily." This means that on any night of the week, there may be a party taking place in the rear garden until 11pm at night. In fact, on the application for the license it states that alcohol be served until 1am.

- This will be an infringement on the rights of the neighbours - such as those of us who live in Chesterfield House - to have an evening in without boisterousness next door. For all the above reasons stated, any activity that may take place within the University Women's Club must be restricted to indoors only, up to 11pm. I trust you will take into account my objections and reject this application.*
- I object to the up mentioned application for the reason is that the license application for the university woman's club is to play music, and sale of alcohol, from 07 am until 1 am at night, Monday to Sunday that would cause me and my family nuisance due to the generated noise especially late at night and that is detrimental to our peace and quiet enjoyment. Plus, we are already suffering from the construction noise from Audley Square development and now adding this on top that would be an unbearable disturbance to us and to other residents I presume.*
- I STRONGLY OBJECT to this application as this establishment is a direct neighbour and I wish to have peace and quiet enjoyment in my home without having to listen to late night music (live and recorded), dance nights or even guests venturing out into the garden which is directly beneath flats in Chesterfield House.*
- I currently enjoy the quiet environment of my home, and appreciate the quietness of the area, particularly in the evening and at weekends. There already is construction noise from the Audley Square development which detracts from the ambience of my flat during the day. If this were to be the case at night, my life would be very different and far from that which I currently enjoy. I am a long standing taxpayer in Westminster since 2001, and the quiet environment of South Audley Street, Chesterfield Gardens and Curzon Street is a key attraction of the area. Please do not grant this license and affect adversely the lives of the residents of Chesterfield House.*
- As owner of Flat 27 Chesterfield House, I object to this application as this is a direct neighbour of Chesterfield House, a residential property, and the proposal will have a direct impact on our property.*
- I refer to the licence application by the University Women's Club which, yet again, is another application to destroy the comfort of residents of this area. I cannot believe that any reasonable person would allow such an application to proceed. I just wonder whether these people would like to have music/noise on their doorsteps - or would they simply prefer to destroy what is currently a very pleasant residential area. Chesterfield Gardens is not Soho where one would expect to have entertainment at any time of the day to satisfy the desires of selfish people. I hope that Westminster City Council will have some sympathy for the law-abiding people who wish to live in a quiet residential area. I wonder whether the Councillors and officials would like to have this sort of disturbance next to their private homes? Please consider the interests of the residents who have resided peacefully in this area for many years. I urge you to reject this application by individuals who have no concern*

whatsoever for those who wish to continue living in a pleasant and relaxed atmosphere, as they have done so for many years. With the UWC on one side, and Tchenguiz on the other, this will be a very unpleasant environment in which to live.

- *I have a flat in Chesterfield House, which is directly adjacent to The University Women's Club and my flat is within direct earshot of this establishment and this has been the subject of several complaints in the past. I therefore STRONGLY OBJECT to this application in entirety, as this establishment is a direct neighbour to my flat and I wish to have peace and quiet enjoyment in my home without having to listen to late night music (live and recorded), dance nights or even guests venturing out into the garden which is directly opposite my flat.*

Policy Position

Policies HRS1 and PB1 apply under the City Council's Statement of Licensing Policy apply (SLP).

Policy 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:

6. Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday:

Midday to Midnight.

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.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.

Policy PB1

Policy PB1 applies 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 Zones policy SCZ1 if the premises are located within a designated zone.

5. The application and operation of the venue meet the definition of a Public House or Bar in Clause D.

D. For the purposes of this policy a Public House or Bar is defined as a premises, or part of a premises that's primary use is the sale or supply of alcohol for consumption on those premises and/or for

consumption off the premises for consumption outside the venue.

SUBMISSIONS AND REASONS

The Presenting Officer Roxsana Haq outlined the application to the Sub-Committee. She advised that this was an application for a New Premises Licence in respect of the University Women's Club 2 Audley Square London W1K 1DB. She advised that the Premises intends to operate as a proprietary member's club replacing the current Club Premises Certificate with a new licence by regularising the permitted hours for alcohol and other licensable activities from 07:00 to 01:00 Monday to Sunday and permitting alcohol to be supplied to persons attending bona fide pre-booked functions and events. Representations have been received from the EHS and 29 local residents raising public nuisance concerns.

Mr Thomas O'Maoileoin Solicitor acting on behalf of the Applicant addressed the Sub-Committee. He advised that the club has existed for 100 years and is not limited to those who have attended a university, despite the name. Mr O'Maoileoin wanted to clear up any ambiguity in the papers which stated the club to be a "proprietary club" and this was not the case, in fact the venue was a qualifying club in terms of the Licensing Act, and that it will continue to be owned, maintained and managed by the members with no profit made.

Mr O'Maoileoin said that on page 40 of the agenda report, Mr Watson who was formerly of the EHS at Westminster City Council suggested that Conditions be placed to ensure this operates as intended. Mr O'Maoileoin said that these Conditions had been accepted and included who can be served, the rights of guests of members, prebooked functions and events.

Mr O'Maoileoin said that the rationale for the application and change in status was because there was a financial need in terms of its membership which was at a low. He said that by opening the doors of the club to likeminded professional bodies for functions and events, it was hoped that some attendees then would become members.

Mr O'Maoileoin advised that this will not be a free for all, and there will be an application process should someone want to hold an event at the club. He said that there had been interactions with local residents, outreaching to them about their concerns, however a circulated letter was refused by the residents. After this, some direct letters were sent and were received with contact being made. Speaking to complaints made against the club from Environmental Health, Mr O'Maoileoin advised that one concerned an event in the summer where a classical tenor was singing and where the windows and doors were open and the second was during a wedding when a DJ had played music at a higher than expected volume despite being told not to.

Mr O'Maoileoin advised that there were suggestions on three conditions including a noise limiter, conditions on the windows and doors and finally for the rear garden to be closed by 21:00. Turning to the hours, the 07:00 time for sales of alcohol would be minimal.

In response to questions from the Sub-Committee Mr O'Maoileoin confirmed the following matters:-

- The club's membership is in the region of 850.
- There are 21 bedrooms in the building which is open 24 hours for members.
- Members are not permitted to eat or drink in the bedrooms.
- The Applicant has contacted some specific groups with a view to holding the Premises as an events space – we do not need to over publicise.
- In terms of the largest events held there has been 80-90 people.
- The dining room has a capacity of 60 and that was the daily average.
- It is important that the Club builds bridges with local residents because we do not want to cause a nuisance and be a disturbance.
- There are currently 1-2 events weekly. These are likely to be book readings and poetry in the library/dining room and so will not cause a problem.
- The Club's events committee will determine the nature and type of events so there is proper screening.
- The Applicant is happy to surrender the Club Premises Certificate should the Sub-Committee be minded granting the application.

Mr Alex Maitland the General Manager for the Applicant addressed the Sub-Committee. He advised that there is roughly an average of 1 or 2 events a week with some having 10 people or less. Mr Maitland said regarding deliveries and noise there are no early morning deliveries with any bottles being delivered after 09:00. Mr Maitland advised that in relation to the off sales/sealed containers this may be for a wine tasting event where a person may wish to buy a case to take home.

Mrs Sally Fabbricatore appearing on behalf of the EHS addressed the Sub-Committee. She advised that EHS concerns in respect of the application related to public nuisance. Mrs Fabbricatore advised that site visits had been undertaken and that a premises licence rather than the current club premises certificate does give the Licensing Authority stricter control and greater powers under the Act over the Applicant was welcomed.

Mrs Fabbricatore said noise from people in the outside area and noise from music escaping were the main issues of their objection. She stated that Model Condition MC11 for a noise limiter had been agreed as well as Model Condition MC14 requiring that doors and windows were to be closed by 23:00.

Ms Annika Blixt, a local resident addressed the Sub-Committee regarding the circulated letter. She confirmed that this was given to the board, but actually was not sent. Ms Blixt said that there was an inner courtyard with a wall that borders the club and that it was a concern of all residents that this application would increase the levels of noise not just in the garden but from the building itself.

In reply to questions from the Sub-Committee Ms Blixt said she would like to see the closure of windows and doors and to ensure the garden is vacated at an appropriate hour. However, whilst these conditions are welcomed, during hot summers it would be unimaginable to think that a window remains open past when it was condition to be closed.

Ms Pat Gold a local resident, said she has been a resident for 30 years and has repeatedly seen parties making noise inside and outside which has disturbed her.

Mr Mike Dunn appearing on behalf of the Residents Society of Mayfair and St James addressed the Sub-Committee and said his main concern was the extension to third parties to host events in their club. He said while it was restricted to their own members, this allowed the club to sanction members and maintain a level of control.

Mr Dunn said that if third parties were allowed to host events, residents will suffer from the lack of control the club will have over those in their premises. He said that he did not wholly welcome a limit on events, but did welcome a limit on events held by third parties. Mr Dunn said he was pleased that the garden would be vacated by 21:00 except for those smoking who should not be permitted to take drinks out with them.

In response to local residents, Mr O'Maoileoin said that the Sub-Committee needed to ask themselves if this submission was robust enough, having worked with the EHS to ensure there would not be public nuisance. Speaking to off-sales of alcohol, again Mr O'Maoileoin said these were very rare and would only be for instances of a wine tasting for example. Mr O'Maoileoin spoke to the hours asked for, and said these were simply for flexibility, He said the hours sought were in line with other clubs across London.

Mr Maitland said there were sanctions against third parties including the ability for an event to end early and that their licence would not be forfeit under their current licence, but the premises licence application before Sub-Committee today would be. Mrs Fabbriatore asked Mr O'Maoileoin if the Applicant was agreeable to the closure of windows and doors, and in response Mr Maitland did not want to have this enforced if there was a singular person in a room. He said that he was happy to have this condition for entertainment taking place in any room.

In summing up Mrs Fabbriatore said that following on from conversations about deliveries, that the Premises has operated for a number of years with no issues on deliveries this was something that did not require conditioning.

In summing up Mr O'Maoileoin said he had nothing further to add to his submissions.

Conclusion

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

The Sub-Committee noted that there was no policy presumption to refuse an application of this type and the test to apply was the promotion of the licensing objectives.

The Sub-Committee had regard not only to the written and oral evidence but also to the requirements of the Act, The Guidance issued under section 182 of the Act and the City Councils SLP in the main policies HRS1 and PB1 and that pre-application advice was sought by the Applicant from the Council's EHS.

The Sub-Committee noted that the Premises operates as a private members club and that it will now have tighter control with a Premises Licence and updated conditions. In this respect the Club Premises Certificate is to be surrendered.

The Sub-Committee noted the concerns of the parties that had objected to the application particularly in relation to nuisance and the breakout of music.

Having carefully considered the matter, the individual circumstances of the case and the need to promote the licensing objectives, the Sub-Committee decided to **grant** the application. The Sub-Committee was persuaded that the application met the policy requirements and arrived at this decision based upon the merits of the application and the various safeguards and measures the Applicant is to implement from a management perspective in the running of the Premises that will uphold the promotion of the licensing objectives.

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

In terms of the conditions these are all the conditions as stated at pages 27-31 of the agenda report. The Timings in relation to conditions 21 and 22 have now been amended to read 21:00 hours.

The Sub-Committee has imposed the following model conditions and Informative which are now imposed on the premises licence:-

- MC14 requiring doors to be kept closed after 23:00 when licensable activities are taking place.
- MC11 for a noise limiter.
- MC24 requiring the Premises to provide a telephone number.
- MC43 regarding collections.
- MC61 requiring the Club Premises Certificate to be surrendered.

As an Informative the Sub-Committee would strongly recommend that any noise nuisance complaints are made directly to the Council's Noise Team so that a proper log can be kept.

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

1. To grant permission for **the Exhibition of Films, Live Music, Recorded Music, Performance of Dance, anything of a similar description to that falling within (e) (f) (g) (Indoors)** Monday to Sunday 07:00 to 01:00
Seasonal variations: Unrestricted for residents. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

2. To grant permission for **Late-Night Refreshment (Indoors)** Monday to Sunday 23:00 to 01:00 **Seasonal variations:** Unrestricted for residents. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
3. To grant permission for the **Sale by Retail of Alcohol (On and Off the Premises)** Monday to Sunday 23:00 to 01:00 **Seasonal variations:** Unrestricted for residents. Unrestricted for residents. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
4. To grant permission for the **Opening Hours of the Premises** Monday to Sunday: 00:00 to 00:00 Unrestricted for residents. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
5. That the Licence is subject to any relevant mandatory conditions.
6. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

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

7. The supply of alcohol for consumption 'On' the premises shall be restricted to members of The University Women's Club and their bona fide guests and persons attending bonafide pre-booked functions and events as managed by The University Women's Club. A list of persons attending a pre-booked function or event shall be available for inspection by the relevant authorities.
8. The supply of alcohol between 07.00 and 09.00 hours Monday to Sunday shall be ancillary to the provision of substantial food, except for residents and their bona fide guests.
9. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
10. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed,
Dining Room – 60 persons
Library – 60 persons
Drawing Room – 60 persons
11. There shall be no sales of alcohol for consumption 'Off' the premises after 23.00 hours.
12. All sales of alcohol for consumption 'Off' the premises will be in sealed containers only and shall not be consumed on the premises.

13. A Challenge 21 or Challenge 25 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, military ID card, passport or proof of age card with the PASS Hologram.
14. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
15. 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.
16. 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, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) 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.
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. The external doors leading into the rear garden shall be maintained closed after 22.00 hours or when ever regulated entertainment is provided in the ground floor dining room, except for immediate access and egress or in an emergency.
19. The provision of licensable activity in the rear garden shall cease at 23.00 hours daily.
20. Patrons permitted to temporarily leave and then re-enter the premises at ground floor level, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

21. 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.
22. 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.
23. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
24. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
25. All windows and external doors shall be kept closed after (23:00) hours or at any time when regulated entertainment takes place except for the immediate access and egress of persons.
26. A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria:
 - (a) the limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses,
 - (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence Holder,
 - (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team,
 - (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and
 - (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
27. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
28. No collections of waste or recycling materials (including bottles) from the premises shall take place between **(23:00)** and **(08:00)** hours on the following day.
29. No licensable activities shall take place at the premises until Club Premises Certificate 06/07833/WCCMAC (or such other number subsequently issued for the premises) has been surrendered and is incapable of surrender.

Informative

30. Local residents living in close proximity to the Premises disturbed by nuisance emanating from the Premises are strongly encouraged to report such instances of nuisance directly to the City Council's Noise Team to ensure that a proper record of complaints are kept.

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

**The Licensing Sub-Committee
5 October 2023**

2. BASEMENT AND GROUND FLOOR, 9 BERWICK STREET, W1F 0PJ

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 1

Thursday 5 October 2023

Membership: Councillor Aziz Toki (Chair) Councillor Judith Southern and
Councillor Jacqui Wilkinson

Officer Support Legal Adviser: Horatio Chance
 Policy Officer: Daisy Gadd
 Committee Officer: Jack Robinson-Young
 Presenting Officer: Roxsana Haq

Application for a New Premises Licence in respect of The Soho Social Basement and Ground Floor 9 Berwick Street London W1F 0PJ 23/038/10/LIPN

Other parties present: Manuel Roche (Applicants Agent), Jessica Donovan (Environmental Health), Anil Drayan (Environmental Health), Tim Lord (Soho Society), Richard Brown (Soho Society), John Wallace, Commercial Director (Soho Housing Association) ("SHA") 4 Local residents.

Full Decision

Premises

The Soho Social
Basement and Ground Floor
9 Berwick Street
London
W1F 0PJ

Applicant

The Soho Social & Co Ltd

Cumulative Impact Area

West End Cumulative Impact Zone (“West End CIZ”)

Ward

West End

Special Consideration Zone

N/A

Activities and Hours

Late Night Refreshment (Indoors)

Monday to Saturday

Sunday N/A

Sale by Retail of Alcohol (On and Off the Premises)

Monday to Saturday 10:00 to 23:30

Sunday 10:00 to 22:30

Opening Hours of the Premises

Monday to Sunday: 08:00 to 00:00

Seasonal variations: None

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 (“The Act”) in respect of The Soho Social Basement and Ground Floor 9 Berwick Street London W1F 0PJ (“The Premises”). The Premises intends to operate as a café and tapas bar. There is no premises licence history.

The Applicant has proposed a number of conditions in their operating schedule and has also agreed a number of conditions with the MPS. These can be found in **Appendix 4** of the agenda report.

On original submission of the application, the Applicant applied for the following:-

- *Late Night Refreshment Monday to Sunday 23:00 to 23:30*
- *The Sale by Retail of Alcohol Monday to Sunday 10:00 to 23:30*
- *Opening Hours Monday to Sunday 08:00 to 00:00*

The Applicant has since reduced the hours for Sundays for all licensable activities which are reflected in section 1-B of the report.

The Premises are located within the West End Ward and the West End CIZ. There is no policy presumption to refuse applications for a restaurant premises inside with West End CIZ provided that they do not add to negative cumulative impact. The matter was assessed on its individual merits having regard to the evidence before the Licensing Sub-Committee and the promotion of the licensing objectives.

Representations were received from the Environmental Health Service, Metropolitan Police Service (**withdrawn**) Local Ward Councillor, The Soho Society and 15 local residents all citing concerns regarding public nuisance and crime and disorder.

There is a resident count of 264.

Representations received

- Metropolitan Police Service (PC Adam Deweltz) **WITHDRAWN**
- Environmental Health Service (Anil Drayan)
- The Licensing Authority (Jessica Donovan)
- 14 Local residents
- 1 Local Councillor (Patrick Lilley)
- 1 Local Association (The Soho Society)

Summary of issues raised by objectors

- *The Supply of Alcohol 'On' and 'Off' the premises and for the hours requested may impact on Public Safety and lead to an increase in Public Nuisance in the West End CIZ.*
- *The Provision of Late-Night Refreshment Indoors' and 'Outdoors' may lead to an increase in Public Nuisance in the West End CIZ.*
Environmental Health also makes the following further comments:
Westminster's Statement of Licensing Policy – see on the Council's website – requires licensed premises to demonstrate compliance with policy CH1, Protection of Children from Harm, Free advice on complying with this can be found at: (see page 36 of policy)
- *An extensive list of conditions and undertakings have been offered but these appear to be insufficient to be consistent with the Statement of Licensing Policy eg the 'restaurant' condition for the CIZ has not been offered. In addition, the hours for licensable activities requested on Sundays go beyond 'core' hours.*
- *The provision of sanitary accommodation must be at least in line with BS6465 for the proposed capacity particularly as the premises are located in the CIZ. Also, separate provision for food handling staff is advised.*
- *An assessment will need to be made as to how the plant and machinery employed for the cooking of food will not result in odour or noise nuisance*
- *It is unclear if the premises have already been refurbished for the proposed use. Clarification is therefore sought as to the previous use of the premises to determine if this proposed use will result in nuisance from the internal transfer of noise to other users within the building block. Standards to be achieved are outlined in Appendix 11 of the Statement of Licensing Policy*
- *The applicant is therefore requested to contact the undersigned to discuss the above and arrange a site visit after which Environmental Health may propose additional conditions for the proposed use.*

- *The Licensing Authority require the applicant to provide submissions as to how the operation of the premises will not add to cumulative impact in the West End cumulative impact zone, in accordance with policy CIP1.*
- *I am writing to object to the above application in the strongest terms and in support of residents very nearby including feet away and the amenity group with hundreds of local members The Soho Society.
As a council we need to pay due attention to the licensing objectives which are designed to actually protect people. Adding more and more licenses to sell more and more alcohol is a recipe for more crime and disorder, more public nuisance. This application really needs a simple refusal.*
- *There are 500 other licenses around Soho cheek by jowl to large residential housing literally feet away: Kemp House on Berwick Street along with privately rents flats above shops all along Berwick Street and adjacent Peter Street. The cumulative impact needs acknowledging: one more alcoholic bar plus their right to apply for a large number of temporary entertainment licenses.*
- *Cars pull up at night on Berwick Street attracted by licensed venues and impromptu parties happen as revellers pre-load before going to a bar or club. Revellers also congregate already after the bars close meaning their impact is well above and beyond core hours. Nearby is Frith and Greek Street and adjoining Bateman Street we cannot turn a blind eye to the total excess of licenses causing the streets to be chock block with pavements blocked, crowds and cars and potentially emergency vehicles in gridlock. I have seen police vehicles stationary for many minutes due to the crowd accumulated in road and pavements nearby.*
- *The din and disorder faced is escalating with crime up by over 30% and insufficient police. We try to ensure people don't urinate on Berwick and nearby streets but it's nigh on impossible. This is a public nuisance directly caused by licensed premise like this application. On those grounds alone as local councillor and as lead member for Soho, please decline this licence as councillors we have a duty to protect people from the life changing consequences of crime and nuisance.*
- *I live a few yards away from the premises at the corner of Berwick and Broadwick Streets. I have lived there for more than 30 years. This is a highly residential area of Westminster with a large number of residents along the street and opposite at Kemp House. Noise nuisance is already bad with 2 pubs, and multiple cafes making illegal use of the pavement and carriageway. I am routinely unable to sleep until after midnight and this is impacting my health and I'm sure many other residents. Crime in Soho is also very significant and appears to be highly correlated with the number of alcohol licences according to the council's own data. I would respectfully ask that the application be refused on grounds of noise and crime.*
- *I would like to object to the licensing application for 9, Berwick Street. This is described as a Cafe/Tapas bar. What reason would a Cafe owner want a license for? This description is deliberately misleading. Quite obviously, the owner is only interested in increasing his profits by selling alcohol.*
- *While the reasons for my objection to the awarding of an alcohol license to this location are obvious: Noise; overcrowded pavements; street noise till late at night; urine and vomit; crime etc. all these to the detriment of the residents of Soho. But I also believe that the distortion of rents once a premise has a*

license, means there are fewer available premises to rent to other forms of business. Rents are being artificially skewed to the detriment of the small business. Surely there are already far too many bars in Soho? The area has lost much of its charm of yesteryear. The, once many small specialist shops are no longer in Soho. They can no longer afford the rents.

- I cannot believe the top echelon of tourists, that we are told will occupy beds in the new Broadwick Hotel, for example, wish to come out onto today's streets of Soho: to the chaos and alcoholic rowdiness of an evening that is now the norm. I would like to object to the awarding of a licence to Application ref. number 23/03810/LIPN to the premises at 9 Berwick Street in the strongest terms.*
- The environmental health of Berwick Street has deteriorated enormously over the past year or more with the opening of new restaurants, bars and shops which has resulted in constant noise and disturbance from music and the congregation of often drunk and/or disruptive customers and passers-by. The disturbances are frequent, all day and every day of the week, and create a very stressful environment in which to reside.*
- I notice that this application does not include a licence for live or recorded music ("e" & "f" under the section "Provision of regulated entertainment"), but I am not certain that this means that music cannot be played on the premises at all.*
- This particular application is asking for the premises to operate with the licences every day of the week until 11.30 pm, with closure at midnight. The fact of these late hours, combined with the inevitable noise and disturbance resulting from outdoor eating and drinking, and the possibility of yet more music playing, means that I strongly object to the granting of this licence application.*
- I respectfully ask the Licensing Group not to grant this application as the short area from Berwick Street across two blocks to my own street (Ingestre Place) is possibly the most densely populated area of residential Soho. This section of Berwick Street, along with Hopkins Street, Ingestre Place, Peter Street and Broadwick Street may be in the heart of the West End cumulative impact area, but it is also unusually quiet and peaceful, despite the amount of cafes and bars already established on Berwick Street. Approximately two thousand people live in these few streets and we all prize the general peace and quiet of the immediate neighbourhood!
Granting applications like this, which wants to open from 8.00am until midnight, seven days per week, and appears more like a bar than a cafe, will erode the residential amenity of this part of Soho and degrade the area.*
- Soho is already saturated with alcohol-led premises and any more will simply jeopardise the residential aspect of the neighbourhood as more and more people visit here to eat, get drunk and be loud.
If the application were to adhere to core hours (as outlined in Westminster Policy) and drop the application for an alcohol licence, I would mind a lot less. But then, as I have pointed out, we simply do not need yet another cafe in the immediate neighbourhood as it will contribute to cumulative effect (and noise pollution) in this most densely-populated residential part of Soho.*
- These premises are within Soho, an area which, as the Committee will be aware, is at the heart of the West End's entertainment district, with its 487 licensed premises, a large proportion of which are late night 121 (25%) licences with a terminal hour between 1am - 6am and a capacity of 22,827.*

- *As a new café in the cumulative impact zone the applicant has to demonstrate they will not add to cumulative impact. It appears to us that the proposal of MC66 is taken as almost a de facto demonstration that there will be no addition to cumulative impact. We do not believe that this is consistent with the cumulative impact policy, which acknowledges that RNT1 uses are a lower risk than some other types, but not that they are of no risk, especially when considering the year on year increase in these types of premises. Thirty-eight new licensed premises have opened in Soho between 2020 to 2022, with 21 of these being new restaurants and cafés.*
- *It is highly likely that a number of customers from this premises (many of whom may well be intoxicated) will want to continue their night out in Soho, meaning that more people will be retained for longer in the area, a concern raised within Cumulative Impact Policy,*
- *We note the proposed conditions, about which we have various concerns. We see that these include that there will be no vertical drinking, and “the supply of alcohol on the premises shall only be to persons seated and eating substantial food.” However, in the section under “crime and disorder,” it says that “Substantial food and non-intoxicating beverages, including drinking water, shall be available in the premises where alcohol is sold or supplied for consumption on the premises,” which would appear to us to be inconsistent one with the other. There is also no mention of off-sales, when the takeaway service will cease, proposed numbers of people standing outside to smoke, music, etc, all points we would expect to see covered in any proposed conditions.*
We are also concerned that there is no mention of the type of food on offer, beyond “substantial food,” with no description of same, beyond “tapas.”
- *There is concern that this is going to be a bar, particularly when it says “substantial food shall be available.” We would also point out that, as the Committee is no doubt aware, Berwick Street has a large number of residential properties in the immediate vicinity, between Peter Street and Broadwick Street, including four flats above the proposed restaurant, including one family with a new baby (whose father was born and raised in Soho, who fears they will have to move due the noise and disturbance generated by a restaurant beneath their flat). Soho without its community and families is reduced to nothing but one big food, alcohol and entertainment area (see below). The Soho we know and love will be lost forever.*
- *In summary this is an application for a new Café and Tapas Bar in the West End Cumulative Impact Zone, and we believe that any increase in the number of licensed premises and numbers of people in the area will fail to promote the licensing objectives and will increase cumulative impact. We respectfully request the Licensing Sub Committee to refuse this application.*

Policy Position

Policies CIP1, HRS1 and RNT1 apply under the City Council’s Statement of Licensing Policy apply (SLP).

Policy CIP1

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

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.

Policy 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:

6. Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday:

Midday to Midnight.

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.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.

Policy RNT1

Policy RNT1 applies 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 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 Zones Policy SCZ1 if the premises are located within a designated zone.

5. The application and operation of the venue meeting the definition of a restaurant 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 operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

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

5. The application and operation of the venue meeting the definition

SUBMISSIONS AND REASONS

1. Ms Roxsana Haq the Presenting Officer introduced the application to the Sub-Committee. She advised that this was an application for a new premises licence in respect of the Soho Social Basement and Ground Floor, 9 Berwick Street London W1F 0PJ. The Premises intends to operate as a restaurant with the sale by retail of alcohol with Westminster's core hours.
2. Mr Manuel Roche, Agent, appearing on behalf of the Applicant, began by outlining the application. Mr Roche said that alcohol was not going to be the main source of income for the business and that this was primarily a restaurant serving tapas food which included pasta and salads with background music only. The Premises was not yet open for business and would open should the Sub-Committee be minded granting the application.
3. Mr Roche advised that the application had been amended in light of the concerns raised by the objectors. Late Night Refreshment was no longer sought because the application was now within Westminster's core hours policy. Also, the provision for "Off Sales" which was a previous concern was no longer required so the sale of alcohol would be subject to "On Sales" only.
4. Mr Roche felt that the amended hours were appropriate for the Premises. He confirmed that the Premises had the benefit of visits both from the MPS and EHS who recommended conditions which they accepted. Turning to the objections from local residents, Mr Roche said he had attempted to reach out to them but had no response.
5. Mr Roche confirmed the capacity inside the Premises would be 32 patrons with a private forecourt area to the front of the Premises.
6. Ms Jessica Donovan appearing on behalf of the Licensing Authority addressed the Sub-Committee. She advised that the Premises falls inside the West End CIZ so therefore the Premises must demonstrate that it will not add to cumulative impact. Ms Donovan said that the proposed conditions are welcomed and agreed.
7. Mr Anil Drayan appearing on behalf of the EHS addressed the Sub-Committee. He confirmed that a site inspection of the Premises had been undertaken. Model Restaurant Condition (MC38) had been agreed so that the Premises could only operate as a restaurant.
8. Mr Drayan referred to the works conditions, and said that the Applicant required an acoustic report to determine whether there would be any noise transfer in the building particularly to the residential flats above the Premises so as not to cause a nuisance and made specific reference to Appendix 11 on pages 151-156 of the SLP (Guidance on Noise).
9. Mr Drayan confirmed that following the agreement of conditions he was now content with the application but that if the Sub-Committee were minded granting, they should also consider Model Condition 98 (MC98) dealing with

the control of delivery drivers as this was a point covered in the representations on the point of nuisance. He advised that the sanitary facilities must match their capacity of 32 and that this was to be located in the basement area.

10. Mr Drayan said that the Premises had a private forecourt area which could fit one standard table with a maximum of 4 people seated. Mr Drayan said that representation had been maintained by the EHS so the Sub-Committee could ask questions of him.
11. Mr Richard Brown appearing on behalf of the resident objectors addressed the Sub-Committee and pointed to the close proximity of the Premises to the residential accommodation directly above the Premises which comprised of four flats.
12. Mr Brown said he did not feel as though the Applicant has supplied sufficient evidence in its operating schedule/further written submissions demonstrating how the Premises would be an exception to be granted in the West End CIZ and not add to cumulative impact given that it was a controversial application. For example, no dispersal plan had been provided so the Applicant had failed to identify how patrons would be managed when leaving the Premises at the terminal hour so as not to cause a nuisance to residents.
13. Mr Brown also identified to the Sub-Committee the following key aspects:-
 - The application would lead to cumulative impact highlighting public nuisance as a major concern for those residents in close proximity to the Premises.
 - 18 objections had been made against the application.
 - The location of the Premises was key and relevant to the decision making of the Sub-Committee citing the wider ramifications for the West End CIZ.
14. Mr Tim Lord appearing on behalf of the Soho Society addressed the Sub-Committee and said that should this licence be granted, there was a risk Soho would be losing a family with long term links to it. Mr Lord said that Soho was quickly losing community links and becoming a place solely for food and drink outlets and the once community feel of the area was slowly being eroded by a proliferation of licensed premises and so there was a fight to maintain a sustainable soho.
15. He said that families were key to this feeling of community and if the licence was granted, it might be seen as a signal to others that Soho is not an area for the community. Mr Lord said there were noises in Soho, but these were intermittent, however, if this licence were to be granted then noise would become almost permanent. He also touched upon the wider public nuisance issues in the area particularly noise generated by pedicabs.
16. Mrs Fenella Earle local resident addressed the Sub-Committee and stated that she has a good relationship with the Applicant, but has grave concerns about the levels of noise that could be generated late at night by customers

together with the general hustle and bustle of a busy Premises so close to residential units. She said her flat in the building was only single glazed and a neighbouring shop that plays music was loud enough to penetrate into her living area and adversely affect their lives as a family.

17. Mrs Earle said that she was extremely worried about having a licensed restaurant premises directly beneath her with the sale of alcohol and how customers were to behave and the potential of nuisance arising as a consequence. Mrs Earle said that she and her husband had recently had a baby and raised concerns with her family being able to live a normal life particularly late at night when the Premises would be busy with customers so it was important to get a good night's sleep including that of her baby. She said that she did not have a problem with licensed premises but the right balance needs to be struck and was of the opinion that the Premises so close to residential premises and therefore in the wrong location given that the previous use was that of a fancy dress shop with no reported problems. She felt on this basis the application should be refused.
18. Mr John Wallace, Commercial Director for SHA addressed the Sub-Committee. He advised that SHA owned the residential flats on a 125 year lease in the building directly above the Premises. These units are tenanted with one tenant being a vulnerable person and was naturally concerned with the quality of life of those tenants would experience and face daily should the application be granted.
19. Mr Wallace confirmed by way of background that SHA had over 300 residents with a complete full estate. He said that the ethos of SHA was to encourage people to stay and live in the area. He admitted that the environment had changed over the years but insisted that a balance has to be struck with residents and local businesses, but for this application because of the Premises location and the close proximity to residential accommodation the application should be refused a view shared by the rest of the other objectors. Mr Wallace reiterated the point made by Mr Lord in terms of the move of Soho more towards of a hospitality focus and less focused on residential families.
20. Mr Andrew Murray, a long-term resident of Kemp House in Soho, addressed the Sub-Committee and said that several of his neighbours have objected and he was also representing them. Mr Murray said that this was the wrong location for a business of this sort. He reiterated the point that this was within the West End CIZ and the area itself was still very residential despite the commercial businesses. Mr Murray said the noise impact was huge, he said that his building was indeed double glazed but during the summer when windows were open, individual conversations can be heard from as high as the sixteenth floor. Mr Murray said that food alone would not be enough to keep the business afloat and it would almost certainly require alcohol sales to make any profit.
21. A local resident addressed the Sub-Committee and said they had lived in the area since 2000. They then went on to say that over the years, the noise has steadily increased. They said that they had seen application after application be granted, increasing the number of restaurants and bars in the area.

22. In answer to questions from the Sub-Committee regarding possible double glazing to the flats, Mr Wallace stated that there was currently a programme underway to increase their supply of double glazing, however, this programme of works is always subject to the usual funding and costs associated with any planned maintenance works programme and any time period associated with the completion of such works.
23. **In summing up** Ms Donovan for the Licensing Authority had nothing further to add.
24. **In summing up** Mr Anil for EHS recommended to the Sub-Committee that Model Condition (MC22) (limiting the number of patrons to temporarily leave and re-enter to smoke or make a phone call) be placed on the licence as well as a condition regarding the dispersal of patrons upon closing.
25. Mr Horatio Chance the Legal Advisor to the Sub-Committee asked Mr Drayan after having heard the views of local residents particularly those living above the Premises, whether he was still content with the application. In answer thereto Mr Drayan said that he was now neutral on the application but there must be an acoustic report prepared by the Applicant that meets the requirements and standards of the EHS.
26. Mr Brown said that this information on acoustics (which was a key document) was not before the Sub-Committee today, and only the information in the papers could be considered. Mr Brown said there had been 38 new licences since 2020 in the Soho area. He referred the Sub-Committee to re-read his submission containing a BBC article.
27. **In summing up** Mr Wallace said that the needs of residents must be taken into account and as stipulated by Mr Murray in his submissions the granting of this licence is most likely to increase Public Nuisance, which is one of the Licensing Objectives to be undermined.
28. **In summing up** Mr Lord quoted Cllr Geoff Barraclough, the Cabinet Lead for Finance, Planning and Economic Development, on how the City needs to work for both businesses and residents.
29. **In summing up** Mr Roche said that he appreciated and understood the concerns of residents but insisted that this Premises should not be treated in the same vein as every other bar or pub in Soho. Mr Roche said it was not businesses of this sort that created issues in the area and said that many big cities around the world faced this type of similar challenges with licensed premises when it came to finding the right balance with residents and businesses.
30. Mr Roche said he was not before the Sub-Committee applying for a late-night music venue and that alcohol was only to be served ancillary to food. Mr Roche said if no licence were granted, alcohol could be brought onto the Premises in any event by a patron, and there is then no strict control. Mr Roche said he was happy for the sale of alcohol hours to be 23:00 and to

ensure patrons are off the Premises by 23:30 if that assisted in the Sub-Committee's decision making of the application.

31. Mr Brown said in answer to this point about the proposed change in hours, his position remained the same and they still objected to the application despite these new hours being offered.

Reasons and Conclusion

32. The Sub-Committee has determined an application for a grant of a New Premises Licence under the Act. The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining this application. The Sub-Committee had regard not only to the written and oral evidence but also to the Act, the Revised Home Office Guidance issued under section 182 of the Act and the City Council's SLP, in particular policies CIP1, HRS1 and RNT1.
33. In this connection regard was had to the Revised Home Office Guidance at Paragraph 9.38 on page 80 which states "***In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to***":
- The steps that are appropriate to promote the licensing objectives.
 - The representations (including supporting information) presented by all the parties.
 - This Guidance.
 - Its own statement of licensing policy.
34. The Premises proposes to operate as a Café Tapas restaurant falling within Policy RNT1 under the City Councils SLP where there is no presumption to refuse the application provided that it will not add to negative cumulative impact with the West End CIZ and be contrary to other existing policies.
35. The Sub-Committee having carefully considered the matter and the evidence on its individual merits decided that the Applicant had not provided valid reasons nor demonstrated that the measures it proposes (as secured by conditions) would promote the four licensing objectives by not adding to negative cumulative impact within the West End CIZ. The Application was therefore contrary to policies CIP1, HRS1 and RNT1.
36. This was a difficult application for the Sub-Committee to consider due to the competing interests of both the operator and local residents and inbuilt complexities associated with the application mainly on policy grounds and the global effects granting such an application would have within the West End CIZ.
37. Whilst the Sub-Committee appreciated that there was no presumption to refuse an application for a restaurant premises in the West End CIZ it does not automatically follow that for every restaurant premises application that comes before a Sub-Committee it will be granted because there are always exceptions to this rule coupled with the discretionary powers exercised by that

Sub-Committee. Moreover, each case must be considered on its individual merits and the persuasive factors and arguments advanced by all parties that led the Sub-Committee to reach its conclusion on the matter were considered in great detail by the Sub-Committee but the overall Decision taken (which was not taken lightly because the Licensing Authority is not in the habit of refusing applications without just cause under the Act and its SLP) but in this case it was on balance appropriate and proportionate to refuse the application.

38. The key issue for the Sub-Committee to consider was whether granting the application would add to negative cumulative impact in the West End CIZ and thus fail to promote the licensing objectives and whether the application met the requirements of policies CD1, PS1, PN1 and CH1.
39. Dealing specifically with Policy PN1. Clause A on page 32 provides that the "Licensing Authority will not grant applications that do not promote the prevention of public nuisance licensing objective". Paragraph B goes on to state that "when considering Clause A, the Licensing Authority will apply the criteria and take into account any relevant considerations as set out below."
 - ***"The potential for nuisance associated with the style, characteristics and activities of the business to be carried out at the premises and the potential steps which would be taken to reduce the risk of nuisance occurring. This will particularly apply in areas of residential accommodation and where there is residential accommodation in proximity of the premises."***
40. Paragraph 2 deals with the "Considerations" the SLP speaks to and states ***"Whether Operating Schedules contain adequate measures to prevent noise and vibration, whether airborne or structure borne, generated from within the premises, outside it or from an open site, that may cause disturbance to people in the vicinity. Regard will be had to disturbance of people whether at home, at work, staying in, or visiting the vicinity. However, stricter conditions will be imposed on premises licences in areas that have denser residential accommodation or have residential accommodation close to them. See Appendix 11" (Guidance on Noise).***
41. Paragraph 3 states "Applicants will be expected to have included measures in their Operating Schedules that make adequate provision to limit noise and vibration, eating, drinking and smoking outside their premises and other environment impacts" with reference to some 22 bullet points which include the following:-
 - ***Restrict noise emissions to below levels that could affect people in the vicinity going about their business, at work and when at home both while relaxing and while sleeping.***
 - ***Minimising and controlling noise from customers arriving at the premises, or open-air site outside it and departing from it including noise and other nuisance caused by customers transportation and how dispersal is managed.***

- *Identifying whether people standing or sitting outside the premises are likely to cause obstruction or other nuisance.*
 - *Identifying whether the premises are under or near to residential accommodation.*
42. Paragraphs C12 to C21 on pages 33 and 34 sets out the “Reasons for Policy PN1” which the Sub-Committee had regard to.
43. Paragraph C12 includes in its wording:-
- “Public Nuisance could include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may include, in appropriate circumstances, a reduction of the living and working amenity and environment of persons in the vicinity of licensed premises”** which is wholly pertinent to this application.
44. Paragraph C13 states:-
- “Westminster has a substantial residential population and the Council as the Licensing Authority has a duty to protect it from nuisance. In certain areas, the increased concentration of entertainment uses, and the longer hours of operation have adversely affected local residents. Commercial occupiers of premises also have a legitimate expectation of an environment that is attractive helps sustain their businesses. The role of the Council as Licensing Authority is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of residents and other users of the City including, businesses, workers, shoppers and visitors. It will need to satisfy itself that adequate measures to prevent public nuisance are in place and will be maintained.”***
45. The Sub-Committee when considering the issue of public nuisance had regard to the Revised Guidance issued under s.182 of the Act in particular Paragraphs 2.20 and 2.21 on pages 9 and 10 which reads as follows:-

Paragraph 2.20

“The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.”

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Paragraph 2.21

“Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.”

46. Having heard the evidence from all parties the Sub-Committee concluded that granting this application would add to cumulative impact and would particularly undermine the public nuisance licensing objective. The driving force behind the refusal of the application was the testing of the various policy considerations weighed up against the evidence and whether it met the promotion of the licensing objectives which it is specifically designed to achieve and do under section 4 of the Act.
47. It heard direct oral evidence from residents living above the Premises who would be adversely affected by nuisance. The Sub-Committee considered the evidence from Mrs Earle who lived in one of the four flats above the Premises to be compelling. It was noted that she and her husband had recently had a new baby and had set down roots living in the Soho area and that Mr Earle had been born and raised in Soho and therefore wanted to preserve that continuity. *The Sub-Committee noted that the family were left with the dilemma of having to move out of their home if the application were granted because of noise and disturbance generated by a restaurant beneath their flat and so this could not be dismissed as part of the overall evidence.*
48. The Sub-Committee decided that the potential for noise nuisance would result in having a negative impact on those residents' lives daily due to the general activity of a busy licensed premises operating in such a lively and vibrant area such as soho in the West End CIZ. The Premises is located in a primarily residential area with a residential count of 264 surrounded by homes that include families and young children which is of material significance.
49. The Sub-Committee was disappointed to note that the Applicant did not produce evidence of a noise acoustics report under cover of the application as this would have assisted the Sub-Committee when considering the noise impact for those residents living above the Premises.
50. The Sub-Committee considered this to be such a vital and important document when determining the matter and in the absence of this information the Sub-Committee could not justify a grant of the application on the grounds that this would fail to promote the public nuisance licensing objective as was made clear to the Sub-Committee by the Legal Advisor a view endorsed also by Mr Brown.
51. It was noted however, that the Applicant during the hearing gave an undertaking to provide a noise report at a later date to the EHS which would

have been subject to the proposed works condition in any event, but again without being critical the Sub-Committee considered it incumbent upon the Applicant to have produced this right from the outset and not the other way around applying a common-sense approach when submitting the application.

52. The Sub-Committee considered in detail the Applicant's proposed conditions but took the view that these would not adequately address the immediate concerns of the parties, the policy considerations referred to above when looking at the West End CIZ and the promotion of the licensing objectives because the Premises are simply in the wrong location.
53. The Sub-Committee realises that it has a duty to strike the right balance when considering the business needs of the Applicant along with those parties that had objected to the application particularly the many long-term residents who have lived in Soho for several decades (who are effectively considered Experts in their local area in terms of their invaluable experiences of licensed premises operating in the area coupled with local knowledge) and therefore well acquainted with the many issues surrounding nuisance.
54. The Sub-Committee took the view that the right balance has been struck when considering the needs of those residents living above the Premises and the global impact granting such an application would have on the area as a whole.
55. The Sub-Committee will of course appreciate that the Applicant will be disappointed with this Decision and does not doubt them to not be a good operator but after careful consideration and a proper analysis of the application together with the proposed offered conditions to mitigate the concerns of all parties objecting the Sub-Committee in its considered opinion concluded for the reasons outlined above that the public nuisance licensing objective would be seriously undermined and so refused the application.
56. The Sub-Committee considered whether its objections would be capable of being addressed by condition but concluded that the Premises being in such close proximity to the residential units above would add to cumulative impact and undermine the licensing objectives for the reasons given above.
57. The Sub-Committee also placed great weight on the testimony given by local residents who live in such close proximity to the Premises namely above the Premises and who are directly affected by public nuisance to a serious degree. The testimony given by Mr Wallace, Mrs Earle and Mr Murray was compelling. There is residential accommodation in close proximity to the Premises, and this is one of the most residential areas of Soho with a resident count of 264 as mentioned in paragraph 46 above. The evidence of local residents demonstrates that their mental health, their work and their personal relationship are being significantly adversely affected by public nuisance caused by current licensed premises.
58. The Sub-Committee acknowledges and agrees that none of the issues complained off in the West End CIZ are the Applicant's fault, and there is no evidence to suggest that the Applicant would be anything other than a

responsible operator. However, the Sub-Committee cannot simply ignore the evidence before it when it comes to determining whether the Premises is in fact a suitable location and therefore considered the nature, style and character of the Premises in the West End CIZ and the negative impact for those residential flats above the Premises and this was the true crux of the matter despite the conditions offered.

59. To grant the application would undoubtedly cause nuisance to local residents cause additional cumulative impact in the West End CIZ and undermine the promotion of the licensing objectives. In this respect the Sub-Committee considered the Home Office Guidance at Paragraph 9.43 on page 81 which states "**The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve**".
59. The Sub-Committee wishes the Applicant success in its endeavours but considers that the Premises is the wrong location for a restaurant with a late night licence selling alcohol as it would add to cumulative impact and undermine the licensing objectives in an area that is already under severe stress even with the further reduction in hours offered.
60. The Sub-Committee when considering the application and the interests of all the parties concerned thereunder had due regard to the Council's Public Sector Equality Duty contained under section 149 of the Equality Act 2010 along with Article 1 of the First Protocol (Protection of Property) and Article 8 (Right to respect for family and private life) under the Human Rights Act 1998.
61. Having carefully considered all the committee papers, additional papers, submissions made by the Applicant and the oral evidence given by all parties during the hearing in its determination of the matter the Sub-Committee therefore decided, after taking into account all the individual circumstances of this application and the promotion of the four licensing objectives to refuse the application.

In all the circumstances of the case the application is ***Refused***.

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

**The Licensing Sub-Committee
5 October 2023**

**3. SNOWFLAKE GELATO, BASEMENT AND GROUND FLOOR, 102
WARDOUR STREET, W1F 0TP**

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 1

Thursday 5 October 2023

Membership: Councillor Aziz Toki (Chair) Councillor Judith Southern and
Councillor Jacqui Wilkinson

Officer Support Legal Adviser: Horatio Chance
Policy Officer: Daisy Gadd
Committee Officer: Jack Robinson-Young
Presenting Officer: Roxsana Haq

**Application for a New Premises Licence in respect of Snowflake Gelato
Basement and Ground Floor 102 Wardour Street London W1F 0TP
23/04180/LIPN**

Other parties present: Neil McCann (Keystone Law), Marina Tempia (The Soho Society), Tim Lord (The Soho Society), Richard Brown (Westminster Licensing Project representing The Soho Society), Jessica Donovan (The Licensing Authority), Kudzaishe Mondhlani (Environmental Health Service), PC Reaz Guerra (Metropolitan Police Service) 2 Local residents.

Full Decision

Premises

Snowflake Gelato
Basement and Ground Floor
102 Wardour Street
London
W1F 0TP

Applicant

Snowflake Gelato Limited

Cumulative Impact Area

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

Ward

West End

Special Consideration Zone

N/A

Activities and Hours

Late Night Refreshment (Indoors and Outdoors)

Monday to Sunday 23:00 to 00:30

Opening Hours of the Premises

Monday to Sunday: 11:00 to 00:30

Seasonal variations: None

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act") in respect of Snowflake Gelato Basement and Ground Floor 102 Wardour Street London W1F 0TP ("The Premises"). The Premises intends to operate as a café selling gelato-based ice cream with the benefit of late-night refreshment until 00:30 daily outside of core hours.

The Premises are located within the West End Ward and the West End CIZ. There is a policy presumption under policy FFP1 to refuse applications of this type in the West End CIZ. The onus therefore is on the Applicant to prove an exception to policy. The matter was assessed on its individual merits having regard to the evidence before the Licensing Sub-Committee and the promotion of the licensing objectives.

Representations were received from the Environmental Health Service, Metropolitan Police Service, The Soho Society and 2 local residents all citing concerns regarding public nuisance and crime and disorder together with a representation in support.

There is a resident count of 179.

Representations received

- Metropolitan Police Service (PC Reaz Guerra) (MPS)
- Environmental Health Service (Kudzaishe Mondhlani) (EHS)
- The Licensing Authority (Karyn Abbott)
- 3 Local residents
- 1 Local association (The Soho Society)

Summary of issues raised by objectors

- *The provision of late-night refreshment will have the likely effect of causing an increase in Public Nuisance and may impact on Public Safety in the West End CIZ. The granting of this application as presented would have the likely effect of causing an increase in Public Nuisance and may also impact on Public*

Safety in the West End CIZ. The applicant has provided additional information which is being considered. Additional Environmental Health conditions may be proposed to uphold the licensing objectives.

- *There is insufficient detail contained within the operating schedule to promote the licensing objectives. The hours sought exceed Westminster's Core Hours Policy. It is for these reasons that we object to this application.*
- *The Licensing Authority note that the premises operation is an award winning luxury gelato selling cold food and proposes to sell hot drinks and deserts after 23:00. Due to the nature of the premises this application falls within Westminster's FFP1 (b, c, d) Policy.*
- *The Licensing Authority would like further submissions to the questions below:*
 1. *Will there be deliveries from the premises?*
 2. *What type of vehicles would be used for deliveries?*
 3. *What kind of hot food will be sold?*
- *The Licensing Authority would propose model conditions 86 as follows:*
 1. *The Licensable activities provided at the Premises shall be ancillary to the main function of the premises as a cold food/ice cream parlour'.*
- *The Licensing Authority has concerns regarding this premises and encourages the applicant to provide further submissions on how this will be operated and controlled to have no adverse impact on the cumulative impact area.*
- *The Licensing Authority would like the applicant to provide further submissions to the questions above to be able to assess any further relevant policy considerations.*
- *The Licensing Authority encourages the applicant to provide further submissions as to how the premises will not add to cumulative impact in the West End cumulative impact area, in accordance with policy CIP1.*
- *The Licensing Authority looks forward to receiving further submissions from the applicant in due course*
- *I would like to make an objection to the above application. My partner and I live directly above the Snowflake ice-cream shop. Over the past 5 years whilst we have been living above the shop we have struggled with the noise coming from the shop. Either with the music they play that echoes through our home or with their customers that are quite loud while they wait outside the shop or they exit the shop. If they stay open later this would only increase.*
- *Recently we have had personal conversations with the manager who has tried their best and the music level has improved, however we have been in this place before and every time there is a change in their managerial staff or other members of staff we are right back at the beginning. We do not have a direct number for the manager, and sometimes when we try to call the number that is on the website nobody picks up. There was a period last year when the number didn't work at all, so we would have to go downstairs almost daily to ask them to turn the music down.*
- *There are several issues with the shop. They don't have good sound proofing anywhere, their speakers are built into their ceilings and often members of staff don't know that there are people living above which means that we can hear their music from their opening time until well beyond midnight.*
- *Moreover, due to their opening hours, their clients will loiter outside the shop playing music from their cars or being quite loud until 1am / 2am.*

The final issue is that their refrigeration and ventilation system that leads right into my bedroom window is very loud and vibrates in my house throughout the day. This issue is much worse in the summer.

- We request Councillors on the panel to consider carefully our concerns about this application for a late night refreshment licence for an ice cream parlour open seven days a week until 12.30am, in a street with a large number of residential properties which includes social housing, and where crime rates are rising.*
- As the Committee are aware the onus is on the applicant to demonstrate they will not increase cumulative impact and will promote the licensing objectives.*
- We will present evidence on the impact of the huge number of licensed premises is having on the lives of residents and how the high level of crime has made the area very unsafe for people on a night out. Providing on and off sales until 12.30am people will be retained for longer in the area, increasing the number of people on the streets late at night will have a negative impact, it will add to cumulative impact and will fail to promote the licensing objectives.*
- The premises is within Soho, an area at the heart of the West End's entertainment district, with its 487 licensed premises which includes a large proportion being late night 121 (25%) licensed with a terminal hour between 1am - 6am and a capacity of over 22,827.*
- Wardour Street is densely populated at night with a number of restaurants and also drink led venues licensed until 3am with a capacity of 2,055, and within the streets which surround it namely Old Compton Street, Frith Street, Dean Street and Greek Street the area has the highest concentration of late night premises in Soho, a total of 118 with terminal hours between 12am - 3.30am and capacity of over 11,200.*
- It is unsurprising the crime statistics repeatedly show an increase in crime, the latest figures show levels of certain crimes are now higher than at pre COVID times and the peak times for crime being between 10pm - 2am. The majority of robberies in Soho take place late at night, the junction between Old Compton Street and Wardour Street is a particular hotspot where people are targeted as they leave the numerous venues. There are a number of residential properties on Wardour Street and 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. Residents are also disturbed even if an establishment is not located directly on their street, as patrons usually intoxicated leave premises and either carry on their night out in Soho or as they make their way home making a noise and disturbing residents along the way. Please see the results of the Soho Society Sleep Survey October 2022 in Appendix 1. We will withdraw this objection if the applicant agrees to no off sales after 11pm and late night refreshment until core hours.*

Policy Position

Policies HRS1, CIP1 and FFP1 apply under the City Council's Statement of Licensing Policy apply (SLP).

Policy CIP1

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

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.

Policy 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:

6. Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday:

Midday to Midnight.

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.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.

Policy FFP1

Policy FFP1 applies A. Applications outside the West End Cumulative Zones will generally be granted subject to:

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

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

3. The operation of any delivery services for alcohol and/or 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 Zones Policy SCZ1 if the premises are located within a designated zone.

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

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

6. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1, and/or,

7. 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:

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

9. 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.

10. The application and operation of the venue continuing to meet the definition of a Fast Food Premises in Clause D.

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

11. A premises that provides late night refreshment, either by way of fast food over a counter, via a self-seating basis or take away for immediate consumption.

12. Food and drink are: a. Available on the premises for self-selection. b. Prepared on the premises. c. Cooked or produced off the premises but brought to that premises in advance of its sale to customers.

13. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption.

14. A fast-food premises can provide a delivery service as part of its operation, however that service must be ancillary to the main function of the premises as defined within subclauses D,1 to D,3 above.

SUBMISSIONS AND REASONS

Ms Roxsana Haq the Presenting Officer outlined the application to the Sub-Committee. She advised that this was an application for a New Premises Licence in respect of Snowflake Gelato Basement and Ground Floor 102 Wardour Street London W1F 0TP who are seeking Late Night Refreshment (Indoors and Outdoors) Monday to Sunday 23:00 to 00:30. The Applicant is Snowflake Gelato Limited. Representations have been received from the EHS, MPS, The Soho Society and 2 local residents together with one objection in support all citing concerns regarding public nuisance and crime and disorder.

Mr Neil McCann, Solicitor appearing on behalf of the Applicant, addressed the Sub-Committee and outlined the application. He described the Premises as a high level boutique style ice cream parlour and that a licence was being applied for so that hot teas and coffee could be sold after 23:00 to help improve the customer experience. Mr McCann said that hot food and drink is ancillary to the main function.

Mr McCann said that it was not the sort of Premises that would be frequented by inebriated customers and was more for tourists along with a middle eastern customer base. He said that this application was unusual in the sense that normally a licence application comes before the Sub-Committee to extend their hours or to change their usage to include alcohol.

Mr McCann said that the application was before the Sub-Committee in order to allow the Applicant to continue trading as normal. He explained that by granting this licence, it would then be brought under the control of the local authority and force it to fall in line with the licence and its conditions.

Mr McCann said that there was an acoustics expert lined up to attend the Premises but having spoken with the residents he did not feel this was necessary. He said that he understood residents' issues to be that staff play loud music after hours and there

were concerns over the speakers inbuilt into the ceiling, along with the congregation of people at a later hour which create a nuisance.

Mr McCann advised that the ceiling speakers the subject of the nuisance will not now be used and certain issues with members of staff will now be dealt with under the Applicant's HR policies and procedures that could lead to dismissal of a staff member. Mr McCann said that there were two different options, firstly a premises trading as and how they wish with no restriction or secondly a premises where after 23:00 they can enjoy a hot drink which would then be licensable. Mr McCann said the capacity was 30, and this had been conditioned as a limit.

In reply to questions from the Sub-Committee Mr McCann said the Applicant had looked to address the noise from their ventilation system which they were confident could be remedied easily. Regarding the noise generated by cars he said this was not something he was aware of being an issue.

Ms Kudzaishe Mondhlani appearing on behalf of the EHS addressed the Sub-Committee. She advised that the application does not include alcohol and is purely looking for an extension of their hours. Ms Mondhlani said there have been no complaints made to the Council about the Premises which has been trading since 2012. In terms of the EHS conditions these have been agreed by the Applicant together with 4 additional ones. Ms Mondhlani said that the windows had been conditioned already to be closed if entertainment is to take place in the future.

Ms Jessica Donovan appearing on behalf of the Licensing Authority addressed the Sub-Committee. She said that representation had been maintained as the Premises was located with the West End CIZ. Ms Donovan said the Applicant could operate as normal selling cold food should this licence not be granted and that these hours requested were outside of core. However, the Applicant has to demonstrate an exception to policy and the Sub-Committee must be satisfied whether exceptionality has been proven.

PC Reaz Guerra appearing on behalf of the MPS addressed the Sub-Committee. PC Guerra advised that the area is a crime hotspot and although the Premises is currently a gelato-based venue, this would not be the case should the licence be transferred, and in this scenario other food items could be sold. PC Guerra said that he would invite the Sub-Committee to impose a condition as per Mr McCann's suggestion that no savoury food could be sold to address this specific issue.

Mr Simon Langley, local resident addressed the Sub-Committee and advised that he lived directly above the Premises. Mr Langley said he was approached by the Applicant to meet which is welcome. However, he has struggled to communicate his concerns over the previous four years about the noise emanating from the Premises, some after closing and some while they have still been open.

Ms Regina Brandolino addressed the Sub-Committee and advised that she lived directly above the Premises with her partner Mr Langley and shared the same concerns. She advised that she had to frequently speak to the staff of the Premises since moving there in December 2018.

Ms Brandolino said that the music and base sound coming from the ceiling speakers is a nuisance and affects the quiet enjoyment of their home. She said that there are people who leave nightclubs to come to the Premises for food and that they suffer also from the noise of the ventilation and the vibrations.

Ms Brandolino advised that she works from home during the day, and suffers still from the noise escaping from the Premises. Ms Brandolino said that her neighbours are also affected and claimed that there was a shop next door that had ceiling speakers, which following consultation were removed.

Mr Richard Brown representing the Soho Society said that while there were degrees of premises offering food during the later hours, even though this was not a kebab shop, people would still be attracted into the West End CIZ. Mr Brown said this then leads to a presumption that the application will be refused. Mr Brown suggested that the removal of the speakers in the ceiling would be a welcome move to reduce the noise escaping.

Ms Marina Tempia from the Soho Society addressed the Sub-Committee. She said that Wardour Street was a busy street as it was an exit street between Oxford Street and Shaftesbury Avenue. Ms Tempia said there are approximately 2,000 people in that area on an evening. She said that the issues that have been raised by local residents today are the same issues that have always existed. Ms Tempia said that by increasing the offering there will be an increased footfall which will only exacerbate the current issues.

In summing up the EHS, The Licensing Authority, MPS, local residents and the Soho Society had nothing further to add.

In summing up Mr McCann said this was an application for late night refreshment only. It had nothing to do with alcohol or music. He advised that the previous noise nuisance was an issue which has now been resolved, and there have been no complaints under the current manager. Mr McCann confirmed that the Applicant was content to having the speakers rendered unusable to alleviate resident concerns about noise escaping.

Conclusion

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

The Premises are to operate as a Fast-Food Premises under Policy FFP1. The Sub-Committee noted that the Premises is located within the West End CIZ and so there is an automatic presumption to refuse the application.

The Sub-Committee had regard not only to the written and oral evidence but also to the requirements of the Act, The Guidance issued under section 182 of the Act and the City Councils SLP in the main policies HRS1, CIP1 and FFP1.

The Sub-Committee concluded that the Applicant had provided valid reasons as to why the application should be granted and not add to cumulative impact in the West End CIZ. There are a number of comprehensive conditions on the licence that will deal with the issue of nuisance, crime and disorder so the right balance had been struck when considering the views of the Responsible Authorities and local residents

who had objected and the Applicant to run the Premises in a way that will help promote the licensing objectives.

The Sub-Committee noted the concerns of the parties that had objected to the application particularly in relation to nuisance and the breakout of music which was disturbing residents living directly above the Premises.

The Sub-Committee welcomed the Undertaking by the Applicant to work in partnership with local residents going forward. This included the disconnection of the inbuilt ceiling speakers so as not to cause a nuisance and to remind customers to leave the Premises quietly.

The Sub-Committee concluded based on the evidence that the Applicant would promote the licensing objectives with the offered conditions which are considered to be appropriate and proportionate and will have the overall effect of promoting the licensing objectives, in particular the prevention of public nuisance and crime and disorder licensing objectives.

In terms of the conditions these are all the conditions as stated at pages 62-67 of the report together with the four additional EHS conditions and Informative. The Sub-Committee also imposed two conditions regarding the non-sale of savoury food and the inbuilt ceiling speakers to be permanently rendered unusable as specified below.

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

1. To grant permission for **Late Night Refreshment (Both)** Monday to Sunday 23:00 to 00:30 **Seasonal variations:** None
2. To grant permission for the **Opening Hours of the Premises** Monday to Sunday 11:00 to 00:30 **Seasonal variations:** None
3. That the Licence is subject to any relevant mandatory conditions.
4. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

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

5. a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. (b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. (c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. (d) All recordings shall be stored

for a minimum period of 31 days with date and time stamping. (e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

6. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
7. 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.
8. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
9. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
10. 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.
11. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system, searching equipment or scanning equipment (g) any visit by a relevant authority or emergency service.
12. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall not be permitted to take glass containers with them.
13. No deliveries from the premises, either by the licensee or a third party shall take place between 23:00 and 08:00 hours on the following day.
14. There shall be no sales of hot savoury food other than sweet desserts.
15. The Premises Licence Holder shall ensure that the current inbuilt ceiling speakers fitted at the premises shall be fully disconnected and rendered unusable at all times.

Informative

16. Local residents living in close proximity to the Premises disturbed by nuisance emanating from the Premises are strongly encouraged to report such instances of nuisance directly to the City Council's Noise Team to ensure that a proper record of complaints are kept.

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

**Licensing Sub-Committee
5 October 2023**

4. 74 VICTORIA STREET, SW1E 6SQ

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 1

5 October 2023

Membership: Councillor Aziz Toki (Chair) Councillor Judith Southern and
Councillor Jacqui Wilkinson

Officer Support Legal Adviser: Horatio Chance
 Policy Officer: Daisy Gadd
 Committee Officer: Jack Robinson-Young
 Presenting Officer: Roxsana Haq

Application for a New Premises Licence in respect of 74 Victoria Street London SW1E 6SQ 23/04190/LIPN

Other parties present: Craig Baylis (Keystone Law), Arnaud Studer (Applicant Company) Sally Fabbriatore (Environmental Health Service).

Full Decision

Premises

74 Victoria Street
London
SW1E 6SQ

Applicant

Singtime UK Ltd

Cumulative Impact Area

N/A

Ward

St James'

Special Consideration Zone

N/A

Activities and Hours

Exhibition of Films (Indoors)

Monday to Tuesday 09:00 to 00:00
Wednesday to Saturday 09:00 to 01:00
Sunday 09:00 to 23:00

Live Music (Indoors)

Monday to Tuesday 23:00 to 00:00
Wednesday to Saturday 23:00 to 01:00
Sunday N/A

Recorded Music (Indoors)

Monday to Tuesday 23:00 to 00:00
Wednesday to Saturday 23:00 to 01:00
Sunday 09:00 to 23:00

Late Night Refreshment (Indoors)

Monday to Tuesday 23:00 to 00:30
Wednesday to Saturday 23:00 to 01:00
Sunday N/A

Sale by Retail of Alcohol (On and Off the Premises)

Monday to Tuesday 10:00 to 00:00
Wednesday to Saturday 10:00 to 01:00
Sunday 10:00 to 23:00

Opening Hours of the Premises

Monday to Tuesday 09:00 to 00:30
Wednesday to Saturday 09:00 to 01:30
Sunday 09:00 to 23:30

Seasonal variations: None

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act") in respect of 74 Victoria Street London SW1E 6SQ ("The Premises"). The Premises has had the benefit of an existing licence since 2015. The Premises intends to operate as a karaoke bar with provision for substantial food and musical entertainment on the ground floor and basement of the Premises. The Premises sought live and recorded music until 00:00 on Monday and Tuesday, 01:00 from Wednesday to Saturday and until 23:00 on a Sunday.

The Applicant has provided the following documentation:-

- Mediation with the interested party.
- An operation management statement.
- Presentation.
- Noise Impact Assessment.

These documents can be found at **Appendix 2** of the agenda report.

The Premises are located within the St James's Ward but not located within either the West End CIZ or SCZ. There is no policy presumption to refuse an application of this type. The matter was assessed on its individual merits having regard to the evidence before the Licensing Sub-Committee and the promotion of the licensing objectives.

Representations were received from the EHS and one local resident citing concerns regarding public nuisance.

There is a resident within 75 metres: 0.

Representations received

- Environmental Health Service (Sally Fabbriatore) (EHS)
- 1 Local resident

Summary of issues raised by objectors

- *The provision of the Supply of Alcohol and the proposed hours may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.*
- *The provision of Late Night Refreshment and the proposed hours may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.*
- *The provision of Live Music and the hours proposed, may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.*
- *The provision of Films and Recorded Music and the hours proposed, may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.*
- *The applicant did seek pre-application advice (2302903/PREAPM) which has been followed through the proposed conditions. Further conditions may be proposed by Environmental Health in order to protect the Licensing Objectives.*

- *The granting of the new Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the area and may impact on Public Safety.*
- *This application is for opening hours beyond those set in Core Hours in The Statement of Licensing Policy 2021 and as such should be refused. Pubs, restaurants and all licensed premises should comply with the Core Hours established in the Statement of Licensing Policy to avoid issues of Public Nuisance. In addition once the hours have been set to Core Hours for all activities there should be an express provision in any license that prohibits the emanation of sound from any source from the inside of the premises to the surrounding external streets / neighbourhood. The interested party has provided additional response to the applicant's mediation emails/documents which can be found at Appendix 2.*

Policy Position

Policies HRS1 and PB1 apply under the City Council's Statement of Licensing Policy apply (SLP).

Policy 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:

6. Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday:

Midday to Midnight.

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.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.

PB1 Policy

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 Zones policy SCZ1 if the premises are located within a designated zone.

5. The application and operation of the venue meet the definition of a Public House or Bar 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.
 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, and/or,
 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 Public House or Bar in Clause D.
- D. For the purposes of this policy a Public House or Bar is defined as a premises, or part of a premises that's primary use is the sale or supply of alcohol for consumption on those premises and/or for consumption off the premises for consumption outside the venue.

SUBMISSIONS AND REASONS

Mr Craig Baylis, solicitor acting on behalf of the Applicant addressed the Sub-Committee and introduced the application explaining this was their first venue in the United Kingdom which is to be based on their Paris model. Mr Baylis said that BAM, the parent company, was already present across Europe and there had been a £7,000,000 investment in this UK premises. The Premises is to operate as a high end karaoke venue with a unique customer experience. Food will be on offer for customers and this will be conditioned on the licence as per Model Condition MC41 requiring substantial food to be made available in all parts of the Premises where alcohol is to be sold. He advised all events were to pre-booked and the premises plans indicated there was a sliding door which was to become double doors to help reduce noise.

Mr Baylis referred to the Premises Operational Management Plan which has been prepared to set out the strategy and approach to be taken when it came to the management of the Premises and the promotion of the licensing objectives.

Mr Baylis referred also to the Noise Impact Assessment & Mitigation Strategy prepared by Mr Richard Vivian of Big Sky Acoustics Ltd on pages 138-159 of the agenda report. This report was commissioned to assess the noise from the proposed refurbishment of the Premises at ground floor and basement levels to form a karaoke bar, restaurant and live performance space. The report concluded that the normal operation of the Premises until the terminal hour would not result in an increase in average noise levels in the area around the application site.

Mrs Sally Fabbriatore appearing on behalf of the EHS addressed the Sub-Committee explaining that representation had been maintained as the hours sought were beyond core. She stated that pre-application advice had been given to the Applicant prior to today's Sub-Committee hearing which included conditions.

Mrs Fabbricatore said she was content with the mitigations created to reduce the escape of noise to counter the potential for Public Nuisance being caused. She said there is a small area that is more open plan for live music to take place but there has been a door proposed at the bottom of the basement to help mitigate this.

Mrs Fabbricatore said the outside seating area had been conditioned until 23:00 and was agreed to by the Applicant, together with a last entry time of 00:00.

In answer to questions from the Sub-Committee Mr Baylis confirmed that the Applicant had agreed all of the proposed conditions. In so far as the provision for off sales is concerned it was confirmed that this was for the outside area. In terms of summing up Mr Baylis and Mrs Fabbricatore had nothing further to add to their submissions.

Conclusion

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so for the purposes of determining this application. The Sub-Committee noted that the Premises is to operate as a karaoke bar for substantial food and musical entertainment on the ground floor and basement. This will include a restaurant and live performance space.

The Sub-Committee had regard not only to the written and oral evidence but also to the requirements of the Act, The Guidance issued under section 182 of the Act and the City Councils SLP in the main policies HRS1 and PB1.

The Sub-Committee noted the Noise Impact Assessment & Mitigation Strategy prepared by Mr Richard Vivian of Big Sky Acoustics. This was to assess the noise from the proposed refurbishment of the Premises at ground floor and basement levels to form a karaoke bar, restaurant and live performance space. The report concluded that the normal operation of the Premises until the terminal hour would not result in an increase in average noise levels in the area around the application site and so the public nuisance licensing objective would not be undermined. This view was also endorsed by the EHS due to the mitigation measures the Applicant was to put in place.

Having carefully considered the matter, the individual circumstances of the case and the need to promote the licensing objectives, the Sub-Committee decided to **grant** the application. The Sub-Committee was persuaded that the application met the policy requirements under the SLP and that there was no need to prove an exception because the Premises did not fall within the West End CIZ or SCZ.

The Sub-Committee arrived at this decision based upon the merits of the application and the various safeguards and measures, namely the Operational Management Plan (to include a dispersal policy for when customers are leaving the Premises and maintaining a good relationship with its neighbours and partners in the local area to ensure that the Premises is making a positive contribution) the Applicant is to implement in the running of the Premises that will uphold the promotion of the licensing objectives.

In reaching its decision, the Sub-Committee concluded based on the evidence that the application was suitable for the local area that the conditions attached to the

licence dealing with matters such as CCTV, the employment of SIA from 21:00 hours on Thursday, Friday and Saturday, a Noise limiter to be fitted to the music amplification system, age verification, an EHS works condition meaning that no licensable activities can take place at the Premises until the EHS are satisfied would alleviate the residents' concerns and were appropriate and would promote the licencing objectives.

In terms of the conditions these are all the conditions as stated at pages 181-186 of the report together with the additional condition that the ground floor will be limited to background music in the communal areas as specified below.

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

1. To grant permission for **the Exhibition of Films (Indoors)** Monday to Tuesday 09:00 to 00:00 Wednesday to Saturday 09:00 to 01:00 Sunday 09:00 to 23:00. **Seasonal variations:** None
2. To grant permission for **Live Music (Indoors)** Monday to Tuesday 23:00 to 00:00 Wednesday to Saturday 23:00 to 01:00 Sunday N/A **Seasonal variations:** None
3. To grant permission for **Recorded Music (Indoors)** Monday to Tuesday 23:00 to 00:00 Wednesday to Saturday 23:00 to 01:00 Sunday 09:00 to 23:00 **Seasonal variations:** None
4. To grant permission for **Late Night Refreshment (Indoors)** Monday to Tuesday 23:00 to 00:30 Wednesday to Saturday 23:00 to 01:00 Sunday N/A **Seasonal variations:** None
5. To grant permission for the **Sale by Retail of Alcohol (On and Off the Premises)** Monday to Tuesday 10:00 to 00:00 Wednesday to Saturday 10:00 to 01:00 Sunday 10:00 to 23:00 **Seasonal variations:** None
6. To grant permission for the **Opening Hours of the Premises** Monday to Tuesday 09:00 to 00:30 Wednesday to Saturday 09:00 to 01:30 Sunday 09:00 to 23:30 **Seasonal variations:** None
7. That the Applicant is to lodge revised plans for approval to the Licensing Authority indicating the sliding doors and staircase prior to licensable activities taking place.
8. That the Licence is subject to any relevant mandatory conditions.
9. 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:

10. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a karaoke bar.
11. The supply of alcohol in the area hatched black on the plan shall be by waiter or waitress service only.
12. The supply of alcohol in the areas hatched black on the deposited plans shall be ancillary to the provision of entertainment and substantial food.
13. In the karaoke rooms marked on the deposited plan seating and tables shall be provided.
14. There shall be no admittance or re-admittance to the premises after 00:00 hours except for patrons permitted to temporarily leave the premises (e.g. to smoke, make a phone call) or those patrons who have pre-booked a karaoke pod.
15. After 00:00 hours there shall be a minimum of 10 karaoke pods available for booking if the ground floor or basement bar is to remain open for licensable activity.
16. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
17. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
18. All sales of alcohol for consumption off the premises shall be in sealed containers only, save for alcohol served by a waiter or waitress to customers who are seated at tables within the designated external seating area(s) shown on the plan.
19. All outside tables and chairs shall be rendered unusable by (23.00) hours each day.
20. 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.
21. A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria: (a) the limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses, (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by

persons authorised by the Premises Licence holder, (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team, (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

22. 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.
23. Loudspeakers shall not be located in the entrance and exit of the premises or outside the building.
24. All windows and external doors shall be kept closed after 18:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
25. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
26. 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.
27. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
28. 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.
29. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
30. Other than when using the dedicated Zig Zag Building refuse collection areas and systems, no collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day.
31. Other than when using the dedicated Zig Zag Building delivery area and system, no deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.

32. A copy of the premises' dispersal policy shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council.
33. 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.
34. 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.
35. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
36. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
37. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
38. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
39. A Challenge 21 or 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.
40. At least 2 SIA licensed door supervisors shall be on duty at the entrance of the premises from 21.00 on Thursday, Friday and Saturday whilst it is open for business and they must correctly display their SIA licence(s) when on duty so as to be visible.
41. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. (b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. (c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. (d) All recordings shall be stored for a minimum period of 31 days with date and time stamping. (e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
42. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

43. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system, searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
44. 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.
45. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined. This shall be no greater than 60 persons on the ground floor and 380 in the basement (excluding staff).
46. The Premises Licence Holder shall ensure that the ground floor communal areas of the premises shall be limited to only background music.

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

**Licensing Sub-Committee
5 October 2023**

The Meeting ended at 5.00 pm