



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (6)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** held on **Thursday 10th August, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Maggie Carman (Chair), Judith Southern and Melvyn Caplan

1. MEMBERSHIP

1.1 It was noted that there were no membership changes.

2. DECLARATIONS OF INTEREST

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

1. LITTLE CHINESE PRINCESS, 3 CRAVEN TERRACE, W2 3QD

WCC LICENSING SUB-COMMITTEE NO. 6 ("The Committee")

Thursday 10 August 2023

Membership: Councillor Maggie Carman (Chair) Councillor Judith Southern and Councillor Melvyn Caplan

Other Parties: Legal Advisor: Horatio Chance
Policy Advisor: Daisy Gadd
Committee Officer: Georgina Wills
Mr Rash Singh Mahal of Ardens Law, representing the Applicant
Mrs Huazhen Lei, (also present) and Mr David Malamatenios
Environmental Health Service: Mr Anil Drayan
Local Resident: Mrs Helen Adams

Application for a New Premises Licence Chinese Little Princess 3 Craven Terrace London W2 3QD 23/03158/LIPN

FULL DECISION

Case Summary

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises proposes to operate as a Chinese restaurant. The Applicant has proposed conditions in their operating schedule. The Metropolitan Police proposed to amend a condition and this has been agreed by the Applicant. This can be found at **Appendix 5** of the agenda report.

The Premises are located within the Lancaster Gate Ward. Neither the West End Cumulative Impact Zone nor Special Consideration Zone applies. There is no policy presumption to refuse the application provided the Applicant can demonstrate that granting the application would not lead 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 Metropolitan Police Service, Environmental Health Service, SEBRA and a local resident.

There is a resident count of 308.

Premises

Little Chinese Princess
3 Craven Street
London
W2 3QD

Applicant

Mrs Huazhen Lei

Cumulative Impact Area

N/A

Activities and Hours

Sale by Retail of Alcohol (On the Premises)

Monday to Sunday: 11:30 to 22:45

Seasonal Variations: None

Opening Hours to the Public

Monday to Sunday: 11:30 to 22:45

Seasonal Variations: None

Representations Received

- The Metropolitan Police Service (PC Tom Stewart) (MPS) (**Withdrawn 7 June 2023**)
- Environmental Health Service (Anil Drayan) (EHS)
- Mr George Adams Flat 4, 3 Craven Terrace London W2 3QD
- John Zamit (SEBRA)

Summary of Representations

- *The Police believe that if granted, the premises would undermine the licensing objective 'The Prevention of Crime and Disorder'. The Police do not object in principle to the permitted hours for the sale of alcohol, however the conditions offered within your operating schedule are insufficient to demonstrate how you would promote the licensing objectives. Below, I propose several conditions. If you are minded agreeing to them, the police would withdraw its representation. Proposed amended conditions: Replace: Alcohol only to be served to customers to consume on premises and only to customers who have purchased a meal. With: MC38 The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal. For the purpose of this condition a 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table. Replace: A Personal Licence holder will supervise the premises at all times when alcohol is being sold with: MC03 There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol. MC49 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 MC01 (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.*

MC02 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.

MC47 A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

- The Supply of Alcohol and for the hours requested may impact on Public Safety and lead to an increase in Public Nuisance in the area.*
- Some undertakings have been offered and these will need to be converted to enforceable conditions are being considered as to if they are sufficient for the proposed use.*
- The provision of sanitary accommodation is recommended to be at least in line with BS6465 for any proposed capacity.
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.*
- Clarification is also 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.*
- We already have noise & odours from an unapproved opening skylight at the rear of the building due to there being no proper ventilation in line with Westminster Council policy. There should be no primary cooking at all without ventilation. It is also not clear from the layout as to what cooking facilities there are and whether they are on the ground or basement levels.*
- We are concerned the owners will use the forecourt area for tables when there is a flat at the first-floor level & noise transmission already takes place between the ground floor and first floor.*
- We would like conditions applied as to refuse not being left in front of the premises and windows/doors being closed at a sensible time eg 9pm for noise reasons.*
- The original application was for a Chinese cafe with cafe like opening hours but that planning application was disingenuous as it was clearly intended for a restaurant and now we have a request for an alcohol licence.*
- I am writing on behalf of the South East Bayswater Residents' Association (SEBRA) to make a relevant representation objecting to this licence application on the basis of the likely impact on the licensing objective of 'prevention of public nuisance'.*
- SEBRA was formed in 1970 and works to protect the special character of our area. A non-profit, non party-political, voluntary organisation, we represent more than 1,000 people. SEBRA is consulted by Westminster Council on both major developments and all Council activities which affect the daily lives of residents. As a recognised amenity society we often engage in consultations with licence applicants both before and during the application process and note with some disappointment that we have not been contacted by the applicant in this case.*
- The premises are situated in a predominantly residential area with hotels and parade of shops along Craven Terrace and a school adjacent.*

- *The adjacent Craven Road has also a small parade of shops & restaurant/cafes.*
- *The application is described as a ground floor Chinese restaurant in a mixed use building, with a basement occasionally used by private customers.*
- *The application is for hours within Westminster Council Core Hours for the ground and lower ground, except for Sundays.*
- *There is a small external forecourt area in front of the red line for licensable activities so presume not to be used for tables and chairs outside. We note that the licensable activities are for use of premises as Chinese restaurant.*
- *SEBRA is concerned on potential noise, disturbance and odours from the premises, particularly from noise and odours to the flats immediately above the premises. We are particularly concerned about cooking odours from the restaurant, effecting the residents above, as we understand that no means of ventilation are in place.*
- *We note some conditions have been set out in the application, including CCTV and "alcohol only to serve to customers who have purchased a meal to eat on the premises", but these are on our view insufficient to promote the licensing objectives in this location.*
- *We also require appropriate conditions relating to hours of deliveries to premises and collection of refuse and recycling. Other appropriate conditions are also required in respect of doors & windows closing at 21.00, notices displayed asking customers to leave quietly etc. We may propose other conditions once we are aware of any residential objections and/or any conditions proposed by Environmental Health or the Police.*
- *We are aware of course that applications can be amended, and as ever, SEBRA is always very happy and indeed ask for our contact details, including mobile number, to be passed to the applicant/their solicitors, and to discuss the operation and application with them.*
- *We reserve the right to make further comments /proposals /conditions in due course when we have more information about the application/operation.*

Policy Considerations

Policies HRS1 and RNT1 apply under the City Council's Statement of Licensing Policy ("SLP").

HRS1

A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.

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

1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.

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

RNT1

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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 of a restaurant as per Clause C.

C. For the purposes of this policy a restaurant is defined as:

1. A premises in which customers are shown to their table or the customer will select a table themselves to which food is either served to them or they have collected themselves.
2. Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at a table.
3. Which do not provide any takeaway service of food and/or drink for immediate consumption, except if provided via an ancillary delivery service to customers at their residential or workplace address.
4. Where alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
5. The sale and consumption of alcohol prior to such meals may be in a bar area but must also be ancillary to the taking of such meal.

DECISION AND REASONS

The Presenting Officer Ms Jessica Donovan outlined the application to the Sub-Committee. Ms Donovan advised that this was an application for a New Premises in respect of Chinese Little Princess 3 Craven Terrace London W2 3QD. The application has been brought by Mrs Huazhen Lei (represented today by Mr Rash Singh Mahal of Ardens Solicitors). The Applicant has applied for the sale by retail of alcohol Monday to Sunday 11:30 to 22:45. Full details can be found at pages 2 of the

agenda report. Representations were received from the MPS, EHS, SEBRA and a local resident. The Premises are located within the Lancaster Gate Ward and does not fall within the West End CIZ nor Special Consideration Zone applies.

Mr Mahal appearing on behalf of the Applicant addressed the Sub-Committee. Mr Mahal said that all of the conditions circulated by the EHS and MPS are all agreed. He said that in relation to the timings last orders will finish at 22:30 hours.

He said that in terms of noise issues discussions have been had with Mr Drayan from the EHS and an acoustic report is to be provided. In relation to the kitchen, he advised that the Applicant is working on a re-circulation system to reduce odour smells.

Mr Mahal confirmed the following:-

- The licensing objectives will be promoted and complied with together with notices inside and outside the Premises.
- The Managers telephone number is to be provided.
- There will always be someone with a personal licence on the Premises.
- There have been no objections from the residents occupying the first and second floors of the building.
- Complaints of racism have been reported to the Police on three occasions.

In response to questions from the Sub-Committee Mr Mahal advised that Model Condition 81 had been agreed.

At this point the Sub-Committee queried the three offences made in June in respect of two incidents of waste dumping and the other involving the sale of alcohol without a licence in place as referred to in the Memorandum by Mr Tom Birch City Licensing Inspector at Appendix 3 of the agenda report at pages 13 and 14.

In response Mr Mahal advised that the Applicant had a private contractor in relation to the removal of waste but was now using Westminster's waste collection service so there will not be any issues going forward in the future. Mr Mahal said that in relation to the alcohol sale this was a genuine mistake. He stated that the person who served the alcohol was a part time member of staff who had a grudge with the chef and they sold personal cans. The chef is not allowed to have his own alcohol on the Premises.

The Sub-Committee expressed concern regarding this statement and said that if a City Inspector were to attend the premises would this practice be witnessed?

Mr Mahal stated in reply that this will not happen again.

In answer to further questioning from the Sub-Committee Mr Mahal confirmed the following matters:-

- A Designated Premises Supervisor will be appointed.
- This is the first restaurant the Applicant has run so is a learning curve for them.
- That Model Condition 81 is perfectly understood in that until such time the condition is signed off the Applicant is unable to sell alcohol.

- We do not attend to have tables and chairs in the outside space although we may have a table out there for people to wait due to the space being limited in any event.
- The kitchen is very small. Most of the foods used only generate steam during the cooking process and we use an air fryer. The only frying is for spring rolls so odours will be kept to a minimum.

Mr Drayan appearing on behalf of the EHS addressed the Sub-Committee. He advised that the application was relatively straight forward. The Applicant has agreed conditions with the EHS and the MPS.

Mr Drayan said that he would not usually have any further issues with such an application, however it was made clear to the Applicant that there are several problems that they will not find easy to navigate through the conditions.

Mr Drayan highlighted the following matters to the Sub-Committee:-

- The Premises is a listed building. There is a skylight which has been installed in the kitchen so there's planning enforcement action being undertaken. I recommended that the Applicant looks into the possibility of installing an internal re-circulation system.
- I further advised that this building has internal restrictions and there's possible enforcement action for this also.
- The works condition should include whether the Applicant has put in satisfactory odour nuisance.
- The Applicant can still operate the kitchen without a Premises Licence and so odours can still cause a statutory nuisance pursuant to the provisions of the Environmental Protection Act 1990.
- The EHS would not have an issue with the licence being granted as it cannot come into effect until such time as the works condition is signed off namely Model Condition 81.
- I understand the requirement for an acoustic report is to be submitted. The Premises was previously a retail shop so was not the same sort of noise associated with a restaurant.
- The Premises external area is a private forecourt so might not necessarily need a tables and chair licence.
- In terms of odours the proposed system will restricts the type of cooking permitted due to the electric use. The system will take away all odours.
- Those working in the kitchen would obviously be affected and customers.
- The Applicant would be required to clean and maintain the system to ensure its working optimally.
- The EHS is only aware of one complaint from the upstairs resident, Mr Adam.
- My colleagues have tried to visit so have not confirmed it is a statutory nuisance. There is currently planning and licensing enforcement.

Mr Richard Brown appearing on behalf of SEBRA addressed the Sub-Committee. Mr Brown said that he agreed with Mr Drayan's points. He said that there had been one resident representation but there were two flats above and both had been in contact with Mr Drayan about the various issues arising.

Mr Brown referred to the findings of the City Inspector by Mr Birch when he inspected the Premises on the 8 June where he had 'made observations of customers inside the premises and was of the belief that alcohol was being provided and sold without authorisation. He then went in and was able to buy alcohol'. Mr Brown said that this has been described as a one-off incident. However, he said the question that needs to be asked is whether the Sub-Committee has confidence in the operator?

Mr Brown advised the Sub-Committee of the following matters:-

- In relation to the proposed Model conditions can it be with certain that they will be complied with going forward notwithstanding the current breaches?
- The proposed works condition is a useful way to safeguard but the EHS need to remain in contact with the resident going forward to ensure that their views are met as they are affected by it.
- Regarding the discharge of MC81 I think it would be helpful to have Mr Drayan's wording added to the condition
- The skylight is at the heart of odour issues because this is real problem affecting the lives of residents.
- There is a potential for outdoor tables and chairs to cause a nuisance in the evening.
- Regarding last orders of 22:30 for the sale of the sale of alcohol and closing to 22:45 we would like core hours on Sunday.
- Westminster waste collection service is welcomed.
- Timings for commercial waste and recycling finish at 20.30 so we feel it makes sense to bring them back from 23.00 to 20.30 (MC35)

Mr John Zamit Chair of SEBRA addressed the Sub-Committee. Mr Zamit said that the Premises was an attractive listed building. He said that the fundamental problem is the issue of noise and smells.

Mr Zamit said that he had been to the Premises, went up to the flat and looked down at the Premises. He said that the Applicant had not confirmed whether the unauthorised skylight would be kept closed and would therefore appreciate an undertaking from the Applicant in this respect. Mr Zamit said that the planning process does take time for a change of use and alterations and would fear that this process could run on for years.

Mrs Helen Adams local resident appearing on behalf of her husband who was unable to attend the hearing addressed the Sub-Committee. She advised that they lived on the third and fourth floors. There are four located above the restaurant, two are owned by restaurant owners, namely the Applicant. We objected and as I understand it Flat 1 has an imminent visit by the EHS.

Mrs Adams explained that flat one's bedroom is less than a meter from the skylight. The only way for fumes to go is up and onto our terrace and into our kitchen window. She advised that it is open much of the time as it is a small kitchen and must smell.

Mrs Adams said that she had owned her flat for 5 years and never had a problem before. She advised that the fire alarm that covers the whole building was broken and had not been repaired for five months.

Mrs Adams said that she had concerns about the Applicant's ability to comply with rules and their overall responsibility as an operator. She said that we want the skylight to be permanently closed so that we are not affected by noise and smells.

The Sub-Committee asked the Applicant whether they were prepared to keep the skylight closed and this was accepted and agreed by the Applicant by way of an undertaking. In relation to the fire alarm, it was stated that by the Applicant that it was not aware the same was not working and once informed arrangements were made to repair this. The Applicant confirmed that they had good relations with the first floor flat and other neighbours apart from the Adams which appeared to be strained on grounds of discrimination.

Ms Daisy Gadd Policy Advisor to the Sub-Committee queried the operational and opening hours if they were the same for licensable activities? Mr Mahal confirmed that this would be the same hours.

Mr Horatio Chance, Legal Advisor to the Sub-Committee went through the proposed wording for conditions in relation to training of staff and this was agreed by the Applicant in terms of induction and refresher training.

Mr Mahal in his summing up to the Sub-Committee confirmed that the following matters were agreed:-

- An undertaking is given on the basis that the skylight will remain closed.
- Outside tables and chairs will be rendered unusable at 21:30 as per Model Condition 19.
- Model Condition 81 being the works conditions is to be amended to include EHS additional wording.
- 22:30 on a Sunday is agreed.

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 having carefully considered the matter and the evidence on its individual merits decided to grant the Premises Licence.

The Sub-Committee noted that the Premises is not located within the West End Cumulative Impact Zone nor Special Consideration Zone so there is no policy presumption to refuse an application for a restaurant premises selling alcohol.

The Sub-Committee noted that the Applicant amended the application by reducing the terminal hour for the sale of alcohol and opening to 22:30 Monday to Sunday.

The Sub-Committee noted that the alcohol sale as described by the City Inspector to his visit to the Premises in June should be considered merely as a one-off incident in light of the evidence given by the Applicant, however, the Sub-Committee does take selling alcohol without the proper authorisation in place as a serious matter as this gives rise to breaches of the Licensing Act 2003 and the undermining of the licensing objectives. Conditions have therefore been imposed on the licence regarding the

training of staff to ensure that they are well versed in the arrangements for selling alcohol to customers.

The Sub-Committee concluded based on the evidence that the Applicant would promote the licensing objectives with the offered conditions as these would mitigate the concerns raised by those who had objected to the application.

In terms of the conditions these are all the conditions as stated at pages 15-19 of the agenda report as well as the Environmental Health conditions covered at page 3-4 of the additional papers. This also includes a works condition which means that the Applicant is unable to carry out licensable activities at the Premises until the Premises has been assessed as satisfactory by the Environmental Health Consultation Team. Model Condition 19 has been amended so that the hour is now 21:30.

Similarly, Model Conditions 35 and 43 the times have been amended to read 20:30. Likewise with Model Condition 81 has been amended to include the words *“satisfactory mitigation to prevent odour and the internal sound insulation measures being in accordance with Appendix 11 of the Statement of Licensing Policy as amended from time to time”* as requested by the EHS and agreed by the Applicant and interested parties who objected.

The Sub-Committee welcomed and accepted the Undertaking given by the Applicant that the skylight shall remain closed at all times as this will help the reduction in cooking smells and nuisance and promote the licensing objectives in particular the prevention of public nuisance licensing objective.

The Sub-Committee would recommend going forward that the Applicant obtains professional advice regarding planning matters as this will help them with the running of their business given that this is their first venture of running a restaurant business and all of the obligations that directly flow from that.

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 **Sale by Retail of Alcohol (On the Premises)** Monday to Sunday 11:30 to 22:30 **Seasonal variations:** None
2. To grant permission for the **Opening Hours of the Premises** Monday to Sunday 11:30 to 22:30 **Seasonal variations:** None
3. That the Licence is subject to any relevant mandatory conditions.
4. That the Licence is subject to the following conditions and Informative imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.
5. The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.

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

6. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
7. 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
8. (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.
9. 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.
10. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
11. 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.
12. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

13. All windows and external doors shall be kept closed after (21:00) hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
14. All outside tables and chairs shall be rendered unusable or removed by (21.30) hours each day.
15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
16. 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.
17. No deliveries to the premises shall take place between (23.00) and (08.00) on the following day.
18. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
19. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (20.30) hours and (08.00) hours on the following day unless collections are arranged during the times for the Council's own commercial waste collection service for the street.
20. No collections of waste or recycling materials (including bottles) from the premises shall take place between (20.30) and (08.00) on the following day unless collections are arranged during the times for the Council's own commercial waste collection service for the street.
21. Delivery drivers shall be given clear, written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside the licensed premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.
22. 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.
23. The number of persons accommodated at the premises as a whole at any one-time (excluding staff) shall not exceed 50 persons with 20 in the basement and 30 on the ground floor.
24. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team which shall include satisfactory mitigation to prevent odour and the internal sound insulation measures being in accordance with Appendix 11 of

the City Council's Statement of Licensing Policy (as amended from time to time) at which time this condition shall be removed from the Licence by the Licensing Authority. If there are minor changes during the course of construction new plans shall be submitted with the application to remove this condition.

25. At least one member of staff on duty whilst the licence is being used shall be trained in the requirements of the Licensing Act in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence.
26. The Premises Licence Holder shall ensure that induction training including refresher training at six-month intervals shall be undertaken with all relevant staff under the Licensing Act 2003. All training shall be recorded and training records shall be made readily available on request to the Responsible Authorities.

INFORMATIVE

27. The Applicant is strongly advised to obtain independent professional advice in respect of planning matters arising under the provisions of the Town and Country Planning Act 1990 as this will help assist in their professional running of the Premises in tandem with the licensing regime.

If problems are experienced then a Review of the Premises Licence can be made.

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

**The Licensing Sub-Committee
10 August 2023**

2. THE BOX, 11-12 WALKER'S COURT, W1F 0BZ

LICENSING SUB-COMMITTEE No. 6

Thursday 10 August 2023

Membership: Councillor Maggie Carman (Chair) Councillor Caroline Southern and Councillor Melvyn Caplan

Legal Adviser: Horatio Chance
Policy Officer: Daisy Gadd
Committee Officer: Georgina Wills
Presenting Officer: Jessica Donovan

Objections: One local resident objector against and one objector in support

Present: Mr Craig Baylis Solicitor of Kingsley Napley LLP, representing Mr Aasim Chaudhri (Applicant Too 2 Much Ltd)

The Box, 11-12 Walker's Court, London, W1F 0ED	
23/03185/LISEVR	
1.	Renewal of Sexual Entertainment Venue Premises Licence under the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009)
	The Sub-Committee has determined an application for a Renewal of a Sexual Entertainment Venue Premises Licence made by Too 2 Much Ltd to operate the Premises as a sexual entertainment venue between the hours of 09:00 to 04:00 on each of the days Monday to Saturday and 09:00 to 00:30 on Sundays.
	Amendments to application advised at hearing: None
	Decision (including reasons if different from those set out in report): The Presenting Officer Jessica Donovan representing the Licensing Service, introduced the report. She advised that this was an application for a Renewal of a Sexual Entertainment Venue Premises Licence made on behalf of the Applicant, Too 2 Much Limited in respect of The Box, 11-12 Walker's Court, London, W1F 0ED. She further advised that two objections had been received from a local resident against the application and one in support. Mr Baylis, representing the Applicant, advised that this was a renewal of its licence which had been done on an annual basis. Mr Baylis advised that he was concerned that every year the SEV is applied for one resident objection is submitted every year on grounds that are unrelated to SEV. He said that the

objection is about noise and dispersal and in the unlikely event that the renewal application were refused there still exists a Premises Licence under the provisions of the Licensing Act 2003 so there is no evidence for a refusal of the application.

Mr Baylis stated that a journalist had visited Premises and seemed to think this was a review hearing and not a renewal and wanted to make that particular point on record. He said that there is no linkage of activity permitted by the SEV and the residents objection.

In answer to Mr Baylis query regarding matters raised unrelated to the SEV by objectors Ms Daisy Gadd Policy Advisor to the Sub-Committee stated that the Licensing Authority can contact objectors to discuss what other alternative routes they can take to raise concerns of noise nuisance so as to avoid these types of issues cropping up on a regular basis.

However, the Sub-Committee did also state that objectors are free to write what they want in their objection and this could not be restricted.

Mr Aasim Chaudhri General Manager on behalf of the Licence Holder addressed the Sub-Committee. He advised that the noise nuisance complained off is an issue within the area generally and not specific to these Premises. He explained that there was gang crime issues in the area also which added to nuisance problems and crime.

Mr Chaudhri advised that when people are leaving the Premises, it is the usual practice of the Premises to allow for one hour to get patrons to leave so you have a slow gradual dispersal where most patrons will leave via the Brewer Street exit. Mr Chaudhri said that there are 10 SIA on duty per evening and 6 of those are designated to assist people leaving.

The Sub-Committee noted that the Premises had robust procedures in place when it came to its management practices and daily running of the Premises.

In response to Mr Baylis questions the Chair of the Sub-Committee advised that there will be a policy review in the future of the Sexual Entertainment Venues Statement of Licensing Policy (2012) and that the Members of the Sub-Committee are well versed in knowing what matters are relevant when considering objections and how much weight should be attached to them so the licence holder should be reassured of the decision-making process.

Mr Horatio Chance the Legal Advisor to the Sub-Committee emphasised that the role of the Sub-Committee is to determine the application on its merits and reaffirmed the above view regarding what weight should be attached to objections. He also stated that it was abundantly clear from the application and the rest of the papers that the application was for the renewal of the SEV licence and not a Review so there could be no confusion here.

The Sub-Committee noted that there had been problems with gangs in the area which target customers when leaving licensed premises but this was an ongoing problem in the area and the responsibility of the Police. In terms of the Premises security arrangements the Sub-Committee noted that there is

always SIA security monitoring the outside of the Premises ensuring that customers are kept safe within the defined zone of the Premises.

The Sub-Committee noted that this was an application for a renewal of the Applicants SEV licence and in its determination of the matter considered all relevant factors namely the locality of the venue and its surrounding premises such as schools and places of worships.

The Sub-Committee noted that the number of sexual entertainment venues permitted within the Council's Sexual Entertainment Venues Statement of Licensing Policy had not been exceeded and that there had been no complaints made regarding the Premises.

The Sub-Committee had regard to the objection at Appendix D of the Report.

The Sub-Committee in its determination of the matter had regard to all the oral submissions made at the hearing and to all the written documentation that had been submitted. The Sub-Committee noted that there had been no local objections or breaches of the Premises Licence and none of the Responsible Authorities had objected to the application.

The Sub-Committee, therefore, granted the Renewal of the Sexual Entertainment Premises Licence subject to the Standard Conditions applicable to licences for sex establishments in Westminster as prescribed by the Council pursuant to Paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and the additional conditions imposed on the Premises Licence as specified below.

Standard Conditions

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of relevant entertainment, or material depicting nudity or relevant entertainment, shall be visible from outside the premises.
5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.

6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the relevant entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.
9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period together with facilities for viewing.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
 - (a) all crimes reported to the venue;
 - (b) all ejections of patrons;
 - (c) any complaints received;
 - (d) any incidents of disorder;
 - (e) seizures of drugs or offensive weapons;
 - (f) any faults in the CCTV system or searching equipment or scanning equipment;
 - (g) any refusal of the sale of alcohol;
 - (h) any visit by a relevant authority or emergency service;
 - (i) any breach of licence conditions reported by a Performer.

13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.
15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
16. Relevant Entertainment shall be given only by Performers and the audience shall not be permitted to participate in the relevant entertainment.
17. There shall be no physical contact between Performers whilst performing.
18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.
20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
21. Where Relevant Entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between

customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.

23. Performers must redress fully immediately after each performance.

Additional Conditions

24. At least one SIA registered door supervisor shall be permanently employed in the first floor licensed area of the premises and at least one permanently employed in the area providing entrance to the basement area. In addition, on such occasions that both floors are used for nude cabaret or nude table side dancing two additional door supervisors shall be so employed.
25. In the first-floor theatre and basement area (a) nude cabaret may be provided and (b) nude table side dancing may be provided. For the avoidance of doubt, nude table side dancing is the performance of dance, either nude or partially nude, for customers seated at a table.
26. The number of persons permitted in the premises (excluding staff) shall not exceed 288 at any one time.
27. Notwithstanding standard condition 17, necessary contact in order to perform skilled dance or acrobatic routines is permitted.
28. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
29. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
30. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
31. 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.
32. 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.
33. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
34. Any special effects or mechanical installations shall be arranged and

stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.

- i. pyrotechnics including fire works
- ii. firearms
- iii. lasers
- iv. explosives and highly flammable substances
- v. real flame
- vi. strobe lighting

35. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

**The Licensing Sub-Committee
10 August 2023**

3. TEMPORARY EVENT NOTICE (TENS): 45-49 EDGWARE ROAD, W2 2HZ

The application was withdrawn at the hearing.

The Meeting ended at 1.56 pm.