



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 30th November, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Angela Piddock (Chair), Md Shamsed Chowdhury and Karen Scarborough

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. 8 CARLOS PLACE, W1K 3AW

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 4 **("The Committee")**

Thursday 30th November 2023

Membership: Councillor Angela Piddock (Chair), Councillor MD Shamsed Chowdhury, Councillor Karen Scarborough

Officer Support: Legal Adviser: Horatio Chance
Policy Officer: Daisy Gadd
Committee Officer: Katherine Stagg
Presenting Officer: Roxsana Haq

Other Parties: Mr Alun Thomas (Thomas & Thomas), Guillaume Glipa and Brian Bendix (of the Applicant Company Paris Society International Holding Ltd), Maxwell Koduah (Environmental Health), Mr Richard Brown (Citizens Advice Westminster) representing Dr T A, local resident.

Application for a New Premises Licence in respect of 8 Carlos Place London W1K 3AW 23/05024/LIPN

FULL DECISION

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 8 Carlos Place London W1K 3AW ("The Premises"). The Premises intends to operate as a restaurant with ancillary bar. The Premises are located within the West End Ward but do not fall either within the West End Cumulative Impact Zone or Special Consideration Zone. There is no presumption to refuse an application of this type provided the licensing objectives are not undermined.

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 90.

Premises

8 Carlos Place
London
W1K 3AW

Applicant

Paris Society International Holding Limited

Cumulative Impact Area

N/A

Activities and Hours

Recorded Music (Indoors)

Monday to Thursday: 10:00 to 00:00

Friday to Saturday: 10:00 to 00:30

Sunday: 10:00 to 23:30

Seasonal Variations: From the end of permitted hours on New Years Eve to the start of permitted hours on New Year's Day. Sunday immediately prior to a bank holiday: 10:00 to 00:30

Late Night Refreshment (Indoors and Outdoors)

Monday to Thursday: 10:00 to 00:00

Friday to Saturday: 10:00 to 00:30

Sunday: 10:00 to 23:30

Seasonal Variations: From the end of permitted hours on New Years Eve to the start of permitted hours on New Year's Day. Sunday immediately prior to a bank holiday: 23:00 to 00:30

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

Monday to Thursday: 10:00 to 00:00

Friday to Saturday: 10:00 to 00:30

Sunday: 10:00 to 23:30

Seasonal Variations: From the end of permitted hours on New Years Eve to the start of permitted hours on New Year's Day. Sunday immediately prior to a bank holiday: 10 to 00:30

Opening Hours Premises are Open to the Public

Monday to Saturday 10:00 to 00:30

Sunday: 10:00 to 00:00

Seasonal Variations: From the end of permitted hours on New Years Eve to the start of permitted hours on New Year's Day. Sunday immediately prior to a bank holiday: 10 to 00:30

Representations Received

- Metropolitan Police Service (PC Adam Deweltz) (MPS) **withdrawn 21 September 2023.**
- Environmental Health Service (Maxwell Owusu Koduah) (EHS).
- 11 local residents.

Summary of issues raised by Objectors

- *I refer to the application for a new Premises Licence number for the above-mentioned premises. I have considered the information that you have provided within and accompanying this application. I have also considered the application in line with the relevant policies within the Councils Statement of Licensing Policy dated October 2021.*
- *Following consideration of the application and how it may affect the Licensing Objectives and meeting the requirements of the Council's Statement of Licensing Policy I wish to make the following representations:*
- *The hours requested to play recorded music may have the likely effect of causing an increase in Public Nuisance within the area.*
- *The hours requested to provide late-night refreshment may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.*
- *The supply of alcohol the hours requested may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.*
- *As presented, the application would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.*

- *The granting of the application as presented would have the likely effect of causing an increase in Public Nuisance and may impact on Public Safety within the area.*
- *First, I must express my strong opposition to the notion of introducing yet another restaurant and hospitality venue in our neighbourhood. The introduction of such an establishment threatens to compromise the existing residential character that defines the atmosphere of both Carlos Place and Mount Street. The preservation of this residential nature is not merely a preference, but an essential element that contributes to the quality of life for the residents in the area.*
- *Furthermore, it is disheartening to note that there has been a conspicuous absence of consultations regarding this application. The lack of engagement with the affected community members is a glaring oversight that has left us feeling excluded from a matter of significant importance to our neighbourhood. Such a disregard for community input contradicts the principles of transparency and inclusivity that should guide any decision-making process of this magnitude. Equally concerning is the proposed operational timeline, which extends until 1:30 am, accompanied by a request for a late music and alcohol license until 1 am. This proposal starkly contradicts the very essence of a residential street, where tranquillity and the well-being of its inhabitants should take precedence. The potential disturbances resulting from extended operational hours, amplified by alcohol consumption and live music, are untenable within a residential context.*
- *As a resident of Mount Street, I am finding it incredibly frustrating and tiring with the continued influx of hospitality venues and the associated increased footfall on the street. I cannot recall the last time I managed to park my own car on the street I live in. Furthermore, the proposed operating hours are until 1:30am. As someone whose bedroom's window overlooks Mount Street, I am afraid that my sleep quality will materially deteriorate. I am not a Mayfair tourist, myself and my family actually live in Mayfair and I will not tolerate further deterioration to our life quality in our beloved neighbourhood.*
- *I act for John Law, Tahoun Ahmed and Stuart Middleton, all of whom own flats at 125 Mount Street. We are objecting to this licensing application vehemently. First of all, I note that no amenity societies have been consulted for this contentious licensing proposal. Nor for that matter of fact were any WCC Planning Alerts received.*
- *I also note that this proposal has been put out during the peak summer holiday season, when many residents are abroad on holiday. All in all, one is left with the impression that the applicant's attitude is very much to hope to get it through without the due consultation process required to all stakeholders, and primarily the residents, who were this application to go through would see a further diminution in their amenities. To be clear, this is an office and residential building and the commercial elements around the immediate vicinity are either offices, retail mainly and some restaurants.*
- *Carlos Place is predominately a residential enclave and the continuous imposition to turn the area into a mini Soho, with late night music, late night alcohol licenses and all the associated anti-social and destructive fail out that this entails to the local community, is detracting against the sensitive balance that has historically been at the bequest of Mayfair, its residents and its commercial operators. This operator is clearly trying to fundamentally change the area to an entertainment late night offering first and foremost, with*

associated residential thereafter. That they have not consulted with us and our fellow residents and amenity groups, is not a surprise when one sees their proposed application.

- *Other local residents will certainly make the point that these premises are situated in a highly residential area. That is very much the case and the area already has a large number of licensed premises nearby. The nature of the operation makes it unsuitable for the operation which is described as a restaurant with ancillary bar but looking at the size of area where restaurant conditions apply, the bar area cannot qualify as ancillary. The application states that " appropriate model conditions to promote the licensing objectives" will apply. This however does not go far enough as we feel that the particular details of this application need to show some extra and location specific measures to avoid public nuisance. We refer to the hours sought which are significantly beyond core hours and to the access and egress of vehicular movements bringing and collecting customers. Given the location we feel that a proper dispersal policy is called for. So, on behalf of RSMSJ I would like to object to the licence on grounds of public nuisance.*
- *This a townhouse surrounded by residential properties is not an appropriate place for a licensed premises and contravenes all the licensing objectives. It will certainly cause noise and disturbance due to patrons entering and exiting and hailing taxis on a congested corner. The hours requested are beyond core hours which is completely unacceptable in a residential neighbourhood where children, the elderly and working people who need their rest will be trying to sleep and where it is their right to enjoy quiet amenity. This is the wrong use for this premises and must be refused.*
- *Policy PN1 states that 'the Licensing Authority will not grant applications that do not promote the prevention of public nuisance licensing objective.' The criteria and considerations set out in the policy are manifestly not complied with due to the hours proposed, the proposed style of operation, and the proposed extension of licensed use.*
- *What an extreme disaster! This endeavour appears to be yet another unfortunate development that poses a threat to the integrity of Mayfair. It is disheartening that some businesses seem to prioritise their own gains over the preservation of our community. The timing of the application's submission, coinciding with the holiday season, took me aback. To my surprise, there were no prior consultations held to acquaint us with the proposed plans. In addition, the absence of direct communication regarding this matter is extremely disappointing. It is evident that the applicant is not interested in taking residents' concerns into account, which is certainly not an auspicious beginning.*
- *Mayfair is already home to numerous dining establishments, rendering the addition of more unnecessary. Even if there were a genuine need, which is doubtful, the proposed closing time of 1:30 am is a significant cause for concern. We recently succeeded in dissuading another restaurant from extending their hours to that late, and granting such a privilege to 8 Carlos Place would invariably encourage other establishments to follow suit.*
- *The relentless pursuit of profit is taking its toll on the cherished residential ambience of our neighbourhood. It is high time that we put an end to this unbridled greed and preserve the sanctity of our beautiful community.*
- *I am supporting residents' and the RSMSJ's objection to this licensing application. This premises has residential properties on all three sides of it*

and the application is for extended hours, well beyond core hours. Therefore, is highly likely to cause public nuisance and affect residential amenity contrary to the Council's Licensing policy and Mayfair Neighbourhood Plan.

- The proposed conditions do nothing to mitigate the issues. This is also a listed building, and the applicant has not consulted with residents on the use of the building as a restaurant, bar, night club. Granting this application would set an alarming precedent and contribute to noise disturbance and crime in the area.*
- Grosvenor would be grateful if the City Council could please consider our representation in support of the above premises licence application. Grosvenor West End Properties owns the freehold of the premise; the applicant company is the new leaseholder. Grosvenor owns and manages a property portfolio across the world. In the UK, our heartland is in London's West End, where we support nearly 1,000 businesses and thousands of residents, workers and visitors each day. The holdings include hospitality, restaurants, and retail in locations such as Grosvenor Square, North Audley Street, Duke Street, Mount Street, Brown Hart Gardens and beyond.*
- We develop, manage and invest to improve property and places across many of the world's leading cities and promote sustainability within the built environment. As a privately owned organisation we are long-term in our outlook considering the financial, environmental and social impacts of our decisions on our business, the places we are a part of and the people who rely on them.*
- We work closely with Westminster City Council as part of our strategy for long-term investment in our key locations, forming part of a long-term commitment to support and improve these areas through refurbishment and enhancing the area's profile and visitor experience. This includes carefully curated tenant mixes and an ongoing programme of initiatives. We work in partnership with the City Council and public realm improvement schemes and long-term participation in local stakeholder initiatives. The premises is located just off Mount Street, where Grosvenor have direct control over a majority of retail units. We continually invest in the street to support its success – this includes the refurbishment and restoration of the Audley pub, street improvements and the commissioning of the "Silence" water feature by Japanese architect Tadao Ando with the Connaught Hotel. From our perspective, any tenant selected, and application made, would have to be appropriate for this area and support its long-term future.*
- The location is within the Core Central Activities Zone, meaning policy supports both retail and hospitality uses in the area. And managed well through an experienced operator, hospitality is having an increasingly important role in the success of any retail led destination. However, the introduction of a hospitality use in this building, which has been vacant since 2021, would not materially change the fact that the Mount Street area remains a predominately retail destination. Indeed, the concentration of restaurant/F&B uses on Mount Street is just 25%. The Applicant Paris Society International Holding Ltd was carefully selected by Grosvenor as the most appropriate operator for 8 Carlos Place. For all tenants we ensure that they will complement the mix and tone of the particular location, and that they have a positive track record both in running their business and in community relations.*
- We assessed the application and extensive Operating Schedule, tailored to each floor, prior to submission and are supportive of it. We are equally*

confident that the premises will have a positive impact on the area and that activating this prominent but empty site with a highly regarded operator will enhance it. Furthermore, the premises licence would ensure a new layer of control and safeguards to ensure the premises is operated professionally and responsibly. These benefits will naturally extend to the area as a whole

Policy Conditions

Policies HRS1 and RNT1 (A) apply under the City Council's Statement of Licensing Policy ("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 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 late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

4. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.

5. The application and operation of the venue 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 late night 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

Ms Roxsana Haq, Presenting Officer, outlined the application to the Sub-Committee. She advised that this is an application for a New Premises Licence in respect of 8 Carlos Place, London, W1K 3AW. The Applicant had obtained pre-application advice from the Council's EHS. Representations had been received from EHS and eleven interested parties, nine of whom withdrew their representations. The MPS also objected to the application but they too have withdrawn their representation. The Premises are located within the West End Ward but do not fall within the West End CIZ nor any Special Consideration Zone. She confirmed that the additional submissions from the Applicant and the Interested Parties had been circulated to the Members.

Mr Alun Thomas, Solicitor appearing on behalf of the Applicant, outlined the application to the Sub-Committee. He advised that the Premises is a listed building and traded previously a shoe factory. Paris Society International Holdings Ltd wish to open a new up-market restaurant across four floors (ground to fourth) and a small speak easy in the basement with a capacity of 10 patrons. The Ground Floor will have a Brasserie and space for 6 vertical drinkers while all the other floors (first to fourth floors) will be subject to WCC Restaurant Model Condition 66 where alcohol is only available with substantial food. While not conditioned, food will be available in all areas of the Premises.

Mr Thomas advised that nine of the eleven interested party representations have been withdrawn following mediation and amendment of the application, however, the EHS have maintained their representation. The Applicant has an extensive service management plan and dispersal policy following an expert report on transport, noise and dispersal being undertaken. He advised that the Premise is not in a Special Consideration Zone nor the West End CIZ and the amended hours requested match the nearby restaurant Bacchanalia. He advised that also following mediation with interested parties and the MPS, the fourth floor has been amended to include Model Condition (MC66) and the rear terrace on the first floor will close at 22:00.

Mr Thomas advised there is no external seating on Carlos Place and off sales of alcohol will be in sealed containers. The application also includes conditions on servicing times, the provision for SIA officers as well as being subject to a works condition.

In response to questions from the Sub-Committee Mr Thomas confirmed that the Ground Floor will have up to six vertical drinkers while all others will be seated (up to the capacity of 100). Whilst the Ground Floor is not subject to MC66 because there is no restaurant, food will nevertheless be available to purchase.

Mr Thomas also advised that there is plenty of parking and facility arrangements for chauffer driven cars for Patrons of the restaurant. He confirmed that the Applicant met with residents of Mount Street and gave them the necessary comfort with their dispersal plans, which includes 13 taxi spaces outside the Premises.

Mr Guillaume Glipta of the Applicant Company advised that he had many established high-end restaurants in London and Paris with some 20 years' experience in London. He stated that this application will bring back to use a derelict factory and will employ 100 people, many of whom will be from the local community.

Mr Thomas, in response to further questions, advised that the Premises will have no more than 10 deliveries a day and they have an agreed service management plan which will not allow deliveries between 21:00 and 07:30 hours. They also have security at the door to ensure drivers turn off their engines and do not leave them idling. Mr Thomas further advised that the 100 patrons on the Ground Floor not subject to MC66 will be mainly seated and a high-end drinking establishment. Residents who withdrew their representations were aware of this Ground Floor provision.

Mr Maxwell Koduah appearing on behalf of the EHS addressed the Sub-Committee. He advised that the Applicant had sought pre application advice and that process included proposed EHS conditions to be imposed on any licence granted. He advised that many of the residents withdrew their representations due to the thorough dispersal plan and the Applicant having a good track record at running well run establishments.

Mr Koduah and Mr Thomas discussed Paragraph 7.7 of the Dispersal Policy and agreed that this particular should be retained.

Mr Richard Brown, representing Dr T A, addressed the Sub-Committee and confirmed that the Applicant and Dr T A had undergone significant mediation with the interested parties and subsequently many had withdrawn - he commends them on this and he is happy with the amended application.

Dr T A advised that he is speaking on behalf of nine of the objectors including those who have withdrawn and commends the Applicant for agreeing conditions on the licence which would protect surrounding residents. These include but are not limited to the following:

- Time restrictions are to apply on the first floor terrace.
- Model Restaurant Condition (MC66) is to cover the majority of the Premises.
- There is to be extra door supervision on late closing days.
- The hours were amended as requested.

Dr T A advised that with these additional conditions and having been to Paris Society restaurants before he will withdraw his objection and looks forward to welcoming them to the neighbourhood.

Mr Horatio Chance, Legal Advisor to the Sub-Committee discussed the wording of the proposed conditions with all parties and made amendments, as necessary.

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 for a restaurant premises outside of the West End CIZ. There was no policy presumption to refuse the application under Policy RNT1 provided that the granting of it will not lead to the

undermining of the licensing objectives. The comments advanced by Mr Thomas in his submissions regarding the Premises operating as a restaurant were noted.

In deciding the application, the Sub-Committee took into account the Sub-Committee papers, the requirements of the Act, the s.182 Home Office Guidance and the promotion of the licensing objectives.

The Sub-Committee noted that the MPS had withdrawn their representation against the application following their and Environmental Health suggested conditions to the Licence were agreed by the Applicant.

The Sub-Committee also noted the original hours were reduced accordingly so it was evident that the Applicant was flexible in his approach when dealing with residents and this was again welcomed by the Sub-Committee.

The Sub-Committee considers that the right balance has been struck here when considering the needs of the operator, local business and residents given the various undertakings given by the Applicant in his submissions to the Sub-Committee when considering the daily management of the Premises.

The Sub-Committee was satisfied that the application was suitable for the local area and had listened and addressed any concerns raised.

The Sub-Committee concluded based on the evidence that the Applicant would help promote the licensing objectives with the offered conditions. In terms of the conditions these are all the conditions as stated at pages 188-194 of the report as amended by pages 3-6 of the additional report.

The Sub-Committee concluded that the licensing objectives will be promoted in light of the ongoing commitment by the Applicant to collaborate with local residents, the measures it has in place when it came to the management of the Premises for the hours sought and therefore decided to **GRANT** the application for a New Premises Licence. The Sub-Committee was persuaded that the application met the policy requirements under the SLP and has imposed all the conditions.

The Sub-Committee concluded that the conditions imposed on the Premises Licence will mitigate the concerns of those parties who had objected to the application and have the desired effect of promoting the licensing objectives. The Premises is to be food led and can only operate as a restaurant on the first, second and fourth floors due to model conditions MC66 and MC41 imposed on the premises licence requiring that food has to be sold ancillary to a table meal, and that substantial food and non-intoxicating beverages including drinking water shall be available in all parts of the Premises and that the service of alcohol is to be by waiter/waitress service.

The Ground Floor will have up to six vertical drinkers while all others will be seated (up to the capacity of 100) and whilst this floor is not subject to Model Condition (MC66) food will nevertheless be available to purchase.

The Sub-Committee further concluded that the conditions attached to the licence together with the Premises Dispersal Policy and Service Management Plan now in

place for the Premises would alleviate the residents' concerns and were appropriate and proportionate to help promote the licensing objectives.

Going forward the Sub-Committee would welcome that the Applicant continues to maintain a fruitful dialogue with those who had objected to the application to ensure the smooth running of the Premises and the promotion of the licensing objectives. Having carefully considered the committee papers, the additional papers and the submissions made by all of the parties orally, **the Committee has determined**, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. **To grant permission for Recorded Music (Indoors)** Monday to Saturday 10:00 to 00:30 Sunday 10:00 to 00:00 **Non-standard Timings:** From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sundays immediately prior to a bank holiday: 10:00 to 00:30
2. **To grant permission for Late Night Refreshment (Indoors)** Monday to Saturday 23:00 to 00:30 Sunday 23:00 to 00:00 **Non-standard Timings:** From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sundays immediately prior to a bank holiday: 10:00 to 00:30
3. **To grant permission for the Sale by Retail of Alcohol (On and Off the Premises)** Monday to Thursday 10:00 to 00:00 Friday to Saturday 10:00 to 00:30 Sunday 10:00 to 23:30 **Non-standard Timings:** From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sundays immediately prior to a bank holiday: 10:00 to 00:30
4. **To grant permission for the Opening Hours of the Premises** Monday to Saturday 10:00 to 00:30 Sunday 10:00 to 00:00 **Non-standard Timings:** From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sundays immediately prior to a bank holiday: 10:00 to 00:30
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. On the first, second floors and fourth floors, the premises shall only operate as a restaurant:
 - (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (ii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table;
 - (iii) which do not provide any takeaway service of food or drink for immediate consumption off the premises;

- (iv) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
8. On the basement and ground floor, the sale of alcohol shall only be to persons seated and by waiter/waitress service, save for a maximum of six persons standing at any time in the area shown hatched black on the premises plan.
 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 rear terrace shall only be used between the hours of 10.00 to 22:00. There shall be no permitted access to the terrace area by staff and customers before 10.00 and after 22:00 except in the case of an emergency.
 11. 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.
 12. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises 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 entire 31-day period.
 13. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.

14. The premises licence holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day, they start their employment.
15. The premises may remain open for the sale of alcohol and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
16. All sales of alcohol for consumption 'Off' the premises shall be only in sealed containers
17. There shall be no sales of alcohol for consumption 'Off' the premises after 23.00 hours.
18. 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, passport or proof of age card with the PASS Hologram.
19. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke, shall not be permitted to take drinks or glass containers with them.
20. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received regarding crime disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service
21. 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.
22. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of the local residents and businesses and leave the area quietly.
23. 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.

24. No collection of waste or recycling materials (including bottles) from the premises shall take place between 21:00 and 07:30 hours on the following day.
25. No deliveries to the premises shall take place between 21:00 and 07:30 hours on the following day.
26. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
27. 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.
28. 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.
29. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
30. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
31. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
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. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area limited to no more than (5) customers at any one time.
34. One SIA-licensed door supervisor shall be on duty on Thursdays and Two SIA-licensed door supervisors shall be on duty on Friday and Saturday (and Sundays before a bank holiday) at the entrance of the premises at all times after 20:00 until close, and they must correctly display their SIA licence when on duty to be visible.
35. No licensable activities shall take place until the premises have 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.
36. 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 not to exceed 250 in any event.

37. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
38. 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.

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

**The Licensing Sub-Committee
30 November 2023**

2. KOYN, 38 GROSVENOR STREET, W1K 4QU

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 4
("The Committee")

Thursday 30th November 2023

Membership: Councillor Angela Piddock (Chair), Councillor Shamsed Chowdhury MD, Councillor Karen Scarborough

Officer Support: Legal Advisor: Horatio Chance
 Policy Officer: Kerry Simpkin
 Committee Officer: Katherine Stagg
 Presenting Officer: Roxsana Haq

Other Parties: Mr Alun Thomas (Thomas & Thomas), Karthik Chandran (of the Applicant Company Far East Holdings Ltd), Anil Drayan (Environmental Health Service), Mr Richard Brown (Citizens Advice Westminster) representing Mike Dunn of Resident's Society of Mayfair & St James.

Application for a Variation Licence in respect of Koyn 38 Grosvenor Street London W1K 4QU 23/05443/LIPV

FULL DECISION

Summary of Application

The Sub-Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act") in respect of Koyn 38 Grosvenor Street London W1K 4QU ("The Premises"). The Premises intends to operate as a restaurant and has had the benefit of a premises licence since 2020. The PLH is Far East Holdings Limited.

The variation seeks the following:-

- *To extend the terminal hour for Late Night Refreshment (extra 3 hours), Sale by Retail of Alcohol (extra 1.5 hours) and the closing time to 02:00 on Thursday, Friday and Saturday.*

The Premises are located within the West End Ward but do not fall within either the West End CIZ or SCZ.

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 5 local residents all citing concerns regarding public nuisance.

There is a resident count of 54.

Premises

Koyn
38 Grosvenor Street
London
W1K 4QU

Premises Licence Holder ("PLH")

Far East Holdings Limited

Special Consideration Zone

N/A

Activities and Hours

Late Night Refreshment (Indoor)

Current
Monday to Sunday 23:00 to 00:30

To

Monday to Wednesday and Sunday 23:00 to 00:30
Thursday to Saturday 23:00 to 02:00

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

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

Current
Monday to Sunday 08:00 to 00:30

To

Monday to Wednesday and Sunday 08:00 to 00:30
Thursday to Saturday 08:00 to 02:00

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

Opening Hours Premises are Open to the Public

Current
Monday to Sunday 08:00 to 00:30

To

Monday to Wednesday and Sunday 08:00 to 00:30
Thursday to Saturday 08:00 to 02:00

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

Representations Received

- Environmental Health Service (EHS) (Anil Drayan).
- 5 local residents.

Issues raised by Objectors

- *I wish to make the following representation based on the operation schedule submitted: The proposed extension in hours of the permitted licensable activities may result in an increase in Public Nuisance in the area.*
- *Clarification is requested on whether the plant and machinery operating for longer hours will not cause nuisance.*
- *No additional conditions have been offered e.g. dispersal policy, which may help mitigate against any adverse impacts of the proposed variation.*
- *A premises history check of Environmental Health records show a complaint was received in November 2022 regarding nuisance being caused by the waste collection arrangements at the premises in Three Kings Yard.*
- *The premises sit within the relatively recently completed, 1 Grosvenor Square development, and is therefore surrounded by private homes. The main entrance/exit to the premises is on Grosvenor Street directly alongside the main residential entrance. Far East Holdings Ltd, has applied to vary its current alcohol licence. I set out our objections against such variation, as follows: Public Nuisance in the form of noise past midnight and into the early hours of the morning from patrons coming & going, standing outside to smoke, cars picking up/dropping off with associated noise from car doors and voices leading to general local resident disturbance at anti-social hours over the weekend. An extension to the alcohol licence would increase the likelihood of crime and disorder in Grosvenor Street and the surrounding area. The concern is that increased hours of alcohol sales lead to increased alcohol consumption and therefore an increase in alcohol-related injuries, harm and crime.*
- *Management would have little or no control over any anti-social behaviour of their patrons once they have left the premises and were on the public footpath and outside the main residential entrance. Once established as a late-night venue, there is little doubt this would lead to related crimes such as theft, muggings, car break ins. Earlier this year, I was the victim of a bag theft in a hotel restaurant close to 1 Grosvenor Square. I was told at the time there is already a high volume of unsolved crime of this sort in the area. Koyn already enjoys a licence beyond midnight 7 days a week. A late-night venue from Thursday to early hours of Sunday morning will not only negatively impact the very closely situated residents of 1 Grosvenor Square, but also that of public safety and lead to an increase in public nuisance, therefore we ask that their request to vary is not granted.*
- *It has already become much noisier very late at night throughout the area south of Oxford Street, due to noisy people leaving licensed premises. Some are walking the streets on the way to get cabs. Some use their own vehicles, their loud voices and door-banging, and the engine noise, disturbs residents'*

sleep. Having more restaurants, bars and clubs open late attracts yet more pedicabs, playing 90 decibel sound systems under residents' windows. Also, this premises is allowed to have non-WCC deliveries and waste/recycling collections as late as 11pm, despite the impact on residents in the area. A more appropriate latest time for movement of goods outside the premises, deliveries, servicing and non-WCC waste collections would be 8pm. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (07.00) on the following day Monday to Saturday and before 07:00 and after 20:00 on a Sunday. It is not stated whether or not WCC waste and recycling services are used, or private company collections. The latter add to the number of large behemoth vehicles that cause extra noise and air pollution problems in the area.

- I object to the very late proposed closing time because it will damage residential 'amenity' in the area. I live at 21 Davies Street and I am Chairman of the 21 Davies Street Residents Association, and in those capacities, I am writing to object to this application as I believe an extension of the hours of operation will lead to increased nuisance and the possibility of increase crime. The restaurant has a capacity for 120 diners and the majority of those arrive by car or taxi; some will travel in supercars capable of creating significant noise and this is most likely to occur when the diner leaves the restaurant. In so doing, these drivers cause significant nuisance to residents in this area. This is already a problem in this area. Separately, diners, particularly those in groups, can be noisy when they leave a restaurant, not realising or caring that they are in a residential area.
- Regardless of management operating plans, no restaurant is capable of controlling a diner's behaviour when they have left their premises. Of course, criminals are attracted to wealth, and diners wearing expensive watches are a natural target; if the potential victim has enjoyed alcohol and is less alert, and their location is in an otherwise quiet area with easy egress, they will be vulnerable and that may be exploited.
- Simply put, extending the operating hours of this restaurant in a predominantly residential area and consequently causing an increase in public nuisance and the possibility of increased crime, would be irresponsible, and for this reason, the application should be refused.
- It is not entirely clear whether the intention is to continue the restaurant operation until the later hours sought or whether the intention is to utilise the extra time for repairing to a bar area after eating. Either way we believe that something more, by way of proposed conditions, is required than "The existing conditions address all four licensing objectives. No additional measures considered necessary". We believe that the hours sought are so far beyond core hours that there is a very real risk of public nuisance and policies RNT1, HRS1 and PN1 justify additional conditions, if indeed you are minded granting. Our preference would be that these much longer hours are not granted.
- Applicant operates a restaurant/ bar with DJ music on ground floor of a residential building in a quiet street (Grosvenor Street). Extension of operating hours from 12.30am to 2.00am would result in a) significant noise disturbance to local residents (44 apartments in the same building) and b) limited incremental financial gains to a full time restaurant operator. I trust Westminster City Council will weigh the pros against the cons of this application.

Policy Considerations

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

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

4. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.

5. The application and operation of the venue 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 late night 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.

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.

SUBMISSIONS AND REASONS

Ms Roxsana Haq, Presenting Officer, outlined the application to the Sub-Committee. She advised that this is an application for a Variation of a Premises Licence in respect of Koyn 38 Grosvenor Avenue London W1K 4QU made by Far East Holdings Limited the PLH. Representations have been received from the EHS and five interested parties. The PLH seeks to extend the terminal hour for Late Night Refreshment (extra 3 hours), Sale by Retail of Alcohol (extra 1.5 hours) and the closing time to 02:00 on Thursday, Friday and Saturday. The Premises are located within the West End Ward but not located within the West End Cumulative Impact Zone or Special Consideration Zone. She confirmed that the additional submissions from the PLH and the Interested Parties had been circulated.

Mr Alun Thomas, Solicitor appearing on behalf of the PLH outlined the application to the Sub-Committee. He advised that the application seeks to extend the sale of alcohol, late night refreshment and hours open to the public on Thursdays, Fridays and Saturdays. The PLH had agreed with the EHS to include Model Condition (MC99) requiring the Premises to have in place a dispersal policy. He advised that Koyn serves Japanese Food, with an average bill of £150 per person and has been opened for the last two years without any complaint of anti-social behaviour. The rationale for the application is due to an increase in requests for late night dining particularly from international travellers. Mr Thomas advised the Premises is located right on the corner of Grosvenor Square, in a low crime and disorder area, even with their current operating hours which are later than WCC Core Hours.

In response to questions from the Sub-Committee, Mr Thomas advised that the extension of hours for the sale of alcohol will only be with food and will be high end spirits and a limited cocktail selection. The PLH agreed to restrict off sales to 23:00 hours. Mr Thomas stated that in response to a complaint regarding waste management the PLH had moved the servicing area to limit the disturbance on surrounding residents. They have also limited the delivery hours, recorded the closure of the back entrance and had a door person to assist in dispersal (including sourcing taxi's for patrons) to limit the impact on the 54 residents in the surrounding area. Mr Thomas said that if the Sub-Committee were minded granting the application the PLH would be happy to stop serving alcohol half an hour before closing time.

Mr Anil Drayan appearing on behalf of the EHS addressed the Sub-Committee. He said that the EHS had maintained representation as the variation application was

asking for a licence until 02:00 hours which is outside WCC Core Hours. The Premises had already traded outside of Core Hours and this application is an extension in hours. He advised that there had been no complaints about dispersal or noise breakout from the Premise but the proposed terminal hour until 02:00 could still cause nuisance. He added that a dispersal policy was requested to formalise the procedures the Premises were already undertaking and this would include the supervision of people leaving, which would assist City Inspectorates visiting the Premises when carrying out compliance checks.

Mr Mike Dunn, representing Resident's Society of Mayfair & St James addressed the Sub-Committee. He advised that while the PLH had engaged well with immediate neighbours there has been no specific engagement with the wider community on this application. He advised that the Resident's Society of Mayfair & St James did not object to the original application, despite it being outside of Core Hours, but there has been a wave of early morning premises being requested which could threaten the character of the area. He then went on to state that local residents, in their written objections, had complained of loud voices and car doors slamming outside the Premise but had not complained directly to the City Councils Noise Team on these matters.

Mr Richard Brown, representing Resident's Society of Mayfair & St James addressed the Sub-Committee. He advised that this application is a 02:00 hours licence situated in a residential building and the late closure hours is not in keeping with the other premises in the surrounding area. He advised that staff, following closing up and cleaning would be leaving the Premises at 02:30 to 03:00 hours. Mr Brown added that residents would like to see a condition imposed on the licence to not allow glassware in the smoking areas. Mr Thomas agreed to this condition. In response to further questions from the Sub-Committee Mr Thomas advised that the PLH would not have live music or a DJ after 00:30 hours, which are the times permitted on the current licence. He also clarified that the application is for the sale of alcohol for an additional hour as the PLH would stop selling alcohol at 01:30 and while someone would be able to have dinner and then continue drinking after the meal this rarely happens.

Mr Thomas stated that the PLH had already proven that they can operate well, beyond Core Hours and there had been no problems recorded from the Premises. While they understand that 02:00 is a different, quieter, phase of night the risk of nuisance is low due to the clientele, acoustics and the dispersal policy. He also advised of that only two residents out of the 54 residents living above the Premises had made written representations as they work closely with the buildings concierge to address any problems which may arise and this factor was pertinent to the Sub-Committee's overall decision making of the application.

Mr Horatio Chance, the Legal Advisor to the Sub-Committee, discussed the wording of the proposed conditions with all parties and made amendments, as necessary.

In summing up to the Sub-Committee, Mr Dunn and Mr Brown advised that the Resident's Society of Mayfair & St James understand that 90% of all licence applications are in Soho and Mayfair so they do not object to every application but

the additional 2 hours over Core Hours for the Variation will have a higher chance of negatively impacting the local residents due to the different phase of night.

In summing up to the Sub-Committee Mr Thomas advised that this application is for an additional hour of licensable activities with the sale of alcohol ending at 01:30 with a terminal closing of 02:00 allowing customers to leave slowly over time and will be managed by the door supervisor who will help assist with dispersal. There is no evidence of problems at this Premises and the crime levels in the area are low so it is a good location to have a later opening restaurant to deal with the international demand for later dining in Westminster.

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 for a restaurant premises outside of the West End CIZ. There was no policy presumption to refuse the application under Policy RNT1 provided that the granting of it will not lead to the undermining of the licensing objectives and does not conflict with existing policies such as Policy HRS1. The comments advanced by Mr Thomas in his submissions regarding the Premises operating as a high end restaurant serving Japanese cuisine were noted.

In deciding the application, the Sub-Committee took into account the Sub-Committee papers, the requirements of the Act, the s.182 Home Office Guidance the submissions made by all the parties, including the EHS and supplementary submissions made by the PLH during the hearing in its determination of the matter and the promotion of the licensing objectives.

The Sub-Committee was satisfied that the application was suitable for the local area and had listened and addressed any concerns raised. Moreover, it was noted that the Metropolitan Police Service did not object to the application who are considered the experts on crime and disorder.

The Sub-Committee considers that the right balance has been struck here when considering the needs of the operator, local business and residents given the various undertakings given by the PLH in his submissions to the Sub-Committee when considering the daily management of the Premises.

It was noted by the Sub-Committee that the EHS and Mr Brown had suggested conditions to the Licence which were agreed by the PLH. The Sub-Committee noted that the PLH had demonstrated that they were a good operator with little issues over the last two years and so the later terminal hour closure was to be managed by an effective dispersal promoting both the public nuisance and crime and disorder licensing objectives.

The Sub-Committee concluded based on the evidence that the PLH would help promote the licensing objectives with the offered conditions. In terms of the conditions these are all the conditions as stated at pages 228-232 of the agenda report together with the inclusion of Model Conditions MC21, MC24, MC57 and the requirement there shall be no off sales of alcohol after 23:00 are now imposed on the licence.

The Sub-Committee concluded that the licensing objectives will be promoted in light of the ongoing commitment by the PLH to collaborate with local residents, the measures it has in place when it came to the management of the Premises by continuing to be a competent and professional operator promoting the licensing objectives for the hours sought and therefore decided to **GRANT** the application for a Variation of Premises Licence.

The Sub-Committee was persuaded that the application met the policy requirements under the SLP and has imposed all the conditions.

The Sub-Committee concluded that the conditions imposed on the Premises Licence will mitigate the concerns of those parties who had objected to the application and have the desired effect of promoting the licensing objectives. Save for the bar area the Premises is to be food led and, in any event, can only operate as a restaurant in accordance with model conditions MC66 (operating after 00:30) and MC38 already imposed on the premises licence requiring that the sale of alcohol has to be sold ancillary to a table meal and the former requiring that the sale of alcohol shall be sold to a substantial table meal with waiter/waitress service.

The Sub-Committee further concluded that the conditions attached to the licence together with the undertakings given by the PLH in relation to dispersal arrangements by the Premises dispersal policy until the late terminal hour of 02:00 in place for the Premises would alleviate the residents' concerns and were appropriate and proportionate to help promote the licensing objectives.

Going forward the Sub-Committee would welcome that the PLH continues to maintain a fruitful dialogue with those who had objected to the application to ensure the smooth running of the Premises and the promotion of the licensing objectives. Having carefully considered the committee papers, the additional papers and the submissions made by all of the parties orally, **the Committee has determined**, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. To grant permission for the **Sale by Retail of Alcohol (On and Off the Premises)** Thursday, Friday and Saturday 08:00 to 01:30 **Non-standard Timings**: 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)** Thursday, Friday and Saturday 23:00 to 01:30 **Non-standard Timings**: 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 **Opening Hours of the Premises** Thursday, Friday and Saturday 08:00 to 02:00 **Non-standard Timings**: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
4. That the Licence is subject to any relevant mandatory conditions.

5. That the existing conditions on the licence shall remain in full force and effect save as otherwise varied by the addition of four new conditions as specified below and numbered 6-27 which are considered appropriate and proportionate to promote the licensing objectives.

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

6. Alcohol sales for consumption on or off the premises shall not commence before 10:00.
7. Save for the bar area shown on the plan, the supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
8. Except in the bar area, the supply of alcohol shall be by waiter or waitress service only.
9. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
10. 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. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
12. 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.

13. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
14. 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.
15. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (07.00) on the following day Monday to Saturday and before 07:00 and after 20:00 on a Sunday.
16. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
17. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) and (07.00) on the following day Monday to Saturday and before 07:00 and after 20:00 on a Sunday.
18. No deliveries to the premises shall take place between (23.00) and (07.00) on the following day Monday to Saturday and before 07:00 and after 20:00 on a Sunday.
19. 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.
20. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
21. 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.
22. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed Ground Floor: 100 and Basement 80.
23. After 00:30, the Premises shall only operate as a restaurant:-
 - (i) In which customers are shown to their table or the customer will select a table themselves.
 - (ii) Where the supply of alcohol is by waiter or waitress service only,
 - (iii) Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table.
 - (iv) Which do not provide any takeaway service of food or drink for immediate consumption off the premises.

- (v) Where alcohol shall be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

For the purposes of this condition "Substantial Table Meal" means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such mean and is eaten bey 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.

24. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
25. 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.
26. Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke or make a phone call, shall not be permitted to take glass containers with them.
27. There shall be no sales of alcohol for consumption off the premises after **(23:00)** hours.

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

**The Licensing Sub-Committee
30 November 2023**

3. PETITE CAFE LONDON, 102 GREAT PORTLAND STREET, W1W 6PD

WCC LICENSING SUB-COMMITTEE NO. 4
("The Committee")

Thursday 30 November 2023

Membership: Councillor Angela Piddock (Chair) Shamsed Chowdhury Md and
Councillor Karen Scarborough

**Application for a New Premises Licence in respect of Petite Café London 102
Great Portland Street London W1W 6PD 23/05399/LIPN**

FULL DECISION

Premises

Petite Café London
102 Great Portland Street
London
W1W 6PD

Applicant

Petite Café London Limited

Special Consideration Zone

N/A

Activities and Hours

Sale by Retail of Alcohol

Monday to Sunday 09:00 to 23:00

Seasonal Variations: Christmas and New Years Eve 09:00 to 02:00

Hours Premises are Open to the Public

Monday to Friday 07:00 to 23:30

Saturday 08:00 to 23:30

Sunday 08:00 to 22:30

Seasonal Variations: Christmas and New Years Eve 09:00 to 02:00

Case Summary

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act") in respect of Petite Café London 102 Great Portland Street London W1W 6PD ("The Premises"). The Premises intends to operate as a restaurant serving breakfast, lunch and dinner.

The Premises previously benefitted from a premises licence (20/11994/LIPN), but the licence lapsed due to the Licence Holder dissolving in January 2023. The premises history can be found at **Appendix 3** of the agenda report.

The Applicant has provided a Noise Assessment Report, Kitchen Odour Assessment and a leaflet with the kitchen extractor. These can be found at **Appendix 2** of the report.

On original submission of the application, the Applicant applied for the following.

- **Late Night Refreshment**
Monday to Sunday 23:00 to 00:30
- **Retail Sale of Alcohol**
Monday to Sunday 09:00 to 00:30
- **Opening Hours**
Monday to Sunday 07:00 to 00:30

The Applicant withdrew Late Night Refreshment and since reduced the hours for the Sale by Retail of Alcohol which are reflected in section 1-B of the report. The Applicant agreed a number of conditions with the Metropolitan Police Service and Environmental Health Service to form part of their operating schedule. These can be found at **Appendix 4** of the report.

The Premises are located within the West End Ward but do not fall either within the West End CIZ or SCZ. There is no policy presumption to refuse applications for a restaurant premises outside of the West End CIZ provided they do not undermine the licensing objectives. 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 (**Withdrawn**), Environmental Health Service and 3 local residents two of which have now withdrawn their objections. The remaining objection cites concerns regarding public nuisance. EHS cite concerns regarding Public Safety also.

There is a resident count of 288.

Representations Received

- Metropolitan Police Service (PC Andy Elliott) (**Withdrawn 13 September 2023**) (MPS)
- Environmental Health Service (Ayesha Bolton) (EHS)
- Sharon Palazzo On behalf of 89 Great Portland Street London W1W 7LX (**Withdrawn 21 November 2023**).
- Mr FNA Fitzrovia Neighbourhood Association London W1 (**Withdrawn 23 November 2023**)

- Mr Garry Hunter 24 Furnival Mansion Wells Street London W1T 3PL
(**Withdrawn 17 October 2023**)
- Mr Richard East 3 James Boswell House 118-112 Great Portland Street
London W1W 6PW.

Summary of Representations

- *I refer to the application for a new Premises Licence for the above premises. The applicant has submitted floor plans of the Ground Floor and Basement of the premises. This representation is based on the plans and operating schedule submitted. The applicant is seeking the following:*
- *To provide Late Night Refreshment both Indoors and Outdoors from the premises Monday to Sunday from 23.00 to 00.30 hours. Christmas Day and New Year Eve from 23:00 to 02.00 hours.*
- *To provide Supply of Alcohol both On and Off the premises Monday to Sunday from 09.00 to 00.30 hours. Christmas Day and New Year Eve from 09:00 to 02.00 hours.*
- *The provision and the hours requested for Late Night Refreshment will the likely effect of causing an increase in Public Nuisance within the area and may impact on Public Safety.*
- *The provision and the hours requested for Supply of Alcohol will the likely effect of causing an increase in Public Nuisance within the area and may impact on Public Safety.*
- *The granting of the application as presented would have the likely effect of causing an increase in Public Nuisance in the area and may impact on Public Safety within the area.*
- *The applicant has provided additional information within the application which is being assessed. Additional conditions will be proposed by Environmental Health to address the licensing objectives.*
- *The FNA is the recognised Amenity society for the area; members and residents asked us to make a representation on their behalf; There are 5 residential units located above the premises. Their amenity is likely to be adversely impacted by the operations of this restaurant; the applicant does not advance any proposals to reduce or protect residents' amenity residing in the same building and nearby buildings; there are no conditions intended to reduce noise, nuisance, loitering outside the premises- as required under policy PN1- i.e. noise, smell.*
- *We note the lack of a proposed condition that alcohol would be ancillary to the consumption of food at the premises, and there is no reference to the management of takeaways, or that off sales of alcohol would be auxiliary to the sale of food. We particularly object to granting a premises license beyond core hours for restaurant - policy HRS1 section 8 restaurants - Mon-Thurs: 0900-2330, Fri and Sat: 0900-midnight, Sunday: 0900-2330. The applicant did not explain why he applied for longer hours, nor did he suggest conditions to protect residents' amenities [noise and smell from the premises]. in fact, scant details are provided as to the nature of the operation, capacity, arrangement for delivery of food and rubbish collections [both should not take place during the night] , condition that alcohol sale would be auxiliary to the sale and provision of food, and proposal to manage the issue of people loitering outside the premises- either smokers or deliveries*

Policy Considerations

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

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

4. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.

5. The application and operation of the venue 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 late night 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.

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.

SUBMISSION 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 Petite Café London 102 Wardour Street London W1W 6PD which intends to operate as a restaurant. The application has been made by Petite Café London Limited and in attendance are Ms Ana Tsiuba (Executive Chef/Business Owner) and Mr Jacques Sabah (Operation Manager). The Applicant seeks the Sale by Retail of Alcohol On and Off the Premises. Full details can be found at pages 237 of the agenda report. Representation has been received by the EHS (Ayesha Bolton). The one remaining resident objector is not in attendance today.

Mr Sabah appearing on behalf of the Applicant Company addressed the Sub-Committee briefly. He stated that his dealings had been open and flexible with the Responsible Authorities namely the EHS and MPS. The application was amended to reflect the concerns raised by the objectors in their representations which had touched upon the proposed hours sought, however, after negotiation these were reduced to core hours. In so far as the rest of the concerns raised these have now been satisfactorily addressed. Communication has been via the Westminster licensing officer with the objectors.

In answer to questions from the Sub-Committee Mr Sabah confirmed the following matters:-

- We have a small café/restaurant from 09:00 offering all day brunch together with a range of small snacks and dishes in the licensable area where alcohol sales will take place.
- The offer to customers allows them to come and work from the Café in a small space.
- Customers will be able to finish their day by having a glass of wine or beer. The holding bar area to be limited to 6 people will allow customers to have a drink whilst waiting for a table.
- The Premises has a basement area that is a private dining room which can hold up to 18 people with pre-booked events.
- The capacity for the ground floor is 40 people seated.
- The capacity for the entire Premises is 58 which includes the basement area.
- Currently the business is not thinking of doing food takeaways but this could be an option to be explored for the future.

- Regarding off sales of alcohol, we do not intend to have these.

At this point, the Sub-Committee sought clarification regarding the off sales of alcohol due to the fact that the Applicant had not included within the red line the outside area for licensable activities. It was confirmed that this area would be used for the sale of alcohol and so off sales would be required because it was not a private forecourt - the Applicant is therefore advised to provide a revised plan to the Council's Licensing Authority demarking the area.

Mr Kerry Simpkin the Policy Advisor to the Sub-Committee advised that a separate pavement licence would need to be applied for under the provisions of the Business and Planning Act 2020 in the usual manner by the Applicant.

Mr Sabah confirmed that the tables and chair (two tables with four people seated) would be outside from 09:00 to 22:00 when they will be brought back in at the end of the day to avoid nuisance.

The Sub-Committee raised the issue of deliveries due to the street being narrow and in response thereto Mr Sabah stated that delivery drivers could turn into the street and go into the single waiting space by the BBC offices. This would also be the same area where we would request customers to smoke as a designated point.

Mrs Ayesha Bolton appearing on behalf of the EHS addressed the Sub-Committee. She advised that representation had been maintained because it was felt that the Applicant needed some support as they were not professionally represented.

Mrs Bolton advised that she had visited the Premises, had gone through the application and had discussed initially the hours which had been reduced to below core together with the proposed conditions. She advised that she did not have concerns with the application and most of the issues the residents had raised regarding potential public nuisance had now been addressed through the agreed conditions.

In answer to questions from the Sub-Committee Mrs Bolton advised that the Applicant had been very understanding throughout the application process, had had positive engagement with local residents which led to the withdrawal of those objections coupled with the main sticking point concerning hours had been reduced. The residents have been given the EHS and MPS conditions. However, conditions 11 and 18 are duplicated so the latter can be removed.

Mr Sabah stated that he just wanted their customers drink alcohol with their food which would apply to the outside area where customers can only drink alcohol when seated taking a table meal.

Mr Horatio Chance the Legal Advisor to the Sub-Committee confirmed for the benefit of the Applicant that if Members were minded granting the application, then the conditions recorded at pages 290-291 of the agenda report would be imposed on the premises licence. Mr Chance also stated that the Applicant should be encouraged to obtain their own independent legal advice so they fully understood the licensing regime their obligations that flowed directly from running a licensed premises,

namely the need to promote the licensing objectives and compliance with licensing conditions.

Mr Sabah and Mrs Bolton had nothing further to add to their submissions by way of summing up.

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 for a restaurant premises outside of the West End CIZ. There was no policy presumption to refuse the application under Policy RNT1 provided that the granting of it will not lead to the undermining of the licensing objectives.

In deciding the application, the Sub-Committee took into account the Sub-Committee papers, the requirements of the Act, the s.182 Home Office Guidance and the promotion of the licensing objectives.

The Sub-Committee noted that the Applicant had withdrawn late night refreshment after listening to the concerns of local residents. The Sub-Committee also noted that the MPS had withdrawn their objection as well after agreeing conditions which promoted the crime and disorder licensing objective. The original hours were reduced to under core hours so it was evident that the Applicant was flexible in his approach when dealing with residents and this was again welcomed by the Sub-Committee.

The Sub-Committee considers that the right balance has been struck here when considering the needs of the operator, local business and residents given the various undertakings given by the Applicant in his submissions to the Sub-Committee when considering the daily management of the Premises and the findings of both the Noise Impact Assessment (covering a new ventilation and air conditioning system at the Premises) and Kitchen Odour Assessment to cover the installation of a commercial kitchen and extraction system which were submitted under cover of the Applicant's original application for planning permission of the Premises but nonetheless helpful to the licensing application process.

In terms of the licensing objectives the Sub-Committee considered that the public nuisance licensing objective is to be promoted given the concluding remarks of the aforementioned reports when it comes to the potential for noise and smells emanating from the Premises.

The Sub-Committee concluded based on the evidence that the Applicant would help promote the licensing objectives with the offered conditions. In terms of the conditions these are all the conditions as stated at pages 294-299 of the report as slightly amended.

The Sub-Committee concluded that the licensing objectives will be promoted in light of the ongoing commitment by the Applicant to work with local residents, the measures it has in place when it came to the management of the Premises for the hours sought and therefore decided to **GRANT** the application meaning that in terms

of the hours for the sale of alcohol are Monday to Saturday 09:00 to 23:00 and Sunday 09:00 to 22:30.

The Sub-Committee concluded that the conditions imposed on the Premises Licence will mitigate the concerns of those parties who had objected to the application and have the desired effect of promoting the licensing objectives. The Premises is to be food led and can only operate as a restaurant due to model conditions MC38 and MC41 imposed on the premises licence requiring that food has to be sold ancillary to a table meal, and that substantial food and non-intoxicating beverages including drinking water shall be available in all parts of the Premises and that the service of alcohol is to be by waiter/waitress service. The small holding bar area is to be a waiting area for 6 people where they can drink alcohol whilst waiting to be seated to take a table meal.

Going forward the Sub-Committee would welcome that the Applicant continues to maintain a fruitful dialogue with those who had objected to the application to ensure the smooth running of the Premises and the promotion of the licensing objectives. 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 and Off the Premises)** Monday to Saturday 09:00 to 23:00 Sunday 09:00 to 22:30.
2. To grant permission for the **Opening Hours of the Premises** Monday to Friday 07:00 to 23:30 Saturday 08:00 to 23:30 Sunday 08:00 to 22:30.
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. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
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 are open. This staff member must be able to provide a Police Officer or

authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

7. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke, shall not be permitted to take drinks or glass containers with them.
8. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport, or proof of age card with the PASS Hologram.
9. 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
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
10. Notices shall be prominently displayed at all exits and the outside smoking area requesting patrons to respect the needs of local residents and leave the area quietly.
11. 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.
12. There shall be no self-selection of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
13. 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 license premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.
14. 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.
15. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed:
Ground Floor 50 persons.
Basement Dining Room 20 persons.
Outside area 4 persons
With no more than 70 persons indoors and outdoors in total

16. The supply of alcohol for consumption on the premises shall only be to a person seated taking a table meal there and for the consumption by such a person as ancillary to their meal.
17. The supply of alcohol for consumption on the premises shall be by Server, Waiter or Waitress service only.
18. Notwithstanding condition 2 and 3 above, alcohol may be supplied to and consumed by up to 6 persons at any one time, prior to their meal in the bar area (designated on the plan).
19. All sales of alcohol for consumption off the premises shall be in sealed containers only and ancillary to a take-away meal, except for persons seated at the external table and chairs.
20. Deliveries of food and drink shall only be made to a bonafide residential or business addresses.
21. 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.
22. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner to ensure that there is no public nuisance or obstruction of the public highway.
23. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
24. All windows and external doors shall be kept closed after 21:00 hours except for the immediate access and egress of persons.
25. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
26. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
27. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
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 deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.

30. 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.
31. There shall be no sale of alcohol for consumption off the premises after 23:00.
32. 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.

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

**The Licensing Sub-Committee
30 November 2023**

The Meeting ended at 12.56 pm