



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 11th January, 2024**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Maggie Carman (Chair), Concia Albert and Melvyn Caplan

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. 10 BERKELEY SQUARE, W1J 6AA

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.2
("The Committee")

Thursday 11 January 2024

Membership: Councillor Maggie Carman (Chair)
Councillor Concia Albert
Councillor Melvyn Caplan

Officer Support Legal Advisor: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Jessica Donovan

Others present: Jack Spiegler (Solicitor, Thomas & Thomas),
David McIntrye (Applicant company) and
Dr Philip Hadfield (expert witness).

Ayesha Bolton (Environmental Health Service)
PC Tom Stewart (Metropolitan Police Service)

Richard Brown - Licensing Advice Project on behalf of the
Residents' Society of Mayfair and St James and 17 Berkeley
Street Resident Association and

Mr M.D, local resident.

Application for a New Premises Licence in respect of 10 Berkeley Square
London W1J 6AA - 23/06200/LIPN

FULL DECISION

Premises

10 Berkeley Square
London
W1J 6AA

Applicant

Amazonico Uk Ltd

Ward

West End

Cumulative Impact

None

Special Consideration Zone

Mayfair

Activities and Hours applied for:

To Permit:

Live and Recorded Music (Indoors)

Monday to Saturday 10:00 to 02:00
Sundays 12:00 to 00:00

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On Sundays prior to Bank Holidays 10:00 to 00:00

Sale by Retail of Alcohol (Both)

Monday to Saturday 10:00 to 02:00
Sundays 12:00 to 00:00

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On Sundays prior to Bank Holidays 10:00 to 00:00

Late Night Refreshments (Indoors)

Monday - Saturdays 23:00 to 02:00
Sundays 23:00 to 00:00

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

Hours Premises Are Open to the Public

Monday to Saturday 07:00 to 02:00
Sundays 09:00 to 00:00

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

Summary of Application

This is an application for a new Premises Licence under the Licensing Act 2003 ("The Act"). The Premises intends to continue to operate as a Restaurant and Bar.

The Premises has had the benefit of a current premises licence which will be surrendered should this application be granted.

The Applicant states save for an additional one hour within the basement on Monday to Saturday nights only, this application for a new premises licence is applied for on

the same terms and subject to the same list of conditions as the existing premises licence.

Resident Count 0.

Representations Received

Environmental Health Service (EHS)
Metropolitan Police Service (MPS)

3 Objection from Interested Party

Issues raised by Objectors.

The EHO states the application will have a likely effect of increasing public nuisance.

MPS states the proposed extension of licensable activities is likely to undermine the licensing objectives of The Prevention of Crime and Disorder.

The premises is located within the Mayfair Special Consideration Zone (MSCZ) and the applicant is required to take this into account.

Interested Parties

17 Berkley Street Residents Association states they object to the extension of hours and activities to the basement area and the Applicant has failed to address Westminster's Policy issues under Mayfair's SCZ.

A local resident and Residents' Society of Mayfair and St James objects to the application and have concerns about the use of the venue as akin to a night club, noise nuisance from deliveries, waste removal and customers.

Policy Considerations

Policy SCZ states:

In addition to meeting the other policies within this statement, applications within a designated Special Consideration Zone should demonstrate that they have taken account of the issues particular to the Zone, in question as identified within the 2020 Cumulative Impact Assessment, and should set out any proposed mitigation measures in relation to those issues within their operating schedule.

D58. The local issues in Mayfair that need to be considered by applicants are:

- General crime.
- Noise nuisance (noise).
- Incidents relating to ambulance call outs at night to the locations of licensed premises for intoxication, injury related to intoxication and/or assault.

Policy HRS 1 state:

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,

C. For the purpose of Clauses A and B above, the Core Hours for:

Pubs and bars, Fast Food and Music and Dance venues:

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to 12am.

Sunday: 9am to 10.30pm.

Sundays immediately prior to a bank holiday: 12pm to 12am.

Core Hours for Restaurants:

Monday to Thursday: 9 am to 11.30pm.

Friday and Saturday: 9 am to 12am.

Sunday: 9am to 10.30pm.

Sundays immediately prior to a bank holiday: 9 am to 12am.

SUBMISSIONS AND REASONS

1. The Presenting Officer, Jessica Donovan, Senior Licensing Officer, introduced the application to the Committee.
2. Mr Jack Spiegler (Solicitor, Thomas & Thomas) outlined the application along with Mr David McIntrye (Applicant) and Dr Philip Hadfield (expert witness).
3. Mr Spiegler advised the Committee that the Applicant had received eight emails of support from residents this week which had deliberately not been circulated to all parties due to the lateness of receiving them, however, he requested that the Committee note that there was support from the local community for this application.
4. Mr Spiegler advised that the Premises had operated as a highly acclaimed restaurant since 2019 and takes inspiration from the culinary heritage of the Amazonico region in Latin America. He explained that this application for a new Premises Licence had been made on exactly the same terms as the existing Premises Licence, save for an additional hour of service in the basement (until 2am) on Monday to Saturday. He added that no change is proposed on Sunday and there is no change to the layout or the capacity of the Premises. He confirmed to the Members that the existing Premises Licence would be surrendered if this application was granted and emphasised that this type of restaurant was exactly what the Council's Licensing Policy

recognised and encouraged in Westminster as it contributed to its diversity and world class reputation.

5. Mr Spiegler advised that Mr McIntyre had a proven history of providing the highest standards of professional management within his Premises and promoting the Licensing Objectives. He outlined how Mr McIntyre had instructed Dr Hadfield (expert witness) to observe over two evenings the operation of the Premises and the activities within the surrounding area. He reminded the Committee that Dr Hadfield had undertaken a similar piece of work for the Council in 2017 where he had witnessed the adverse impact of Licenced Premises in Mayfair. However, his recent observations had found an improved environment with historically problematic Premises closed and new well controlled Premises like Amazonico open in the area.
6. Mr Spiegler invited Dr Hadfield to address the Committee and referred to his report contained at pages 32 to 123 of the Agenda Pack. Dr Hadfield advised that he had found Amazonico unique in that it had a high number of staff to customer ratio and that it was set up like a formal restaurant so people did not move around (rather it would seem odd if they did) and that it was waitress/waiter service only. He added that a 15% service charge was always added to the bill and that customers would not even know that there was a basement area as the entrance was tucked away at the back of the Premises. He outlined that the majority of customers would continue to leave the Premises at 01:00 hours as on the existing licence. He advised that there were disc jockeys on the ground floor, but the focus was very much on background music, so it was relatively low level. He added that there was also an element of live jazz in the dining area, so the Premises was a destination venue for this type of entertainment. He confirmed that there were 600 covers available so the Premises was very much food focused.
7. Dr Hadfield advised that his biggest concern around Berkeley Square in 2017 was the Premises called 59 which was now closed and a few other venues which had either shut or had temporarily closed and had been replaced by ones which had to comply with the Special Consideration Zone (SCZ) Policy which he believed reflected in the way that they operated more as lounge bars. He advised that he witnessed customers taking taxis or private hire cars and not walking to Green Park to use public transport. He added that Berkeley Square had a plenitude of taxis.
8. Mr Spiegler continued and advised that concerns raised by the Interested Parties and Responsible Authorities were more general concerns such as it was a Special Consideration Zone, that the Basement may turn into a nightclub, that granting the application would set a precedent for other Premises to operate in a similar fashion and that it would impact on the service collection/delivers in the area. He confirmed that the Licensing Authority had not made representations against the application so were satisfied with the intended operation of the Premises, that the Premises could only operate as a restaurant which was controlled by the extensive conditions attached to its Premises Licence, that all applications were determined on their own merits and there would be no impact on collection services as the Premises was already in operation. He further confirmed that no new

customers would be entering the Premises; it was about keeping the existing customers in the Premises for a little while longer instead of them leaving and going to another venue.

9. Mr Spiegler referred to Mr Brown's additional submissions contained in the Additional Information Pack and advised that the previous application in 2020 had been refused because the Applicant had no track record, the application had requested a terminal hour of 03:00 hours and Dr Hadfield's report at the time demonstrated that the granting of the application would have a detrimental effect on the area. He advised that the Applicant had now demonstrated that he could successfully operate the business, the application requested a terminal hour of 02:00 hours for the basement area only and Dr Hadfield had now assessed that there would be no impact on the surrounding area. He added that in 2020 there had been eight objections from the local community and now there were only three objections.
10. Mr Spiegler highlighted again that the Premises would be operated as a restaurant and that there was no evidence that the Premises was causing or would cause concern in the future. He referred to the six Temporary Event Notices (TENs) that had operated without complaint until 03:00 hours in November and December 2023 and how there were no residential amenity within the immediate area of the Premises. He emphasised that the Applicant had a proven history of promoting the Licensing Objectives and requested that the Committee grant the application with the additional conditions agreed with the Responsible Authorities.
11. In response to questions from the Committee, Mr Spiegler advised that the space would operate on an invitation only basis with customers being carefully selected and then invited down to the basement lounge area to continue their evening at the Premises instead of moving on to another venue. He believed that the 15% service charge was positive in promoting the licensing objectives as it attracted skilled staff and allowed the restaurant to have a high staff to customer ratio which people attending Premises in Mayfair were prepared to pay for excellent service. He outlined that there were 175 full time staff working at the Premises (in shifts) and this also enabled and assisted customer dispersal during the evening and at the end of the night. He outlined that there was different entertainment in different areas of the Premises and its whole approach was client driven. He confirmed there was no dance floor. He set out how the extension put less pressure on dispersal at 01:00 hours and allowed a bit more time to gradually disperse people in a very controlled and positive manner within the local area. He confirmed there would be no impact on waste collection or deliveries as the Premises was already operating in the area.
12. Mr David McIntrye (Applicant) outlined that the selection process was carried out using Customer Relations Software (CRS) which detailed regular/loyal customers information, preferences and their spending habits during their visits to the restaurant. He confirmed that it was not about targeting the big spenders but more about rewarding loyal customers that dined with them more than once a month. He advised it was always the General Manager who personally invited the customers to the basement and that the capacity

was for 100 customers. However, they kept numbers down to 80 customers. He considered that table service made an enormous difference to the atmosphere of the Premises and as it was such a controlled environment it did not appeal to everyone especially people who wished to mingle and/or meet people. He advised that people enjoyed the ambience within their own groups and that it was this business model that was benefiting Mayfair in 2024 as people were enjoying themselves without having to queue and navigate crowded bars, restaurants and dance floors.

13. Dr Hadfield advised that during his observations it appeared that staff were helping some customers park their cars directly outside the Premises and in addition there were plenty of black cabs in the area because of the way the traffic flowed from north to south and through the Square. He considered that it seemed a voluntary decision on behalf of the black cabs to serve Mayfair which could have something to do with the customer base, but whatever reason there were plenty of taxis to take people away from the area after the Premises closed.
14. Mr Spiegler advised that the last service was at 22.30 hours on the ground floor but that there would always be food available for customers until the Premises closed. The Committee were concerned, however, that patrons could possibly stay in the basement after their meal for two to three hours just drinking and even though the Applicant had the benefit of a good track record of promoting the licensing objectives this would have an impact on the Special Consideration Zone. Mr Spiegler advised that it was the Applicant's intention to keep their customers safe and ensure that they were in the right environment to enjoy their evening instead of exiting early and finding themselves in another location not as secure as Amazonico. He stated that there was no intention of coming back and requesting an extension until 03:00 hours.
15. Ms Ayesha Bolton (representing the Environmental Health Service, EHS) explained that the EHS had maintained their representation because the extension until 02:00 hours would likely have the effect of increasing Public Nuisance and may affect Public Safety within the Special Consideration Zone. She advised that EHS's main concern were people leaving the Premises early in the morning and dispersing within the Special Consideration Zone. She considered that the EHS would rather have everything finished at 01:00 hours because if the extension was granted activity in and around the area would continue until after 02:00 hours. She outlined that the EHS needed to prevent residents being exposed to noise nuisance and incidents in the early hours of the morning and there was no guarantee that all their customers would leave in cars/taxis as they could choose different modes of transport. She added that the staff would need to pack the restaurant up and they were likely to use public transport to get home. She confirmed that the EHS was maintaining their representation and therefore it was for the Committee to determine the application.
16. In response to the Environmental Health Service representation, Mr Spiegler advised that the ground floor would still close at 01:00 hours and that it was only the basement area with a capacity of 100 person that would remain open

until 02:00 hours. He outlined that this would allow for a more controlled dispersal of customers and that the TENs had proven that the Applicant could promote the licensing objectives whilst operating until 03:00 hours without causing public nuisance or complaints. He advised that customers leaving the Premises at 01:00 hours would probably find it quite difficult to get in anywhere else as many Premises had a last entry condition attached to their Premises Licence.

17. Mr David McIntyre advised that the 175 staff were the total number of staff for the entire year but in any given night there would be 80/90 staff on duty at the Premises. He confirmed that two thirds of the customers would have left the building long before 02:00 hours and staff were trained to disperse customers quietly and effectively so as not to disturb the neighbourhood and surrounding area.
18. PC Tom Stewart (representing the Metropolitan Police Service, MPS) advised that the MPS had maintained their representation against the granting of the application as it was likely to undermine the promotion of the licensing objectives particularly the Prevention of Crime and Disorder. He outlined that there were two parts to the MPS representation which were the area and the application itself.
19. PC Stewart referred to the Special Consideration Zone and advised that if the West End did not exist in Westminster, Mayfair would be the point of concern for the Police as it would become the main area for night time economy in Westminster. He outlined how there was crime and anti-social behaviour within Mayfair and that predominantly there was a fairly large number of late-night venues whether they be bars or restaurants which had a hybrid club aspect to them.
20. He explained to the Committee that the type of clientele these Mayfair venues attracted were the type of people who thieves/gangs targeted for robbery because ultimately if they stole someone's watch, there was a better chance of them stealing one with high value worth. So, this was obviously an ongoing concern for the Police and one that the Police had to manage and deal with on an ongoing basis.
21. The Committee was informed how Police resources were sucked into the West End because the Police had to put resources where they were needed the most which was the West End rather than Mayfair because of the sheer volume of people in that area.
22. PC Stewart advised that viewing CCTV footage around Berkeley Square showed that there were four types of groups lurking in the area during customer dispersal of venues: a) groups waiting on the fringe of the area potentially looking for an easy target for robbery or a violent attack or an assault, b) a simple hugger, mugger thief, where someone goes to a vulnerable person and hugs them whilst making away with their phone or wallet and c) pedicabs which may cause issues by taking clients to other

venues that they might not necessarily want to go and d) flower sellers which were linked to organised crime. He outlined how the Police had spoken to Amazonico regarding their concerns about pedicabs and the staff now immediately moved them away from their entrance.

23. PC Stewart outlined that these types of crimes occurred in this area because people were leaving venues much later than the usual 11pm or midnight so they were inevitably going to be more intoxicated because of several more hours of drinking, so the more Premises that were granted later hours the more negative effect it would have on the area.
24. The Committee was advised that Amazonico was not a concern to the Police and had an extremely low level of reported crime. He confirmed that upon investigation of an incident in Amazonico last year there had been no evidence that drinks had been spiked and that it was the level of intoxication that was an on-going concern for the Police with alcohol being the main focus in such Premises. PC Stewart confirmed that the Police had not actually agreed conditions as the conditions the Police had proposed conditions had come back with unagreed amendments from the Applicant.
25. Mr Spiegler advised that the Applicant had agreed the condition regarding having a minimum of 2 SIAs after 01:00 hours as there was previously no such condition on the Premises Licence although the Applicant did provide them anyway. The MPS wanted the SIA door team to have body worn cameras. He then set out that the Applicant considered that customers would find it disconcerting if a camera was pointed at them whilst they were having their meal/drinks in the restaurant area. PC Stewart set out that the Police had requested that all security staff wear body cameras and not just the security on the door because an altercation could happen anywhere on the Premises where people were drinking alcohol and evidence could be missed if cameras were not available to capture vital evidence. PC Stewart further outlined that the Police also wanted CCTV to be installed outside of the Premises to cover all external areas and the smoking area. He requested that the Council's Model smoking condition be attached to the Premises Licence. He further requested that menus were placed on all the tables in the basement to highlight to customers that food was available throughout the evening.
26. PC Stewart reiterated to the Members that it was not the Premises that was their biggest concern, but the intoxication of people in the general area in the early hours of the morning. He outlined how important CCTV and body worn cameras were to gaining evidence when incidents occurred and how they prevent crime as people tended to calm down if they believed they were being recorded. He advised that there had been no incidents of crime and disorder reported in the Premises in the last year.
27. Mr Spiegler confirmed to the Committee that there would be two SIA on the door and two SIA situated at the top of the stairs to prevent people entering the basement without an invitation from the management. He confirmed that the Applicant was happy for menus to be available on all tables in the basement area.

28. PC Stewart confirmed that the Police maintained their representation on the grounds that the proposed extension of licensable activities was likely to undermine the licensing objectives and particularly the Prevention of Crime and Disorder, however they were not necessarily objecting to the refusal of the whole application.
29. Mr Richard Brown (Licensing Advice Project on behalf of the Residents' Society of Mayfair and St James and 17 Berkeley Street Resident Association) referred to his submission contained in the Additional Information Pack. He confirmed that there had been mediation between the Applicant and the residents. However, the longer hours still presented a problem for the residents because they related to a bar area where customers could be drinking alcohol for a considerable period of time after eating their meal in the main restaurant in the Premises. He referred to the Applicant's website that advertised that the basement was an exclusive destination venue which would indicate that attendance was not by invitation only.
30. Mr Brown advised that there was no issue with the operation of the Premises until 01:00. However, the residents were concerned about the extension of hours which would lead to an increase in intoxicated people in the area in the early hours of the morning. He outlined that Dr Hadfield's observation had occurred in November which was after the busy summer months and before the busy Christmas period. He advised that Mayfair was now a Special Consideration Zone which was a sort of a halfway house between nothing and an area with characteristics of a Cumulative Impact Area (CIA) but not the evidence to justify it being a full CIA.
31. Mr Brown advised that the Applicant in practice would be operating a hybrid Premises. It was not just a restaurant but a mixture of restaurant and bar with club music. He considered that the clientele would arrive by taxis and private hire cars which would rev engines which would disturb residents. He also wondered how charging the customers 15% service charge helped them maintain a high ratio of staff to customer as new regulations ensured that all tips went straight to the serving staff and not to the Premises. He added that it was common for Premises to add a service charge now. He advised that the Premises' dispersal policy was good as far as it goes however, it could not control the inevitable impact and disturbance later on at night in the surrounding area once customers have left a licensed premises.
32. Mr M.D, local resident echoed what the Responsible Authorities and Mr Brown had highlighted to the Committee. He commented that the rules of Monopoly permitted development of houses and hotels but not the development of bars and restaurant and the fact that how the basement is advertised on the website, clearly indicates that the area was not used for 'invitation only' and that people could go to the basement for a cocktail before their meal and decide to just stay there all evening.
33. In response to questions from the Committee, Mr McIntyre advised that five or six tables were reserved in the basement for regular customers. He outlined that when a customer made a reservation their information would pop up on

the system and at that point, they could be offered the opportunity to secure a table in the basement after their table meal. He advised that tables were a mix of two, four or six seats and that the basement area was a very controlled environment.

34. During their summing up, Mr Brown and the Responsible Authorities confirmed that they had no issue with the Applicant or the operation of the Premises until 01:00 but they did have reservations regarding the extension of one hour to a bar/club operation and the effect it would have on the Special Consideration Zone.
35. During his summing up, Mr Spiegler thanked everyone for advising that they were not objecting to the operation of the Premises. He emphasised that the Applicant had a proven history of successfully running the Premises and that Dr Hadfield's evidence indicated that this Premises would not cause concern in the surrounding area. He advised that the evidence stated that only 2% of Westminster's crime occurred in Mayfair. He outlined to the Committee that the Council's Special Consideration Zone was working as it was encouraging the right type of responsible operators into the area. He confirmed that the Premises was operated as a restaurant and controlled by way of conditions and that the operation of the TENs were evidence that the Applicant could successfully operate until 02:00 hours whilst promoting the Licensing Objectives.

DECISION

36. The Committee has determined an application for a NEW Premises Licence under the Licensing Act 2003. The Committee is aware that it has a duty to consider each application on its individual merits when determining this application.
37. The Committee is satisfied that, in accordance with the Licensing Act 2003, Home Office Guidance, Westminster's Licensing Policy and on the evidence before it, that it was appropriate and proportionate, in all the circumstances, to **GRANT IN PART** the application.
38. In reaching its decision, the Committee had regard, but not exclusively, to the fact that conditions had been agreed with the Responsible Authorities and that the Metropolitan Police Services was content with the part of the application that was granted. The Committee also noted that the Applicant had consulted with the Resident Associations and has operated later hours under Temporary Event Notices. This Application for a new Premises Licence, is for hours in excess of Core Hours for a premises described as a restaurant and bar hybrid, by residents describe as a restaurant, bar and club, located in Mayfair's SCZ.
39. The Committee noted and had regard to the evidence from Dr Hadfield and that he had observed the Premises and the activities within the surrounding area over two evenings. The Committee heard that Dr Hadfield had now assessed that there would be no impact on the surrounding area. However, this asserting is based on 2 days of observations.

40. The Committee gave weight to Mr Browns submission in relation to the current use of the basement as shown on the Premises website. Contrary to the conditions on the existing Premises Licence and the evidence at this hearing, the Applicant's website describes the basement area as "Octo, our exclusive, destination cocktail bar" and the website goes on to state "*Open from 6pm until late, Tuesday – Saturday. Reservations encouraged and walk ins upon availability.*" It means that the Premises website is encouraging people to attend a cocktail bar and potentially have the limited food offering in this area, rather than dining after a full meal as was implied by the Applicant. These could be new late customers arriving after the 22:30 last service in the main restaurant on the ground floor, and only eating limited food from the menu in the basement with their cocktails/alcoholic drinks.
41. This appears to contradict Mr Spiegler's submissions that "no new customers would be entering the Premises; it was about keeping the existing customers in the Premises for a little while longer instead of them leaving." The Applicant made no comments in relation to this.
42. The Committee also still had concerns, that diners could stay in the basement after their meal for two to three hours consuming alcohol. The Applicant also wanted to have live and recorded music up to 02:00 in the basement, even though the music to be played is described as background. On balance, this combination could have an adverse impact on public nuisance and crime and disorder in the Special Consideration Zone
43. The Committee noted that the Applicant had provided valid reasons as to why the granting of PART of this application would not undermine the licensing objectives. The use of the basement area until 02:00 hours, nevertheless, causes concern as the Premises was located in a Special Consideration Zone and that dispersal of customers could cause a nuisance in the area as outlined by the Responsible Authorities.
44. In reaching its decision, the Committee concluded that the conditions attached to the licence would alleviate the parties' concerns and would address the concerns raised in respect of granting the application in part. It is the Committees duty to promote the licensing objectives. On balance, and on the evidence, the Committee felt that the extension until 02:00 to the basement area would lead to an increase in intoxicated people in the area in the early hours of the morning and therefore risk an increase in crime and disorder and public nuisance in the SCZ area
45. Having carefully considered the Act, the Guidance issues under sec 182 of the Act, Westminster's Statement of Licensing Policy committee papers, the additional papers and the submissions made by all of the parties orally, The Committee has decided, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives to **GRANT** permission in **PART**:

To REFUSE:

Live and Recorded Music (Indoors)

Monday to Saturday 10:00 to 02:00

Sale by Retail of Alcohol (Both)

Monday to Saturday 10:00 to 02:00

Late Night Refreshments (Indoors)

Monday - Saturdays 23:00 to 02:00

Hours Premises Are Open to the Public

Monday to Saturday 07:00 to 02:00

TO PERMIT:

Live and Recorded Music (Indoors)

Monday to Saturday 10:00 to 01:00
Sundays 12:00 to 00:00

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On Sundays prior to Bank Holidays 10:00 to 00:00

Sale by Retail of Alcohol (Both)

Monday to Saturday 10:00 to 01:00
Sundays 12:00 to 00:00

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. On Sundays prior to Bank Holidays 10:00 to 00:00

Late Night Refreshments (Indoors)

Monday - Saturdays 23:00 to 01:00
Sundays 23:00 to 00:00

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

Hours Premises Are Open to the Public

Monday to Saturday 07:00 to 01:00
Sundays 09:00 to 00:00

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

1. Relevant Mandatory Conditions to apply.
2. To add conditions proposed to form part of the operating schedule:

Conditions consistent with the operating schedule

9. The premises shall only operate as a restaurant where (save for the area hatched red on the deposited plans):

- i) Customers are shown to their table
- ii) The supply of alcohol is by waiter or waitress service only,
- iii) Food is provided in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
- iv) There is no provision of any take away service of food or drink for immediate consumption,
- v) There is no provision of any take away service of food or drink after 23:00, and
- vi) Where alcohol shall not be sold or supplied for consumption on the premises, otherwise than for consumption by persons who are seated in the premises and bona fide taking a substantial table meal there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

10. In the area hatched red, alcohol can only be served to persons before, during or after a table meal consumed at the premises.

11. 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.

12. The sale or supply of alcohol for consumption off the premises shall either be (i) in sealed containers so as to ensure that it is not consumed on or in the immediate vicinity of the premises or (ii) for consumption by persons (not exceeding 12 at any one time) who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there; and where the consumption of alcohol by such persons is ancillary to taking such a meal; and where the supply of alcohol is by waiter or waitress service only.

13. There shall be no sales of alcohol for consumption off the premises after 23.00.

14. 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.

15. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points shall 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.

16. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.

17. A Challenge 21 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.

18. 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 shall 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.

19 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.

20. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

21. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

22. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises and that this area shall be swept and or washed and litter and sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.

23. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.

24. Except for deliveries of dairy, bakery products, fruit and vegetables, no deliveries to the premises shall take place between 23.00 and 07.00 on the following day.

25. 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.

26. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

27. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a sexual entertainment Venue Licence.

28. Loudspeakers shall not be located outside the premises building.

29. The maximum number of persons permitted on the premises (excluding staff) shall be as follows:

- 281 on the ground floor;
- 80 on the basement floor;

Subject to no more than 350 persons being on the premises at any one time.

With the written agreement of the District Surveyor, and this condition amended, the capacity of the basement may be amended to a capacity not exceeding 100 (excluding staff).

30. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be affected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

31. All outside tables and chairs shall be removed from the outside area by 23.00 each day.

32. This licence shall not have effect until premises licence reference 22/02608/LIPDPS (or such other number subsequently issued for the premises) has been surrendered and is incapable of being resurrected under the Licensing Act 2003.

33. Menus detailing the food offering in the basement area shall be paced on tables in the basement and food shall be available at all times the basement is in use for licensable activities.

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

**The Licensing Sub-Committee
11 January 2023**

2. 75 DEAN STREET, W1D 3PU

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.2
("The Committee")

Thursday 11 January 2024

Membership: Councillor Maggie Carman (Chair)
Councillor Concia Albert
Councillor Melvyn Caplan

Officer Support Legal Advisor: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Jessica Donovan

Others present: Jack Spiegler (Solicitor, Thomas & Thomas)
Joel Peter Levack of All is Joy (UK) Ltd (Applicant company)

Richard Brown - Licensing Advice Project on behalf of the Soho Society)

Application for a New Premises Licence in respect of 75 Dean Street, London W1D 3PU - 23/05947/LIPN

FULL DECISION

Premises

75 Dean Street
London
W1D 3PU

Applicant

All is Joy (UK) Limited

Ward

West End

Cumulative Impact

West End

Special Consideration Zone

N/A

Activities and Hours applied for:

To Permit:

Plays, Films, Live and Recorded Music, Performance of Dance and Anything of a similar description (Indoors)

Monday to Saturday 09:00 to 00:00
Sundays 09:00 to 22.30

Sale by Retail of Alcohol (Both)

Monday to Saturday 09:00 to 00:00
Sundays 09:00 to 22:30

Late Night Refreshments (Indoors)

Monday - Saturdays 23:00 to 00:00

Hours Premises Are Open to the Public

Monday to Saturday 09:00 to 00;00
Sundays 09:00 to 22.30

Summary of Application

This is an application for a new Premises Licence under the Licensing Act 2003 ("The Act"). This application seeks to licence for 3 years, a building which contains three screening rooms, a stage, a music studio and is hosting various educational and charitable programmes over the coming year to support young creatives and the local community.

The space also contains a café/bar area that will operate for members of the building and for visitors and guests hiring the facilities. The spaces, including the cafe/bar and studio will also be used for concerts, plays, films, events, PR launch and workshops.

There is a resident count of 162.

Representations Received

Environmental Health Service (EHS) – withdrawn on 24 October 2023

Metropolitan Police Service (MPS – withdrawn on 31 October 2023

Licensing Authority (LA) – withdrawn on 5 January 2024

2 supporting representations.

2 Objections from Interested Parties

Issues raised by Objectors.

Resident objects and express concerns in particular about the outside area.

The Soho Society objects to the application and refers to Westminster City Council's CIZ policy and concerns about resident's sleep being negatively impacted.

Policy Considerations

Cinemas, Cultural Venues, Live Sporting Premises and Outdoor Spaces Policy (CCSOS1) states:

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 applicant has clearly demonstrated that the sale by retail of alcohol and late-night refreshment will be ancillary to the venue's primary function as a cinema, cultural venue, live sporting premises or outdoor space.
6. The sale by retail of alcohol and/or late-night refreshment after 11pm is limited to customer, patrons or members of the audience who will or have made use of the primary function of the venue as a cinema, cultural venue or live sporting premises.
7. The application and operation of the venue meeting the definition for a cinema, cultural venue, live sporting premises or outdoor space.

SUBMISSIONS AND REASONS

1. The Presenting Officer, Jessica Donovan, Senior Licensing Officer, introduced the application to the Committee.
2. Mr Jack Spiegler (Solicitor, Thomas & Thomas) outlined the application along with Mr Joel Peter Levack (Applicant). He advised the Committee that there is a misunderstanding that there will be external drinking. There is no external area at the Premises.
3. The Committee was informed that events at the Premises will be ticketed or by invitation. The events will be in the form of cultural workshops, screen printing, small groups of patrons. Proposed conditions 9 maintains the use of the Premises as a cultural venue.

4. The Applicant explained the layout of the Premises to the Committee and explained that the Premises Licence Holder will always manage the events, and this is conditioned in proposed condition 26.
5. The Premises has operated under TEN's without issue and there are no outstanding objections from the Relevant Authorities.
6. Mr Brown on behalf of the Soho Society, confirmed that his clients were content with the Application. His clients felt that proposed conditions 10 and 26 in the Agenda were of great help.

DECISION

7. The Committee has determined an application for a NEW Premises Licence under the Licensing Act 2003. The Committee is aware that it has a duty to consider each application on its individual merits when determining this application.
8. Having carefully considered the Act, the Guidance issued under sec 182 of the Act, Westminster's Statement of Licensing Policy committee papers, the additional papers and the submissions made by all of the parties orally, The Committee has decided, 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:

To Permit:

Plays, Films, Live and Recorded Music, Performance of Dance and Anything of a similar description (Indoors)

Monday to Saturday 09:00 to 00:00
Sundays 09:00 to 22.30

Sale by Retail of Alcohol (Both)

Monday to Saturday 09:00 to 00:00
Sundays 09:00 to 22:30

Late Night Refreshments (Indoors)

Monday - Saturdays 23:00 to 00:00

Hours Premises Are Open to the Public

Monday to Saturday 09:00 to 00;00
Sundays 09:00 to 22.30

2. Relevant Mandatory Conditions to apply.

3. To add conditions proposed to form part of the operating schedule:

Conditions imposed as proportionate and appropriate, and which promotes the Licensing Objectives:

9. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the building being used as a cultural venue.

10. The premises licence shall be time-limited and valid only for a period of three years from the date of its grant, at which time it shall expire.

11. CCTV Conditions:

- a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
- b) All entry and exit points shall be covered enabling frontal identification of every person entering in any light condition.
- c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and shall include the external area immediately outside the premises entrance.
- d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
- e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

12. A staff member from the premises or the external management company who are conversant and control the operation of the CCTV system shall be on the premises at all times when the premises is open. This person must be able to provide a Police or authorised council access to the recordings of recent CCTV images or data with the absolute minimum of delay when requested.

13. There shall be no advertising displayed on the building of the licensed facilities save for the name and nature of the business.

14. A Challenge 21 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.

15. 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 shall 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.

16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

17. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

18. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

19. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

20. 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.

21. 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.

22. All emergency exit doors shall be available at all material times without the use of a key, code card or similar means.

23. Off sales shall be in sealed containers only unless purchased for consumption inside the building at 75 Dean Street, W1D 3PU

24. 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.

25. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed:

- Ground floor 150
- First floor 150
- Whole premises not to exceed 499

26. The premises licence shall only be operated by All Is Joy (UK) Ltd.

27. The first-floor windows shall be kept closed after 23:00 hours when regulated entertainment takes place.

28. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call on the highway, shall be limited to 15 persons at any one time.

29. Licensable activities at the premises shall only be provided to:

- a) Members of the co-working collective and their guests.
- b) Directors and employees of the licence holder and their guests; and
- c) Persons attending a private pre-booked event or function, a list of such functions and persons attending to be kept at reception for inspection by the relevant authorities.

30. SIA licensed door supervisors shall be on duty at the premises whenever pre-booked private events are to take place, at a minimum ratio of 1:100 persons in attendance. They must correctly display their SIA licence(s) when on duty so as to be clearly visible.

31. At least 7 days' notice shall be given to the Council of any proposal to use scenery or properties and such scenery or properties shall only be used with the consent of the Council.

32. Scenery and properties shall only be stored in approved areas and where permitted, to be stored on the stage shall be limited to the approved amounts.

33. The doors to any scenery store shall not be kept open unless in use.

34. The scenery and properties used on an open stage shall be restricted to that of the actual production. No other storage shall be permitted in the stage area.

UNDERTAKING

THE APPLICANT CONFIRMED THROUGH HIS LEGAL REPRESENTATIVE THAT BEFORE TRADE, THEY SHALL SUPPLY THE LICENSING AUTHORITY WITH PLANS WHICH COMPLY WITH PARAGRAPH 23 OF THE ACT (PREMISES LICENCES AND CLUB PREMISES CERTIFICATES) REGULATIONS 2005 AND IN PARTICULAR SHOW FIXED FURNITURE AND REMOVE BUILDINGS/UNITS WHICH ARE NOT CONTROLLED OR UNDER THE AMBIT OF THE PREMISES LICENCE HOLDER.

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

**The Licensing Sub-Committee
11 January 2023**

3. CRUNCHY FALAFEL, TROCADERO, 13 COVENTRY STREET, W1D 7DH

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.2
("The Committee")

Thursday 11 January 2024

Membership: Councillor Maggie Carman (Chair), Councillor Concia Albert and Councillor Melvyn Caplan

Officer Support

Legal Adviser: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Cradock
Presenting Officer: Jessica Donovan

Other parties present:

Mr Binal Beirakji the Agent on behalf of the Applicant
Mr Youssef Zueieer (Applicant)

Karyn Abbott (Licensing Authority LA)
Kudzy Mondhlani (Environmental Health – EHO),
PC Tom Stewart (Metropolitan Police Service - MPS)

Application for a New Premises Licence in respect of Crunchy Falafel, Trocadero, 13 Coventry Street, London W1D 7DH - 23/04538/LIPN

FULL DECISION

Premises

Crunchy Falafel
Trocadero
13 Coventry Street
London
W1D 7DH

Applicant

Crunchy Falafel Limited

Ward

St James's

Cumulative Impact

West End

Special Consideration Zone

N/A

There is a resident count of 26

Application

This is an application for a new premises licence under the Licensing Act 2003 (“The Act”). The premises are a small kiosk shop used to sell sandwiches and soft drinks. Some sandwiches are hot.

To Permit:

Late Night Refreshments (Outdoors)

Fridays and Saturdays 23:00 to 02:00

Hours Premises Are Open to the Public

Fridays and Saturdays 23:00 to 02:00

Representations Received

- Karyn Abbott – Licensing Authority (LA)
- Kudzaishe Mondhlani – EHO
- PC Tom Stewart - Metropolitan Police Service

Issues raised by Objectors.

The Licensing Authority (LA) states:

The premises is located within the West End Cumulative Impact Area and as such various policy points must be considered, namely CIP1, HSR1 and FFP1.

At present, the operating hours applied for Late Night refreshment currently fall outside of Westminster’s core hours under Policy HRS1. The Licensing Authority encourages the applicant reduces the hours to be within Westminster’s Core hours:

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.

The EHO states:

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

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

MPS states:

The Police submit that, if granted, the premises would undermine the licensing objective 'The Prevention of Crime and Disorder', as well as adversely affect cumulative impact within the West End Cumulative Impact Zone ("WECIZ").

The applicant will need to demonstrate that they will not add to cumulative impact within the WECIZ. As the application currently stands, the Police do not feel that this has been achieved.

Comments from Planning Enforcement Appendix 4

The planning enforcement department currently have an open case regarding the change of use of the premises from a class E retail unit to a hot food takeaway and an illuminated signage has also been installed. City Council records indicate no approval has been obtained for the change of use or advertising. There have also been complaints about the smell of the

Policy Considerations

Policy CIP 1 states:

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

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

Policy HRS 1 state:

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,

C. For the purpose of Clauses A and B above, the Core Hours for **Pubs and bars, Fast Food and Music and Dance venues:**

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to 12am.

Sunday: 9am to 10.30pm.

Sundays immediately prior to a bank holiday: 12pm to 12am.

F96 states:

The Licensing Authority does not consider a case to be exceptional because the capacity of the premises, or any proposed increase in capacity is small. The high

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

FFP1(B) states

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

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

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

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The operation of any delivery services for alcohol and/or late night refreshment meeting the council’s Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
3. The application and operation of the venue continuing to meet the definition of a Fast Food Premises

SUBMISSIONS

1. The Presenting Officer introduced the application to the Committee and introduced the Parties at the hearing.
2. Mr Binal Beirakji the agent on behalf of the Applicant Mr Youssef Zueieer, explained the position with their application for planning. The application has been submitted. He confirmed that the conditions recommended by the EHO has been agreed and they will agree to having SIA registered door staff for late trading on Fridays and Saturdays.
3. In response to questions for the Committee, the Applicant confirmed that they have been trading since September of 2021. They use recyclable carton boxes and have a cleaning regime for the outside areas.
4. On occasions, the Applicant trades later hours but serving cold food after 23.00. Customers are at the Premises for less than a minute and then leave as there are no seats available. The Premises is a kiosk.
5. During discussions and submissions from the Authorities the Applicant Agent was given the opportunity to interpret and ensure the Applicant understood

the proceedings. The Applicant was afforded additional time to ensure he understood the submissions and proceedings.

6. It was explained by the Policy officer and the Members that the Premises is covered by Westminster's Fast Food Policy and the hours requested are outside core hours. Furthermore, the Premises is located in the West End Cumulative Impact area. As a result, there is a rebuttable presumption to refuse new applications for fast food premises. This Policy is intended to be strict and will only be overridden in genuinely exceptional circumstances. The Applicant was asked to state their exceptional reasons why the Committee should depart from this Policy.
7. The Applicant stated that the business will not be a success without the extended hours and there is a need for Middle Eastern cuisine in the area and for hotel residents. Their operation does not add to crime.
8. Karyn Abbott of the LA confirmed the Policies applicable to the application and that the Applicant had made no attempts to contact the Authority to discuss the application or to mediate. The LA therefore have not sufficient information, and, in their view, no exceptional circumstances exist.
9. The EHO noted the Applicant at a very late stage had accepted conditions, but the representations have been maintained as there is a potential for noise outbreak and the Premises being located in the CIZ area.
10. In response to a Member's question the EHO stated that the use of SIA staff could mitigate the potential for noise at the Premises.
11. The MPS maintained their representation and confirmed that the grant would add to the CIZ. He had not heard from the Applicant about his proposals until yesterday and although the reduction of hours makes a difference, it is not known whether the Applicant is aware of local issues. It is expected that the Applicant would consult with the Authorities during the consultation period.
12. The area has a high crime rate and high traffic of people. Having a SIA door staff does not help with customers, who will be at the kiosk for 1 minute and then immediately leave.
13. No conditions were proposed and therefore the application did not address the CIZ. The Premises retains people would become the victim of crime in the area.

DECISION

14. The Committee notes that the Applicant did not consult with the Authorities in a timely fashion and did not offer or agree conditions to show that he had considered the operation's effect on the four licensing objectives until the day prior to the hearing.
15. The Committee believed that proper consideration had not been given to the Premises location in the CIZ and the potential to retain customers in the area,

who could become the victim of crime or cause crime and disorder within the CIZ. The Applicant had also failed to consider the effects of the Premises trading in excess of Westminster's Core Hours.

16. It was decided that the Applicant had failed to give the Committee any genuine, exceptional reasons why their discretion to be exercised to depart from the policy presumption to refuse this application. It is not found that a diverse cuisine or the success of the business amount to exceptionality. Furthermore, it was decided that the Applicant proposals would not promote the Licensing Objectives for the reasons noted above.
17. Therefore, having carefully considered the Act, the Guidance issued under sec 182 of the Act, Westminster's Statement of Licensing Policy committee papers, the additional papers and the submissions made by all of the parties orally, The Committee decided, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives, to **REFUSE** the application.

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

**Licensing Sub-Committee (2)
11 January 2024**

4. FRIDAY MOOD, 7 LOWER GROSVENOR PLACE, SW1W 0EN

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.2
("The Committee")

Thursday 11 January 2024

Membership: Councillor Maggie Carman (Chair)
Councillor Concia Albert
Councillor Melvyn Caplan

Officer Support Legal Advisor: Steve Burnett
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Jessica Donovan

Others present: Georgia Patterson (Agent, TV Edwards LLP) for the Applicant,
Sviatoslave Seliviorstov (Applicant company)

Ayesha Bolton (Environmental Health Service Officer -EHO)

Application for a New Premises Licence in respect of Friday Mood, 7 Lower Grosvenor Place, London SW1W 0EN - 23/05783/LIPN

FULL DECISION

Premises

Friday Mood
7 Lower Grosvenor Place
London
SW1W 0EN

Applicant

Friday Mood Limited

Ward

St James's

Cumulative Impact

N/A

Special Consideration Zone

Victoria

Activities and Hours applied for:

To Permit:

Sale by Retail of Alcohol (off)

Monday to Saturday 08:00 to 20:30

Sundays 09:00 to 20:30

Hours Premises Are Open to the Public

Monday to Sundays 09:00 to 20:00

Summary of Application

This is an application for a new premises licence under the Licensing Act 2003 (“The Act”). This application seeks to permit the premises to trade as a boutique wine retail shop.

The Premises will be open to the public between 9am and 8pm. Online purchases may take place at any time, however any supply of alcohol (picking, packing, dispatch and delivery) from the premises will only take place during the licence hours (08.00 – 20.00).

There is a resident count of 147

Representations Received

Environmental Health Service (EHS)

Metropolitan Police Service (MPS) – Withdrawn on 1 November 2023

7 Objections from Interested Party (3 – Withdrawn)

Issues raised by Objector.

The EHO states 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 Interested Party who made representations against the application states there is a high volume of licensed premises in the area. Noise and rubbish have increased, along with anti-social behaviour. Delivery riders are likely to cause an issue along with street drinkers and there is a lack of parking. Grant of the application will cause a public nuisance.

Policy Considerations

Policy SCZ1 state:

A. In addition to meeting the other policies within this statement, applications within a designated Special Consideration Zone should demonstrate that they have taken

account of the issues particular to the Zone, in question as identified within the 2020 Cumulative Impact Assessment, and should set out any proposed mitigation measures in relation to those issues within their operating schedule. considered on their merits, subject to other relevant policies.

D56. The local issues that need to be considered by applicants are:

- Serious violence at night.
- Anti-social behaviour at all times of the day (street drinking and begging).
- Incidents relating to ambulance call outs to the locations of licensed premises for intoxication, injury related to intoxication and/or assault.
- Theft and noise at night.

HRS1 states:

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.

11b. Shops (off-sales of alcohol where it forms either the Ancillary or primary use of the premises)

Monday to Saturday: 8am to 11pm.

Sunday: 9am to 10.30pm

SHP1 state:

A. Applications for a shop 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 are within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol meeting the council's Ancillary Alcohol and/or Late night Refreshment Delivery Service Policy DEL1.
4. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meeting the definition of a shop.

SUBMISSIONS AND REASONS

1. The Presenting Officer, Jessica Donovan, Senior Licensing Officer, introduced the application and the Parties to the Committee.

2. Ms Georgia Patterson (Agent, TV Edwards LLP) outlined the application along with Mr Sviatoslave Seliviorstov of Friday Mood Ltd (Applicant company). She advised the Committee that the Applicant that the operation is as a specialist wine shop, which closes to the Public at 20.00, which is well within core hours HRS1.
3. The Committee was informed that there are delivery parking spaces near by but the number of deliveries would be restricted as the main delivery point for online sales is located at a warehouse in another borough of London.
4. The Applicant had considered an assessment of the area and the main issues in relation to the SCZ is clustered around Victoria Station away from the Premises. The Premises is also located on a Red Route, so deliveries are expected to use the number of parking areas available around the area.
5. In answer to questions from the Committee, the Applicant confirmed that the Premises was an office previously and has been empty for 12 months. They will sell wines, some spirits, and vaping products. They were therefore concerned about the conditions restricting the use of the Premises. As this is a small site, the Applicant confirmed that they will actively and verbally advise delivery drivers to park legally.
6. The Committee was informed that the Applicant object to a 'works condition' being attached. There has been delays to the trade of the Premises due to a delay in resolving the Premises Licence. The works condition could further delay the opening.
7. Ms Ayesha Bolton (representing the Environmental Health Service) advised that the EHS was also concerned with the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the Special Consideration Zone. She advised the Committee that the MPS required the conditions restricting trade.
8. The EHS have no concerns about the application but would like the opportunity to visit the Premises and therefore asks for the Works Condition to be attached. The EHS would check on matters under the licensing regime such as nuisance in the area, trip hazards, escape routes and that the Premises is fit for the public.

DECISION

9. The Committee has determined an application for a NEW Premises Licence under the Licensing Act 2003. The Committee is aware that it has a duty to consider each application on its individual merits when determining this application.
10. The Committee notes the relevant policies and acknowledges that this application is within the Council's Core Hours Policy and therefore "will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy" (HRS1).

11. The Committee considered that the Applicant had made considered submissions addressing para D56 of the SoLP, namely the local issues affecting Victoria SCZ.
12. The Committee is mindful that this is an application for an off-licence premises for trading hours well within Westminster's Core Hours. In excess of 20 conditions were proposed to promote the licensing objectives and the Committee note that these must be appropriate and proportionate.
13. The Applicant will primarily sell premium wines. There will be a small number of wine deliveries from the shop. The main location for online purchases and deliveries is located at a warehouse located elsewhere in London. Delivery from the Premises will be limited to a small number of items which are not in stock at the warehouse.
14. An amendment to a condition detailing the primary use of the Premise was discussed at length and the EHO requested Westminster's Model works condition to be added. However, it was decided that imposing both these conditions was not appropriate or proportionate, noting the nature of the operation as a small off- licence and a proposed closing time of 20.00 daily. The conditions relating to the primary use of the premises would be unenforceable. Furthermore, the EHO already has powers under the Act and other legislation to inspect the Premises at any time and take enforcement action if necessary. Therefore, the addition of a works condition and restriction of use of the Premises, in this particular case, would not be appropriate or proportionate.
15. Having carefully considered the Act, the Guidance issued under sec 182 of the Act, Westminster's Statement of Licensing Policy committee papers, the additional papers and the submissions made by all of the parties orally, The Committee has decided, 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:

To Permit:

Sale by Retail of Alcohol (off sales)

Monday to Saturday 08:00 to 20:30
Sundays 09:00 to 20:30

Hours Premises Are Open to the Public

Monday to Sundays 09:00 to 20:00

2. Relevant Mandatory Conditions to apply.
3. To add conditions proposed to form part of the operating schedule:

Conditions imposed as proportionate and appropriate, and which promotes the Licensing Objectives:

1. 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.
2. 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.
3. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.
4. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
5. 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.
6. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
7. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
8. 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 shall 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.
9. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of

recent CCTV images or data with the absolute minimum of delay when requested.

10. All sales of alcohol for consumption off the premises shall be in sealed containers only.
11. A direct telephone number for the manager to be made available to residents and businesses in the vicinity on request.
12. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked storeroom or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
13. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
14. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
15. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
16. 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.
17. 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.
18. 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 shall 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.

19. No miniature bottles of spirits of 20 cl or below shall be sold from the premises.

20. All cashiers shall receive refresher training on the relevant alcohol laws and the licence holder's policy on challenging for ID. Such training shall take place at least twice a year. Records shall be maintained at the premises containing information about the training of any person who may make a sale of alcohol including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on request to a police officer or relevant officer of a responsible authority.

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

**The Licensing Sub-Committee
11 January 2023**