



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (2)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 14th December, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Maggie Carman (Chair), Concia Albert and Jacqui Wilkinson

#### 1. MEMBERSHIP

1.1 There were no changes to the membership.

#### 2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

#### 1. 1905 CELLAR, 42 MORTIMER STREET, W1W 7RH

### WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 2

Thursday 14 December 2023

Membership: Councillor Maggie Carman (Chair) Councillor Concia Albert and Councillor Jacqui Wilkinson

Officer Support: Legal Advisor: Horatio Chance  
Policy Officer: Daisy Gadd  
Committee Officer: Steve Clarke  
Presenting Officer: Roxsana Haq

Other Parties: Niall McCann (Keystone Law), Nikos Nyfoudis (Founder of 1905 Assets Limited), Anil Drayan (Environmental Health Service)

**Application for a New Premises Licence 1905 Cellar 42 Mortimer Street  
London W1W 7RH 23/04264/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 1905 Cellar 42 Mortimer Street London W1W 7RH ("The Premises"). The Applicant 1905 Assets Limited proposes to operate the Premises as a wine shop, bar and café, specialising in natural wines. This is a new premises licence application and therefore no premises licence history exists.

The Premises is located within the West End Ward. Neither the West End Cumulative Impact Zone nor Special Consideration Zone applies. The matter was considered 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 84.

**Premises**

1905 Cellar  
42 Mortimer Street  
London  
W1W 7RH

**Applicant**

1905 Assets Limited

**Cumulative Impact Area**

N/A

**Special Consideration Zone**

N/A

**Ward**

West End

**Activities and Hours Applied For**

**Late Night Refreshment (Indoors and Outdoors)**

Monday to Thursday N/A  
Friday to Saturday 23:00 to 00:00  
Sunday N/A

Seasonal Variations: Sundays immediately prior to a bank holiday 23:00 to 00:00

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

Monday to Thursday: 09:00 to 23:00

Friday to Saturday 09:00 to 00:30

Sunday 09:00 to 22:30

Seasonal Variations: None

## **Opening Hours to the Public**

Monday to Thursday: 09:00 to 23:30

Friday to Saturday: 09:00 to 00:30

Sunday: 09:00 to 22:30

Seasonal Variations: Sundays immediately prior to a bank holiday 09:00 to 00:30 hours

## **Representations received**

- Environmental Health Service (EHS) (Anil Drayan).
- 11 Interested Parties.

## **Summary of issues raised by objectors**

- *The Supply of Alcohol 'On' and 'Off' the premises and for the hours requested may impact on Public Safety and lead to an increase in Public Nuisance in the area.*
- *The Provision of Late-Night Refreshment 'Indoors' and 'Outdoors' may lead to an increase in Public Nuisance in the area.*
- *Westminster's Statement of Licensing Policy – see on the Council's website requires licensed premises demonstrating compliance with policy CH1, Protection of Children from Harm. Free advice on complying with this can be found on page 36 of policy.*
- *Some conditions have been offered and these are under consideration to see if they are sufficient to allay Environmental Health concerns.*
- *The provision of sanitary accommodation should be at least in line with BS6465 for any proposed capacity. Also separate provision for food handling staff is advised.*
- *An assessment will need to be made as to how the plant and machinery employed for any cooking of food will not result in odour or noise nuisance.*
- *It is unclear if the premises have already been refurbished for the proposed use and if this use will result in nuisance from the internal transfer of noise to other users within the building block. Standards to be achieved are outlined in Appendix 11 of the Statement of Licensing Policy.*
- *The applicant is therefore requested to contact the undersigned to discuss the above and arrange a site visit after which Environmental Health may propose additional conditions for the proposed use.*
- *The proposal constitutes the granting of a license to make the unit a drinking establishment. The unit sits directly below a residential property so the proposed use and proposed hours seem unconscionable. As occupiers of the flat directly above the unit, with our bedroom being vertically adjacent to it, we*

*object to this license on the grounds that the noise that would be generated by the establishment represents nuisance. It would disrupt our right to enjoyment of our property by emitting noise which would impede our ability to live, work and sleep. It would also increase the chances of anti-social behaviour and public nuisance directly outside our property due to inebriated customers.*

- Previously this unit was a florist operating within daytime business hours. A drinking establishment would require different planning use-class designation to a florist. I query whether this unit has the correct use-class to facilitate an alcohol license being granted to create a drinking establishment open until midnight sitting directly below a residential building.*
- I strongly object to the granting of an alcohol and late license to premises at 42 Mortimer Street, formerly a shop. There are already a number of premises in the immediate vicinity with such licenses and this would add to the existing problem of noise and anti-social behaviour that the residents of 44 Mortimer Street already experience. I have made a number of complaints to the noise control officers about people flowing into the street after midnight from premises opposite my flat in Great Titchfield Street and adding another bar under our building will only exacerbate this problem. There is little control of the licenses and little consideration for local residents. Two weeks ago people were still drinking outside 1905, 40 Mortimer Street recently granted a late licence, well after midnight.*
- I am a resident at 44 Mortimer Street, a residential premises which is directly above the premises associated with this application and directly opposite the sister premises mentioned - the restaurant 1905. I am very concerned about the application to set up a wine shop, cafe and bar directly below our flats in premises which have formerly been occupied by shops operating between the hours of 9.00 - 5.00. I have lived at 44 Mortimer Street since 1995 and have witnessed the development of Little Titchfield Street over the years which has included new restaurants and cafes, most recently 1905 which is situated on the corner of Little Titchfield Street and Mortimer Street which faces my flat.*
- This rise in the number of local restaurants and cafes has already increased the number of people in the area late at night and I have been forced to make numerous complaints about noise in the street after midnight to the Westminster noise control officers. This is a particular problem during the summer months when people are sitting outside and continue to eat, drink or smoke in the street when the actual premises should be closed and I need to have windows open in my flat. There is a fairly constant problem with people hanging around in the street, sometimes well past midnight, either ringing for taxis/uber drivers or waiting for them to arrive. People leaving cafes and restaurants don't appreciate that there are local residents nearby and they talk loudly or shout to each other as they make their way home. The nature of the street and the buildings amplifies the sound and causes disturbance to the residents. There have also been incidents of empty glasses being left outside the street entrance to my flat.*
- I object to a further premises being granted a licence to sell food and drink to customers up to 23.30 Monday to Thursday, past midnight on Fridays and Saturdays, up to 22.30 on Sundays and beyond midnight on Sundays prior to public bank holidays in this area. I do not believe that these opening hours are reasonable given the nature of the neighbourhood and the fact that this would undoubtedly result in a significant increase in noise in the street which will affect local residents and adversely affect our ability to enjoy our flats, relax*

*and sleep. It will also increase traffic coming into the area further increasing noise and causing more air pollution in an already polluted area.*

- The proposal constitutes the granting of a licence to make the unit a drinking establishment. The unit sits directly below a residential property, so the proposed use and proposed hours seem unconscionable. We object to this license on the grounds that the noise that would be generated by the establishment represents nuisance. It would disrupt our right to enjoyment of our property by emitting noise which would impede our ability to live, work and sleep. It would also increase the chances of anti-social behaviour and public nuisance directly outside our property due to inebriated customers.*
- Previously this unit was a florist operating within daytime business hours. A drinking establishment would require different planning use-class designation to a florist. I query whether this unit has the correct use-class to facilitate an alcohol license being granted to create a drinking establishment open until midnight sitting directly below a residential building.*
- The bar's extended hours of operation will disrupt the peace and tranquility of the building. Previously, the unit served as a florist operating within daytime business hours, causing minimal disturbance to the residents. With the proposed changes, the noise level is bound to increase substantially, causing significant distress to our elderly residents, those with health conditions, and those sensitive to loud noises. The distress brought about by excessive noise and disturbance could have severe consequences on their mental and physical health.*
- Our building, being very old, suffers from poor noise insulation. This exacerbates the potential noise disturbances from the bar below, and will have adverse effects on the quality of life for all residents.*
- A bar with late-night operating hours will inevitably lead to patrons socialising outside the premises, resulting in further noise, litter, and potential safety issues. We already have issues with security and people urinating in the doorway, and these would likely increase should this proposal be granted.*
- The area already has a plethora of restaurants and bars, making the addition of another one entirely unnecessary. The saturation of such establishments has already led to increased noise and foot traffic. The addition of yet another bar will only exacerbate these problems and may negatively impact local businesses that are struggling to thrive following the pandemic.*
- I am hoping that it is not too late to add my voice to those of my neighbours to object very strongly to this application. The reference number is 23/04264/LIPN and you have my name but I am the owner and live in Flat 3, Ames House, 44 Mortimer Street which is obviously next door to the aforementioned unit.*
- Two of my neighbours living in Flats 2 and 5 in my building have already objected strongly to this application and I just wanted to add my own voice to what they have said. I agree entirely with the things that they have both said and for the same reasons.*
- I live on the very next street to the proposed bar, only 40 yards from 42 Mortimer Street, where residents' quiet enjoyment of their homes - and indeed their sleep - is already regularly interrupted by drunken revellers passing by, on their way home or going between the already many bars and restaurants serving alcohol in the immediate area. This area is already vastly oversubscribed with drinking establishments, the last thing residents need is yet another bar. The summer is particularly bad when revellers congregate*

*outside pubs and bars - ignoring the ineffectual roped-off areas put there by the owners - therefore constantly blocking the pavements. Every time I've passed eg., The George Tavern (the closest bar to 42 Mortimer, on the same north side by the junction of Gt Portland St) in the evening his week I've had to go into the road to get around the thick crowds. This is a busy road, being the main west-east traffic route into Fitzrovia and unsuitable for having pavements blocked by revellers.*

- There is already such little room for wheelchair users and parents with prams on the already narrow pavements of Mortimer Street, with this corner at 42 Mortimer St a busy left turn for vehicles heading north, many of them large delivery vans. It's asking for traffic accidents never mind blocking the pavements for passers-by and having drinkers spill out into this part of Fitzrovia, which is quite residential, many of the people living here being elderly, including many of my immediate neighbours, as well as busy professionals who need their rest due to busy, demanding jobs.*
- I am writing on behalf of Furnival Mansions Residents Association, a long low block with 34 flats stretching almost down to the corner of Mortimer Street.*
- We own the head-leasehold interest in 44 Mortimer Street and object to the application. The proposal constitutes the granting of a license to make the unit a drinking establishment. The unit sits directly below a residential property, so the proposed use and proposed hours seem unconscionable. We object to this license on the grounds that the noise that would be generated by the establishment represents nuisance. It would disrupt our right to enjoyment of our property by emitting noise which would impede our ability to live, work and sleep. It would also increase the chances of anti-social behaviour and public nuisance directly outside our property due to inebriated customers.*

## **Policy Position**

Policies HRS1 and SHP1 apply under the City Council's Statement of Licensing Policy ("SLP").

## **HRS1**

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

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

1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.
2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.

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

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

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

Monday to Thursday: 9am to 11.30pm.

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

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

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

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

## **SHP1**

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 in Clause C.

B. Applications for a shop inside the West End Cumulative Impact Zone will be considered on their own merits and 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 demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
5. The application and operation of the venue meeting the definition of a shop in Clause C.

C. For the purposes of this policy:

1. A shop is defined as a stall, vehicle, vessel, temporary structure, building or part of a stall, vehicle, vessel, temporary structure or building where the primary activity is the sale of goods or services to customers upon payment.
2. The licensable activities for the sale of alcohol for consumption on the premises, regulated entertainment and/or late night refreshment must be ancillary to the primary use of the premises as a shop.
3. The licensable activity of the sale of alcohol for consumption off the premises must be an ancillary function to the primary use of the premises unless that primary use is to sell alcohol for consumption off the premises, e.g. a traditional off licence.

## **SUBMISSIONS AND REASONS**

Ms Roxsana Haq, Presenting Officer, gave the Sub-Committee a summary of the application noting that representations had been received from the Council's EHS and 11 interested parties.

Mr Niall McCann, solicitor acting on behalf of the Applicant addressed the Sub-Committee. Mr Nikos Nyfoudis founder of the Applicant company was present to assist the Sub-Committee with any questions regarding the operation.



Mr McCann advised that 1905 was a family run business operating the nearby 1905 Restaurant, the operation was looking to open a specialist wine shop at number 42 Mortimer Street, selling natural wines in addition to wine glasses and other ancillary wine related products.

Mr McCann advised that there was an intention to have an element of eating and drinking on the Premises which was seen as imperative to the businesses' viability. The Applicant summarised the layout of the Premises and made clear that they hoped to apply for a pavement licence in the future to have a small number of external tables and chairs on Great Titchfield Street.

Mr McCann highlighted that they understood the concerns raised by the interested parties and local residents. It was confirmed that the Premises was intended to be operated primarily as a wine shop where customers could sample the wines they have purchased.

Mr McCann stated that the Applicant also operated the '1905' Cretan restaurant close by, it was a well-run community restaurant, and it was in the Applicant's interest not to have a raucous establishment next door. He confirmed that residents had raised no concerns regarding the operation of this restaurant and it was understood that the operator needed to respect residents to protect their business.

Mr McCann reminded the Sub-Committee that the Premises was not within the West End CIZ or a Special Consideration Zone; it was also confirmed that they would be happy to comply with the conditions proposed in the Sub-Committee papers by Environmental Health.

The Sub-Committee sought to ensure that the operator did what they could to address the anxieties felt by residents regarding potential noise disturbance. In response to queries regarding the acoustic report and concerns from residents regarding noise, Mr McCann stated that they fully understood that the tenants above the Premises were worried about potential noise transference. However, Mr McCann reassured the Sub-Committee that the Premises would be operated as a very relaxed environment, it was also confirmed that acoustic absorption panels and the introduction of soft furnishings were features that would actively mitigate noise concerns.

Upon queries from Members around the style of any 'events' that were to be held at the Premises, Mr McCann advised that the only events would be group wine tastings, designed as learning experiences; it was confirmed that these would be of a laidback nature, ideally taking place a couple of times each week.

Mr Anil Drayan appearing on behalf of the EHS addressed the Sub-Committee highlighting that the primary concern was the internal transference of noise to residents on the upper floors of the building. It was noted that the Premises was previously a retail operation, and it was uncommon for retail premises to cause a nuisance to neighbouring residents.

The Sub-Committee noted that an acoustic report had been submitted which satisfied the concerns of the EHS, however Mr Drayan requested that the Sub-Committee consider including a works condition namely model condition MC81

whereby *“No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.”*

Mr Drayan advised that model condition MC86 should also be considered where *“The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a wine shop.”* so in essence the Premises is restricted for this purpose.

Mr Drayan stated that the EHS were satisfied that no issues had been raised with regard to the 1905 restaurant operating nearby, and that they were happy with the proposed hours and operation of the new wine shop premises as a whole.

Mr McCann confirmed that, should the licence be granted, the Applicant would be happy to adopt model conditions 81 and 86 onto the licence as well as reassuring residents by having a direct contact number for the Premises should any issues arise by way of Model Condition MC24.

## **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 SHP1 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 Policies HRS1, CD1, PS1, PN1 and CH1.

The comments advanced by Mr McCann in his submissions regarding the Premises operating as specialist wine shop family business were noted and the proposed condition restricting the Premises as such was welcomed.

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 Applicant 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 key 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 Applicant in his submissions to the Sub-Committee when considering the daily management of the Premises and any adverse impact this could have for residents.

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 17-21 of the agenda report together with the inclusion of Model Conditions MC41, MC81 and a slight adaptation to MC86 and the requirement that the capacity of the Premises shall be limited to a maximum of 35 persons.

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 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 Premises Licence.

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.

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 Sub-Committee had decided**, after taking into account all the individual circumstances of this case and the promotion of the four licensing objectives:

1. To grant permission for **Late Night Refreshment (Indoors and Outdoors)** Monday to Thursday N/A Friday to Saturday 23:00 to 00:00 Sunday N/A  
**Seasonal Variations:** Sundays immediately prior to a bank holiday 23:00 to 00:00.
2. To grant permission for **Sale by Retail of Alcohol (On and Off the Premises)** Monday to Thursday: 09:00 to 23:00 Friday to Saturday 09:00 to 00:00 Sunday 09:00 to 22:00 **Seasonal Variations:** None
3. To grant permission for **Opening Hours to the Public** Monday to Thursday: 09:00 to 23:30 Friday to Saturday: 09:00 to 00:30 Sunday: 09:00 to 22:30  
**Seasonal Variations:** Sundays immediately prior to a bank holiday 09:00 to 00:30 hours.
4. That the Licence is subject to any relevant mandatory conditions.
5. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

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

6. (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. (b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. (c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. (d) All recordings shall be stored for a minimum period of 31 days with date and time stamping. (e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
7. 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.
8. 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.
9. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
10. All outside tables and chairs shall be rendered unusable by 23.00 hours each day.
11. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
12. 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.
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 and cans.
14. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
15. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
16. 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.

17. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed 35 persons.
18. 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.
19. 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.
20. 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.
21. 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
22. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority.
23. The on sale of alcohol authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a wine shop.

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

**The Licensing Sub-Committee  
14 December 2023**

## 2. WHITE HORSE PUBLIC HOUSE, 45 RUPERT STREET, W1D 7PB

### WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 2

Thursday 14 December 2023

Membership: Councillor Maggie Carman (Chair) Councillor Concia Albert and Councillor Jacqui Wilkinson

Officer Support: Legal Adviser: Horatio Chance  
Policy Officer: Daisy Gadd  
Committee Officer: Steve Clarke  
Presenting Officer: James Hayes

Other Parties: Niall McCann (Keystone Law), Samuel Smith (Director of Samuel Smith - Southern), Roxsana Haq (Licensing Authority), Richard Brown (The Soho Society) and Wendy Hardcastle (The Soho Society)

### Application for a Variation of Premises Licence in respect of White Horse Public House 45 Rupert Street London W1D 7PB 23/05538/LIPN

#### 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 White Horse Public House 45 Rupert Street London W1D 7PB ("The Premises"). The Premises operates as a public house and has had the benefit of a premises licence since August 2005. The existing premises licence (22/06761/LIPDPS) can be viewed at **Appendix 1** of the agenda report. The Premises Licence Holder ("PLH") is Samuel Smith (Southern).

The PLH seeks to vary the Licence as follows:

- *To extend Late night refreshment and opening hours on Friday and Saturday until 00:00 hours and the sale of alcohol on Friday and Saturday until 23:30. (Equating to an extra 30 minutes)*
- *To remove all conditions currently attached to the Premises Licence and replace with the conditions attached at **Annex A** to the Committee report and to add non-standard timings for all licensable activities (including opening hours) to extend for New Year's Eve.*

The PLH has provided a written submission which can be found at **Appendix 2** of the report. They make the following statement:-

***"Whilst the pub is located within the West End Cumulative Impact Zone the policy to refuse a variation of hours does not apply when they are within the Core Hours. The applicant believes that the pub is not associated with any crime and disorder or public nuisance and hence considers that the new***

***conditions will uphold the licensing objectives, but would be happy to consider any further conditions suggested by the statutory authorities or interested parties”.***

The Premises are located within the West End Ward and West End Cumulative Impact Zone. There is no policy presumption to refuse the application provided the hours are with the core hours policy. The matter was assessed on its individual merits having regard to the evidence before the Licensing Sub-Committee and the promotion of the licensing objectives.

There is a resident count of 247.

### **Premises**

White Horse Public House  
45 Rupert Street  
London  
W1D 7PB

### **Premises Licence Holder**

Samuel Smith (Southern)

### **Cumulative Impact Area**

West End Cumulative Impact Zone

### **Special Consideration Zone**

N/A

### **Ward**

West End

### **Hours and Activities applied for**

As per the premises licence

### **Representations received**

- The Licensing Authority (Roxsana Haq)
- The Environmental Health Service (Sally Fabbricatore)
- The Soho Society (Marina Temple)

### **Summary of issues raised by objectors**

- *The Licensing Authority encourages the applicant to provide further submissions as to how the increase in the terminal hour of Friday and Saturday evenings will not add to cumulative impact in the West End cumulative impact area, in accordance with policy CIP1.*

- *No significant representation is raised by the Environmental Health Services as the extension of hours on Fridays and Saturdays is within the core hours policy and it is for an existing premises. There is concern based on the Operating Schedule but further model conditions have been proposed which promote the licensing objectives. A history check of the premises has been undertaken and there is no adverse history to report.*
- *The increase in late-night refreshment from 23:30 to 00:00; supply of alcohol from 23:00 to 23:30; and opening hours from 23.30 to 00:00 may seem like small increases but Soho is saturated with alcohol licences and the resulting ASB and crime and every increase adds to the cumulative impact of inebriated visitors on Soho streets. Members of the Sub-Committee will be aware of the high – and increasing – levels of crime on Soho’s streets. There are residents in Rupert Street and the streets off Rupert Street and two blocks of social housing are immediately adjacent: St James’s Residences with its entrance round the corner in Brewer St and Archer Street Chambers in Archer Street. An increase in numbers of people leaving licensed establishments later into the night does not only affect those living in the immediate vicinity, but also those living in other Soho streets at some distance from an establishment as people drinking in one establishment will go on to drink at other establishments in the area, making Soho’s streets increasingly unsafe and unpleasant for residents and visitors alike. Rupert Street has a reputation as a crime hot spot and we object to this application to extend the operating hours of this public house to 12am on Fridays and Saturdays for the above reasons. This extension will fail to promote the licensing objectives and will increase cumulative impact in the West End Cumulative Impact Zone.*

### **Policy Position**

Policies CIP1, HRS1 and PB1 (B) apply under the City Council’s Statement of Licensing Policy (“SLP”).

### **CIP1**

- A. It is the Licensing Authority’s policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment, other than applications to:
1. Vary the hours within Core Hours under Policy HRS1, and/or
  2. Vary the licence to reduce the overall capacity of the premises.
- Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.
  - For the purposes of this policy the premises types referred to in Clause A are defined within the relevant premises use policies within this statement.



## HRS1

- A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.
- B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:
1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.
  2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.
  3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.
  4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.
  5. The proposed hours when any music, including incidental music, will be played.
  6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.
  7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.
  8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.
  9. The capacity of the premises.
  10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.
  11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.
  12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.
  13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.
  14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.

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

### **PB1 (B)**

- A. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:
1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1.
  2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.
- B. The applications referred to in Clause B1 and B2 will generally be granted subject to:
1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1, and/or,
  2. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
  3. The application and operation of the venue continuing to meet the definition of a Public House or Bar in Clause D.
- C. For the purposes of this policy a Public House or Bar is defined as a premises, or part of a premises that's primary use is the sale or supply of alcohol for consumption on those premises and/or for consumption off the premises for consumption outside the venue.

## **SUBMISSIONS AND REASONS**

James Hayes, Presenting Officer, gave the Sub-Committee a summary of the application noting that representations had been received from the Licensing Authority and the Soho Society.

Niall McCann, Solicitor appearing on behalf of the PLH, Samuel Smith (Southern) addressed the Sub-Committee He advised that the PLH agreed with the interested parties, specifically the Soho Society, in that there were Anti-Social Behavioural (ASB) issues in Soho; however they disagreed that the White Horse was the source of any such activity or disturbance; it was noted that they did not have to explain a number of complaints from residents or responsible authorities as was sometimes the case with variation applications that come to a Sub-Committee.

Mr McCann advised that the rationale for the variation application was primarily to cater for customers who had just come from a West End show. Currently, due to the timings on the Licence, these customers would not have sufficient time to finish their drink in a relaxed manner as they would be rushed by the existing closing time. It was confirmed that they also received a variety of patrons.

Mr McCann highlighted that the Premises was not in an area of concern for overnight complaints and argued that the application would not contribute to the cumulative impact of the West End CIZ. The agreed reduction in outdoor drinking time by 20 minutes from 23:20 to 23:00 was used as evidence of this.

He went on to state that the representation received from the EHS was a statement regarding how they were not raising a representation due to the application complying with policy; and the Licensing Authority's representation was at its core, just a request for further information. It was requested that the Sub-Committee grant the variation application accordingly.

Members sought to understand how the PLH would enforce the rendering of outside tables and chairs by 23:00. It was confirmed that there would be signage notifying customers and also that staff had good visibility of the outdoor area from the main bar and that they would be trained to handle resistant customers when they are asked not to take their drinks outside.

Roxsana Haq appearing on behalf of the Licensing Authority explained that representation had been maintained specifically for the purpose of ensuring the Sub-Committee considered the variation application regarding the potential for its contribution to the West End CIZ.

Richard Brown, appearing on behalf of the Soho Society addressed the Sub-Committee highlighting that the Soho Society did not have any specific issue with the Premises itself, however, it was felt the application was likely to contribute to the West End CIZ.

Members' attention was drawn to the 2023 Westminster Cumulative Impact Assessment which stated that crime in the area had gotten worse since the respite of the pandemic, and that any variation application was liable to add to cumulative impact. Although the Soho Society did not think that patrons of the Premises were likely to be committing any crime in the area, they did feel as though they could fall victim to it.

Wendy Hardcastle, a local resident attending on behalf of The Soho Society, addressed the Sub-Committee explaining that she knew the area incredibly well and had seen it change over the years. It was noted that Rupert Street and Archer Street were particularly busy and were crime hot spots and it was thought that with the residential properties close-by, the saturation of people on the streets would lead to further crime.

In summing up, the representatives of The Soho Society noted that there should be consideration of the prospective impact felt by the Police in terms of cumulative impact and it was felt that the variation application would negatively contribute to cumulative impact.

In summing up Mr McCann stated that the lack of representations from the Metropolitan Police and the EHS spoke volumes; in addition to the absence of any complaints being received regarding the Premises.

## **Conclusion**

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so for the purposes of this application.

The Sub-Committee had regard not only to the written and oral evidence but also to the requirements of the Act, The Home Office Guidance issued under section 182 of the Act and the City Councils SLP in the main policies CIP1, HRS1 and PB1.

In reaching their decision, the Sub-Committee took into account all the Sub-Committee papers and the submissions made by all the parties, including the Licensing Authority and the local amenity society and supplementary submissions made by the PLH during the hearing in its determination of the matter.

The Sub-Committee noted that the Premises operates as a public house under Policy PB1 and so there is no policy presumption to refuse an application of this type within the core hours policy HRS1.

The Sub-Committee noted that the PLH is a longstanding independent brewery which takes a long-term view. It is unique in that it only stocks its own products (including soft drinks and snacks) and has a staunchly traditional approach to its pubs in that they do not play any music, nor have televisions, nor permit laptops to be used. The whole ethos is that local communities can enjoy spending time together without unwanted distractions. By not playing music and showing television, the pubs do not attract trouble.

The Sub-Committee noted that the Metropolitan Police did not object to the application who are considered to be the Experts on crime and disorder in the West End CIZ. Further, this is not the sort of Premises that attracts ASB. The PLH's offer does not attract a party going crowd within the West End CIZ but is instead a traditional pub where friends and family can go for a drink or a meal in a comfortable, quiet environment which is conducive to conversation.

In this respect the Sub-Committee considers the Premises concept to be unique, exceptional and therefore different from similar licensed premises.

The Sub-Committee, having carefully considered the circumstances relating to the reasons for the application, decided to **GRANT** the variation application meaning that late night refreshment and opening hours are extended on Friday and Saturday until 00:00 hours and the sale of alcohol on Friday and Saturday until 23:30 (equating to an additional 30 minutes) subject to the removal of conditions and updated new one's by way of future proofing the licence and promoting the licensing objectives.

The Sub-Committee considered that the application was appropriate for the area and that it would not add to cumulative impact in the West End CIZ.

In reaching its decision, the Sub-Committee concluded that the conditions attached to the licence would mitigate and alleviate the concerns of the Licensing Authority and the Soho Society who had objected and were thus appropriate, proportionate, enforceable and would help promote the licensing objectives.

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

1. To grant permission for **Late Night Refreshment (Indoors and Outdoors)** Monday to Thursday 23:00 to 23:30 Friday to Saturday 23:00 to 00:00 Sunday N/A **Seasonal Variations:** 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 **Sale by Retail of Alcohol (On and Off the Premises)** Monday to Thursday: 10:00 to 23:00 Friday to Saturday 10:00 to 23:30 Sunday 12:00 to 22:30 **Seasonal Variations:** 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 **Opening Hours to the Public** Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 to 23:00 **Seasonal Variations:** From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
4. That Conditions 9, 10 and 11 are hereby removed from the licence and replaced with seventeen updated conditions.
5. That the existing conditions on the licence shall remain in full force and effect save as otherwise varied by the addition of seventeen new conditions.
6. That the Licence is subject to any relevant mandatory conditions.
7. That the Licence is subject to the following conditions imposed by the Sub-Committee as specified below and numbered 8-24 which are considered appropriate and proportionate to promote the licensing objectives.

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

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

- (d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
- (e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
9. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
  10. 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.
  11. No drinks to be taken outside after 23.00 hours.
  12. All outside tables and chairs shall be rendered unusable by 23.00 hours each day.
  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. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
  15. 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.
  16. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
  17. 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.
  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 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.
19. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.
  20. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are properly supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
  21. The Premises Licence Holder shall ensure that staff are trained in relation to and adhere to a written dispersal policy, a copy of which shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council
  22. 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.
  23. 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.
  24. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

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

**The Licensing Sub-Committee  
14 December 2023**

**3. 94 QUEENSWAY, LONDON, W2 3RR**

This application was Granted under Delegated Authority.

#### 4. TASTE OF LAHORE, 256B EDGWARE ROAD, W2 1DS

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

**Thursday 14<sup>th</sup> December 2023**

Membership: Councillor Maggie Carman (Chair), Councillor Concia Albert  
Councillor Jacqui Wilkinson

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

Other Parties: Mr Sajad Al-Hairi (Agent for the applicant), Pasha Safdar  
(Manager at Taste of Lahore), Kudzy Mondhlani (Environmental  
Health), Mr Richard Brown (Westminster Licensing Project)  
representing the Hyde Park Estate Association

#### **Application for a New Premises Licence in respect of Taste of Lahore, 256B Edgware Road London W2 1DS 23/02122/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 Taste of Lahore, 256B Edgware Road London W2 1DS ("The Premises"). The Premises intends to operate as a restaurant offering traditional and Asian fusion cuisine with internal seating and take-away deliveries. This is a new premise licence application, so no premises history exists.

The Premises are located within the Hyde Park Ward and fall within the Edgware Road Special Consideration Zone. The onus is therefore on the Applicant to demonstrate that they have considered the matters relating to the SCZ under the City Councils SLP.

There is a resident count of 127.

#### **Premises**

Taste of Lahore  
256B Edgware Road  
London  
W2 1DS



## **Applicant**

Mr Sayed Awais Hussain Shah

## **Special Consideration Zone**

Edgware Road Special Consideration Zone ("SCZ")

## **Activities and Hours**

### **Late Night Refreshment (Indoors and Outdoors)**

Monday to Sunday 23:00 to 01:00

### **Recorded Music (Indoors)**

Monday to Sunday 23:00 to 01:00

### **Opening Hours Premises are Open to the Public**

Monday to Sunday 12:00 to 01.30

## **Representations Received**

- Metropolitan Police Service (MPS) PC Steve Muldoon (**withdrawn 24 July 2023**)
- Environmental Health Service (Kudzy Mondhlani)
- The Hyde Park Residents Association.
- Councillor Karen Scarborough.

## **Summary of issues raised by Objectors**

- *The provision of recorded music would have the likely effect of causing an increase in Public Nuisance and may also impact on Public Safety in the SCZ.*
- *The provision of late-night refreshment will have the likely effect of causing an increase in Public Nuisance and may impact on Public Safety in the SCZ.*
- *The granting of the application as presented would have the likely effect of causing an increase in Public Nuisance and may also impact on Public Safety within Special Consideration Zone.*
- *Upon a site visit, additional EH conditions may be proposed to uphold the licensing objectives.*
- *As this is on our boundary The Hyde Park Estate Ass. (A Westminster recognised amenity group) are writing to strongly object to this application as we believe that this is likely to lead to Public Nuisance; an increase in Crime and Disorder public safety and it therefore does not support our Licensing objectives.*
- *In spite of the best intentions of the applicant to be the eyes and ears of the area - after many years of sitting on licensing committees I understand that unfortunately this is unrealistic unless you have a committed and dedicated person permanently on the outside entrance.*

- We note this 'premise is': one restaurant called Taste of Lahore (Asian fusion) and a take-away with separate entrance into the basement called Tanky's (Hamburger's posters shown) Both have entrances on Chapel Street. The take-away shows Uber deliveries etc. down the stairs and shown on the internal basement plan "Staff entrance for take-away" which is slightly confusing.
- On doors of both Tanky's and Taste of Lahore premises it shows the Licence application. So, is this an application for one restaurant or one restaurant plus one take-away sharing one kitchen space but separate entrances? Is it one business or is it two businesses? Is it take-away and deliveries?
- The operation of these premises needs to be explained as it is confusing. Unfortunately, I note no plan showing the position of this restaurant on the street in the documents online.
- This restaurant and basement take-away entrances and frontages are definitely on Chapel Street. The postal address maybe Edgware Road but this premise is definitely Chapel Street.
- Next door to a residential block of flats. The take-away entrance to Tanky's is next door to the entrance of a large block of flats and the side streets are all fully residential.
- This pavement is quite narrow, and we note that LNR license is requested for both indoors and outdoors! What kind of seating is the premise showing for outdoors? Is it at the front of the premise on Chapel Street or maybe behind the premise? In our view there is no room on Chapel Street due to narrow pavement to accommodate T&C's. The part that could be considered private forecourt is far too narrow to accommodate T & C's.
- Will this applicant be applying for T & C's on the highway? In our view T & C's outside this premise would be an impediment to any pedestrians as the pavement is not wide enough and if smoking shisha outside this is certainly an impediment for pedestrians creating an unhealthy atmosphere especially if you have breathing problems.
- Does the Asian fusion food take-aways and deliveries also go downstairs for their take-aways, or can people go directly into the Taste of Lahore for take-away? Edgware Road is in the Special Consideration Area and whilst not in the Cumulative Impact Area does have increased regard to WCC's Licensing Policy SCZ1.
- The Met Police advise us constantly that Public Nuisance and Crime and Disorder increase the later the time a premises is open beyond Westminster City Council's Core Hours Policy, which this application seeks to gain. Anything beyond Core Hours, when patrons leave the premises, will more likely than not increase noise and disturbance - often clients talking loudly on their phones, parking in neighbouring residential side streets with car doors banging and loud voices. As the police have always advised what happens on one side of the road affects the whole road.
- If the premises is providing hot food after 11pm it is most likely to become a destination venue, both for those who have been drinking so they can eat, and /or buy some take away before going home. The Council considers that premises serving cold food are not subject to Licensing and are not so attractive to people who have been drinking as those providing hot food.
- We strongly object to the extended hours and ask that you refuse this application as we do not believe it will meet all of Westminster's Licensing objectives. We believe that in this residential position it is vitally important to

*keep the balance between business and resident's needs. If you are minded granting, then we request you reduce the hours requested and no outside LNR after 21.00 hrs. We also request that all doors be closed so as not to allow music to disturb residents.*

- On behalf of the Marylebone Ward Councillors, we object to the above application as it will not promote the Licensing objectives namely of prevention of public nuisance, crime and disorder, public safety and children from harm.*
- We completely support the comments made by the HPEA and would be grateful for clarification of the points raised by them as the entire application is not clear.*
- Edgware Road is in a Special Consideration Area and this application needs to be considered in this regard. What happens in one part of the area affects the whole are by the nature of the type of premises on Edgware Rd.*
- Thank you for your consideration and we respectfully ask that this application be refused or at the very least no longer than Core Hours are granted.*

### **Policy Conditions**

Policies SCZ1, HRS1 and RNT1 (A) apply under the City Council's Statement of Licensing Policy ("SLP").

### **Policy SCZ1**

- 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.

C. For the purposes of Clause A, the designated Special Consideration Zone are

- West End Buffer.
- Queensway/Bayswater.
- Edgware Road.
- East Covent Garden.
- Mayfair.
- Victoria.

### **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**

1. Ms Roxsana Haq, Presenting Officer, outlined the application to the Sub-Committee. She advised that this is an application for a New Premise Licence with late night refreshment, recorded music and increased hours opened to the public. She advised that representations had been received from the Metropolitan Police Service (which had been withdrawn), Environmental Health and two interested parties. The Premises are located within the Hyde Park Ward and falls within the Edgware Road Special Consideration Zone. She confirmed that the additional submissions from the Applicant and the Interested Parties had been circulated.
2. Mr Sajad Al-Hairi, Agent on behalf of the Applicant, outlined the case to the Sub-Committee. He advised that this application is for a restaurant offering traditional Punjabi cuisine. The Premise had a pavement licence but to reduce noise nuisance for residents, never used it. They have also reduced their requested hours from 02:00Hrs to 01:00Hrs while the former establishment operated until 01:30Hrs.
3. He advised that shisha and alcohol are not permitted anywhere on the Premises. He advised that there are seven other branches of Taste of Lahore, and they have all had no reported problems of disturbing neighbours or anti-

social behaviour. The Premise has a 4.75 review on Google and a 5 out of 5 food safety certificate. Mr Al-Hairi advised that there were no representations from the Metropolitan Police Service at the Committee, following their withdrawal, as it is not in a crime hot spot. Mr Al-Hairi questioned whether an Equalities Impact Assessment had been undertaken.

4. Mr Al-Hairi in response to questions, advised that there are two entrances to the establishment, one for Taste of Lahore and one for Tanky's (a takeaway). The two premises share a basement where the kitchens are located. Mr Pasha Safdar advised the Committee that the only seating for the Taste of Lahore is on the Ground Floor with a capacity of 60 and they welcome a wide range of patrons. Mr Al-Hairi advised that the applicant had bought an acoustic device to monitor the noise and would ask patrons to reduce their noise if this device read over 30 decibels. Mr Al-Hairi advised that the establishment had been operating since June 2023 and they had applied for this licence in August 2022. Mr Safdar advised that while they do not serve alcohol in their restaurant, they offer a variety of soft drinks including Lassi.
5. Ms Kudzy Mondhlani, representing Environmental Health, advised the Committee that she maintained her representation as the Premise was in a Special Consideration Zone and outside of WCC Core Hours. She advised that there had been no complaints regarding the Premise with its current closing time of 23:30 hours but there could be potential for noise nuisance with a 01:00 terminal hour. Following discussions with Environmental Health the Applicant had agreed to no deliveries between 23:00 and 08:00 hours and closing all windows and doors after 21:00 hours, except for immediate access. Following Ms Mondhlani questioning whether the Applicant still wanted to include Recorded Music on the licence, Ms Daisy Gadd, Policy Advisor to the Sub-Committee, outlined the difference between background music and licensable recorded music to the Applicant.
6. Mr Brown, representing the Hyde Park Estate Association, advised the Sub-Committee that they made representations because the application was for outside WCC Core Hours, late night refreshment in a SCZ. He advised that there was ambiguity in the application over the two entrances and the differences between Tanky's and the Taste of Lahore. They had three concerns on the application including, late night deliveries, table and chairs outside the premise on Chapel Street and it being outside Core Hours. He advised that they were pleased to see conditions 12 and 19 accepted by the Applicant on limiting late night deliveries after 23:00 hours and that the Applicant advised at the hearing that they do not wish to have tables and chairs outside the premise. Mr Brown would like this safeguarded by condition. Mr Brown also highlighted the difference between background music and Recorded Music to the Applicant and that he needed to provide good reason to depart from WCC Core Hours.
7. In response to further questions, Mr Al-Hairi advised the Sub-Committee that the Applicant wished to be granted hours outside of WCC Core Hours Policy

for economic reasons and many of their patrons from TFL, St Marys Hospital and the surrounding hotels wish to eat after 23:30.

8. Mr Al-Hairi advised that despite agreeing to conditions with the Metropolitan Police Service, and them subsequently withdrawing their representation, limiting deliveries to 23:00 they wish to have deliveries until 01:30.
9. Following Mr Al-Hairi questioning the Equalities Impact Assessment again Mr Horatio Chance, Legal Advisor to the Sub-Committee signposted the Applicant's agent to page 127 of the Committee agenda report detailing the equality implications.
10. In response to further questions Mr Al-Hairi advised that if the Sub-Committee were minded granting, they would not agree to WCC Core Hours. Mr Al-Hairi also advised that they no longer wished to have recorded music on their licence and so this was to be withdrawn. Mr Chance proposed an amendment to proposed Condition 12, which Mr Al-Hairi refused.
11. Mr Chance also asked how the Applicant would address the SCZ under the SLP namely paragraphs D51 and D52 which Mr Al-Hairi disputed and said that the Policy is incorrect, and the proposed opening hours would provide natural surveillance for the Metropolitan Police Service.
12. Miss Gadd, the Policy Advisor clarified the reasoning behind the Special Consideration Zone Policy and asked how they would manage the dispersal which Mr Al-Hairi advised that the majority of their patrons would walk back to their hotel or go on the Tube. Mr Safdar advised that his Patrons would not be at risk as they do not partake in anti-social behaviour and would not be targets of criminal activity as they do not serve alcohol at the Taste of Lahore.
13. In summing up, Mr Brown requested that the Applicant advised on restricting delivery drivers to the proposed 23:0 hours as the Metropolitan Police Service withdrew their representations subject to this condition. He advised that the Hyde Park Estate Association were pleased to see that condition agreed prior to the hearing. He also advised that they welcomed the premise but would like to see a restriction on the hours.
14. Ms Mondhlani in summing up asked for confirmation from Mr Al-Hairi if Conditions 12 and 19 were confirmed which he advised that they were not. Ms Mondhlani advised that they were previously agreed following a visit to the Premises. She also advised that if the Applicant wished to have hours outside Core Hours for Tanky's delivery they will have to apply for a different licence as they are two different businesses ran by the same management.
15. Mr Al-Hairi and Mr Safdar left the hearing temporarily to discuss conditions. On return and during summing up, Mr Al-Hairi advised that they would accept Conditions 12 and 19 if amended to 23:30 hours. He also advised that they

wish to open and provide late night refreshment until 01:00 hours and amended the application to remove Recorded Music.

## **Conclusion**

16. The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so for the purposes of this application. In reaching their decision, the Sub-Committee took into account all the Sub-Committee papers and the submissions made by all the parties, including the Environmental Health Service and supplementary submissions made by the Applicant during the hearing in its determination of the matter.
17. The Sub-Committee had regard not only to the written and oral evidence but also to the Act, the Revised Home Office Guidance issued under section 182 of the Act and the City Council's SLP, in particular policies SCZ1, HRS1 and RNT1.
18. In this connection regard was had to the Revised Home Office Guidance at Paragraph 9.38 on page 80 which states "***In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to***":
  - The steps that are appropriate to promote the licensing objectives.
  - The representations (including supporting information) presented by all the parties.
  - This Guidance.
  - Its own statement of licensing policy.
19. In this respect the Sub-Committee considered the Home Office Guidance at Paragraph 9.43 on page 81 which states "**The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve**".
20. The Sub-Committee noted that the Premises was to operate as a restaurant and so there was no policy presumption to refuse an application of this type in the Edgware Road SCZ provided paragraphs D51 and D52 of the SLP have been addressed by the Applicant in their application as well as not be contrary to policies CD1, PS1, PN1 and CH1.
21. It was noted by the Sub-Committee that the Metropolitan Police Service had withdrawn their representation against the application following their and Environmental Health suggested conditions to the Licence were agreed by the Applicant but in the hearing the Applicant wished to amend these conditions.



22. The Sub-Committee considering the evidence before it and the arguments advanced by Mr Al-Hairi in his submissions to the Sub-Committee considered Policy RNT1 of the SLP and all other relevant parts of the SLP.
23. The Sub-Committee was, however, disappointed that the Applicant did not specifically address the issues in the Edgware Road SCZ on page 57 of the SLP.

**Paragraph D51** on page 57 of the SLP states:-

Edgware Road area is 0.10km<sup>2</sup> in size, accounting for 0.4% of the borough's footprint. The local issues that need to be considered by applicants are:

- Serious violent crimes and night.
- Incidents relating to ambulance call outs at night to the locations of licensed premises for intoxication, injury related to intoxication and/or assault.
- Drug dealing at night.
- Robberies at night.
- Theft incidents at night.
- Noise Nuisance at night.

**Paragraph D52** on page 57 states:-

The incidents recorded between 2017 and 2019 were nearly four times the borough's average rate of incidents per square kilometre.

24. Accordingly, the onus is on an Applicant where a premises falls within a special consideration zone to identify how those local issues are going to be satisfactorily addressed and overcome should a licence be granted. It was therefore incumbent, upon the Applicant to have addressed those specific issues in their application when submitted to the Licensing Authority.
25. In the absence of this information coupled with the Applicant's inability to have addressed Paragraphs D51 and D52 during the hearing the Sub-Committee could not justify a later terminal hour for the provision of late-night refreshment until 01:00 other than imposing Westminster core hours when it comes to the promotion of the licensing objectives.
26. The Sub-Committee would like to point out that had the Applicant properly addressed these key issues during their oral submission, the Sub-Committee would have then exercised reasonable discretion in its decision making when considering what hours were appropriate and proportionate for such a Premises located in the Edgware SCZ.
27. As Applicants will note when coming before the Sub-Committee it's role is not to "perfect" an application but to deal with the evidence it has before it and make a proper determination on that basis having regard to the merits of the application and the promotion of the licensing objectives and so this point

must be stressed to the Applicant for any future dealings it has with the Licensing Authority.

28. The Sub-Committee took the view that the right balance has been struck when considering the needs of those residents who had objected to the application and the commercial needs of the Applicant who has a duty to run his Premises to the highest professional standards and in accordance with the promotion of the licensing objectives. It is hoped that the parties going forward can work together to ensure that a fruitful dialogue is developed whereby any issues are resolved expeditiously.
29. The Sub-Committee having carefully considered the matter and the evidence before it decided to **Grant** the Premises Licence with the licensable activities and to core hours. The Sub-Committee considered that this was the right balance when considering the resident objections from the residents' association for the start time and terminal hours accordingly.
30. The Sub-Committee was persuaded that the application met the policy requirements under the SLP save for the Edgware SCZ. The Sub-Committee has imposed all the conditions and had made some amendments to the hours requested as the Applicant did not address sufficiently the requirements of the SCZ as aforesaid.
31. The Sub-Committee noted the various undertakings and commitments given by Mr Al-Hairi on behalf of the Applicant into the daily running of the Premises and the robust management practices the Applicant was to employ as well as the many offered conditions which would have the desired effect of promoting the licensing objectives.
32. The Sub-Committee considers that the conditions it has imposed on the premises licence to include CCTV by way of security, signage, staff training, dispersal arrangements for when customers leave the Premises, deliveries and collections of waste to the Premises and to be appropriate and proportionate and will have the overall effect of promoting the licensing objectives, in particular the prevention of public nuisance and crime and disorder licensing objectives.
33. The Sub-Committee concluded based on the evidence and the agreement by the EHS and the MPS that they were content with the application, together with the offer of conditions would ensure the application would not undermine the licensing objectives.
34. The Sub-Committee when considering the application and the interests of all the parties concerned thereunder had due regard to the Council's Public Sector Equality Duty contained under section 149 of the Equality Act 2010 along with Article 1 of the First Protocol (Protection of Property) and Article 8 (Right to respect for family and private life) under the Human Rights Act 1998.
35. Finally, the Sub-Committee would like to place on record that as a matter of professional etiquette whilst an Agent appearing on behalf of an Applicant wants to understandably act in the best interests for their client during a

licensing hearing it would have perhaps been more beneficial for his Agent to have been less confrontational, helpful and co-operated fully with the Sub-Committee when questioned about the specifics of the application as this would have assisted with the smooth running of the hearing.

36. Without being too critical and labouring the point this approach aids for a better discussion of the matters, and so that the main objective of presenting an application in the best possible light is best achieved in accordance with Regulation 23 of the Licensing Act 2003 (Hearings) Regulations 2005 by having a healthy discussion between the parties thus leading to good decision making practices by the Sub-Committee based on the evidence presented.
37. The Sub-Committee nevertheless wishes the Applicant every success in his running of the Premises going forward.
38. In reaching its decision, the Sub-Committee concluded that the conditions attached to the licence would mitigate and alleviate the residents' concerns of the parties who had objected and were appropriate, proportionate, enforceable and would have the desired effect of promoting the licensing objectives.
39. Having carefully considered the committee papers and the submissions made by all parties, both orally and in writing, **the Committee had decided**, after taking into account all the individual circumstances of this case and the promotion of the four licensing objectives:
  1. To grant permission for **Late Night Refreshment (Indoors and Outdoors)** Monday to Sunday 23:00 to 00:00 **Seasonal Variations: N/A.**
  2. To grant permission for **Opening Hours to the Public** Monday to Sunday 12:00 to 00:00 **Seasonal Variations: N/A.**
  3. That the Applicant amended the application during the hearing and withdrew **Recorded Music** as a licensable activity.
  4. That the Licence is subject to any relevant mandatory conditions.
  5. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

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

6.
  - (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
  - (b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
  - (c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the

premises and will include the external area immediately outside the premises entrance

(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.

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

7. 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.
8. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system, searching equipment or scanning equipment
  - (g) any visit by a relevant authority or emergency service.
9. There shall be no takeaway or use of any food delivery by the premises or by any food delivery companies such as Deliveroo and Uber Eats after 23:00.
10. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a restaurant.
11. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
12. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
13. 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.
14. 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.

15. 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.
16. 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.
17. 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.
18. After 23:00 hours all external doors and windows to be kept closed save for immediate access and egress of persons.
19. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
20. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 60 persons.
21. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
22. Loudspeakers shall not be located in the entrance and exit of the premises or outside the building.

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

**The Licensing Sub-Committee  
14 December 2023**

The Meeting ended at 1.10 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_