



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (6)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** held on **Thursday 25th January, 2024**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Robert Eagleton, Judith Southern and Caroline Sargent

1. MEMBERSHIP

1.1 There were no changes to the Membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. STREET TRADING - PITCH 942, OLD CAVENDISH STREET

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 6

Thursday 25 January 2024

Membership: Councillor Robert Eagleton (Chair), Councillor Judith Southern and Councillor Caroline Sargent

Officer Support: Legal Advisor: Michael Carson
Committee Officer: Sarah Craddock
Policy Advisor: Aaron Hardy
Presenting Officer: Bushara Hamida

Application to rescind the designating resolution for designated Pitch 942 at Old Cavendish Street

FULL DECISION

Pitch Designation

The original designation for Pitch 942 is “Old Cavendish Street centrally located on pedestrian area (clear of tactile paving), 11.27 north of the kerb edge of Oxford Street”.

Applicant

Westminster City Council’s Licensing Street Trading Team

Ward

West End

Summary of Application

The Licensing Sub-Committee is asked to rescind the designating resolution for designated Pitch 942 at Old Cavendish as recommended by officers.

Representations Received

Two representations were received in support of the application.
The Licence Holder
West End Street Trading Association

Policy Considerations

1. Street Trading Policy

- a) Policy ST5 within the City of Westminster Statement of Street Licensing Policy relates to the designation and de-designation of street trading pitches. However, the Licensing Service requests that the committee consider this application as an exception to this policy.

Designation and De-designation- Policy ST5

- (i) The Licensing authority will designate specific resolution for licensed street trading.*
- (ii) The Licensing authority may de-designate pitches that are no longer suitable for licensed street trading.*
- (iii) The Licensing authority will not designate any new isolated street trading pitches, apart from in exceptional circumstances.*

Policy ST5(2) states that the Licensing authority may, subject to the appropriate consultation and notification procedures, de-designate street trading pitches where in the opinion of the licensing authority, they are no

longer suitable for street trading. The circumstances under which a location may be considered not suitable include:

- (a) It has not been used for trading for a period of greater than six months;*
- (b) There has been altered circumstances due to the increased pedestrian footfall resulting from altered highways layouts, public realms improvements or construction projects;*
- (c) Where there is new development and the siting and operation of the trading pitch would adversely affect local pedestrian flow or cause congestion, including close to the transport stops or stations.*

SUBMISSIONS AND REASONS

Ms Bushara Hamida, the Presenting Officer, introduced the application.

Ms Hamida confirmed that the Licensing Service had received no comments from the Metropolitan Police Service or the Highways Authority and that the West End Street Trading Association was in support of the de-designation of Pitch 942.

Ms Hamida confirmed that the freeholder of the property wishes to secure the removal of the street trading pitch and has reached a private agreement with the street trader to support the de-designation of the pitch.

The Sub Committee noted that there were no objections to the application.

Having carefully considered the committee papers and the submissions made by all the parties, both orally and in writing, **the Sub-Committee has decided**, after taking into account all the circumstances of this application that **approval** be given to rescind the designation resolution for designated Pitch 942 at Old Cavendish Street

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

**The Licensing Sub-Committee
25 January 2024**

2. 38 CURZON STREET, W1J 7TY

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.6
("The Committee")

Thursday 25 January 2024

Membership: Councillor Robert Eagleton (Chair)
Councillor Judith Southern
Councillor Caroline Sargent

Officer Support Legal Advisor: Steve Burnett
Policy Officer: Aaron Hardy
Committee Officer: Sarah Craddock
Presenting Officer: Karyn Abbott

Others present: Mr Craig Baylis (Solicitor, Keystone Law on behalf of the Applicant) and
Mr Damina Drabble (38 Curzon Lease Ltd - Applicant).

Mr Anil Drayan (Environmental Health Service)
PC Tom Steward (Metropolitan Police Service)

Mr James Rankin (Barrister, representing Orbiton Estates) and
Holly McColgan (Solicitor, representing Orbiton Estates)
Mr Richard Brown - Licensing Advice Project (on behalf of the Resident Association of Mayfair and St James's)
Councillor Lilley (West End Ward)
Mr M.D (Resident Association of Mayfair and St James's)
Ms B.H (Local resident)

Application for a New Premises Licence in respect of 38 Curzon Street, London W1J 7TY - 23/07415/LIPN.

FULL DECISION

Premises

38 Curzon Street
London
W1J 7TY

Applicant

38 Curzon Lease Ltd

Ward

West End

Cumulative Impact

None

Special Consideration Zone

None

There is a resident count of 177.

Summary of Application

This is an application for a new Premises Licence under the Licensing Act 2003 ("The Act"). The Premises intend to operate as a cinema/event space with ancillary restaurants and bars.

The premises currently has the benefit of a number of Premises Licences.

This application seeks the following:

To Permit:

Sale of Alcohol (on sales)

Monday to Saturday 10:00 to 01:00
Sundays 12:00 to 23:30

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

Plays, films, indoor sporting events, live and recorded music, performance of dance, anything similar to Live and recorded music or performance of dance (Indoors)

Monday to Saturday 09:00 to 02:30
Sundays 10:00 to 02:30

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Late Night Refreshments (Indoors)

Monday to Saturday 23:00 to 02:30
Sundays 23:00 to 02:30

The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Day.

Hours Premises Are Open to the Public

Monday to Sundays 07:00 to 02:30

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Representations Received

- Environmental Health Services (EHS)
- Metropolitan Police Services (MPS)
- Resident x 7.

Issues raised by Objectors.

The EHS states the Regulated Entertainments sought and for the times requested may lead to an increase in Public Nuisance in the area and impact on Public Safety. The provision of Late-Night Refreshment for the times requested may lead to an increase in Public Nuisance in the area and the Supply of Alcohol and for the times requested may lead to an increase in Public Nuisance in the area and impact on Public Safety.

The MPS states following consideration of the application and how it may affect the Licensing Objectives and meeting the requirements of the Council's Statement of Licensing Policy the activities and hours requested may have the likely effect of undermining the licensing objective, the Prevention of Crime and Disorder.

The residents state that the application will transform the building into a late-night drinking and dance venue, nightclub. The area will be overwhelmed by private cars, taxis and revellers which will cause nothing but noise disturbance and disruption.

In applying for a licence including live music, recorded music and dance performance, 7 days a week until 02:30 the following day, 38 Curzon Lease Ltd clearly wishes to use the premises as a nightclub.

For service of alcohol the cinema has a terminal hour of 11pm and the restaurant 1am. The application states that " there is no increase in the hours currently permitted for licensable activities," but this is not strictly true since by having one licence instead of two the application as submitted will increase the hours currently permitted in the restaurant to the whole of the premises.

Condition 13 of the proposed conditions should be extended so as not to allow smokers etc to take glass containers or alcohol with them when they temporarily leave the premises.

Policy Considerations

Policy HRS 1 state:

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

B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant Policies.

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

Monday to Thursday: 9 am to 11.30pm.

Friday and Saturday: 9 am to 12am.

Sunday: 9am to 10.30pm.

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

Cinemas, Cultural Venues and Live Sporting Premises:

Monday to Sunday: 9am to 12am

Policy RNT1 state:

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 of a restaurant.

Policy CCSOS1 states:

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

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
4. The applicant has clearly demonstrated that the sale by retail of alcohol and late-night refreshment will be ancillary to the venue's primary function as a cinemas, cultural and live sporting venues and outdoor space.
6. The application and operation of the venue meeting the definition for a cinema, cultural venue, live sporting premises or outdoor space as per Clause C.

C. For the purposes of this policy the primary function of a cinema, cultural venue and live sporting premises are defined as:

1. Cinema
For the exhibition of feature or shorts films to an audience.
2. Cultural Venues:
 - a. Theatres: for the performance of plays, dramatic or other entertainment performances to an audience.
 - b. Performance Venues: for a live performance in front of an

- audience which may include concert halls, comedy clubs or similar performances venues.
- c. Cultural Uses: for the exhibition of art (e.g. galleries), a museum, or historical building/site that is open for visitors to visit on payment.
3. Live sporting premises: the premises or the use to which the licence is intended for:
- a. Live sporting events in the form of boxing and wrestling which takes place either inside or outside in the presence of an audience.
- b. Live sporting events that are licensable as they are being held within a building where the sport and audience are accommodated wholly or partly inside that building.

SUBMISSIONS

1. The Presenting Officer, Karyn Abbott, Senior Licensing Officer, introduced the application to the Committee.
2. Mr Craig Baylis (Solicitor) outlined the application along with Mr Damian Drabble (Applicant Company). Mr Baylis informed the Committee that there had been an extraordinary amount of misinformation circulating on social media and an on-line petition against the redevelopment because people considered that the Premises was going to be a night club and/or sex establishment. He confirmed to the Members that this was simply not true, and the Premises intended to operate as a cinema with ancillary restaurants and bars. He proposed that condition 10 stating that 'the primary use of the Premises was a cinema and events venue' is to have the words 'events venue' removed to alleviate residential concerns.
3. Mr Baylis advised the Committee that the development will cost £15 million and he referred to the plans explaining that the freeholder had taken back both the restaurant and the cinema and were merging the two Premises into one. The restaurant would support the cinema.
4. The Committee was informed that the Applicant was making very few changes to the current Premises Licences and that the cinema currently had a Premises licence to hold events until 02:30 hours and the restaurant already had an alcohol licence until 01:00 hours. He emphasised that the hours were staying the same for both types of activity and that there would be no alcohol service after 01:00 hours.
5. Mr Baylis referred to the Operational Management Plan and the Premises' plans lodged in the Agenda, which set out how the cinema would effectively have two screens instead of one and that there would also be a small private dining area with its own separate service that could be hired out for special occasions. He confirmed that the basement restaurant area would have a condition on the Premises Licence that all alcohol was ancillary to substantial food or entertainment and served by waitress/waiter service only in the hatched areas. He advised that there would be no vertical drinking or self-service of alcohol. He outlined that the redevelopment would make the Premises accessible for disabled customers and that Planning Permission had been granted.

6. Mr Baylis confirmed that the Applicant had agreed to all the proposed conditions from the Responsible Authorities and that the Applicant was happy to propose a limit of 100 events per calendar year which would effectively be two a week. These events could be anything which was a non-cinema type screening and could take place after 23:00 hours. He explained that the proposal was to maximise the use of the space and have events such as TED talks, presentations and occasionally live opera and theatre screenings; all of which were non-invasive as far as the local community was concerned.
7. Mr Damian Drabble (representing the Applicant Company) confirmed Mr Baylis's submission. He added that on occasion there might be standup comedy or live music, but the Premises would not be operated as a nightclub. He advised that it was a seated environment where customers enjoyed some form of entertainment.
8. Mr Baylis emphasised that the Premises would not be operated as a nightclub and that the Applicant was happy to agree conditions on the Premises Licence clearly stating the Premises would not be used as a night club.
9. In response to questions, Mr Baylis advised that a maximum of two events would be held after 23:00 hours each week, ideally on a Friday and Saturday. He confirmed that indoor sports covered tournaments such as darts, dominos and exhibition snooker and that the Applicant wished to have the flexibility to hold events as the opportunity arises rather than being constrained on what they could offer their customers. The Committee was told that the way people watch, feel and sense cinema was changing, and the Applicant needed to keep up with the art, experience and demand for innovative entertainment. He outlined that the Environmental Health Service had indicated that anything that was not related to a cinema screening was viewed as an event and this included beaming in a live opera or theatre performance on the screen for the audience. He emphasised that the current cinema already had a licence until 02:30 hours because historically the Curzon cinema had been known as being the forefront of art cinema, so the Applicant was not seeking to extend the licence any further than the current licence for the Premises.
10. Mr Anil Drayan (EHS) advised that there had been no big issues with the Premises whilst they were operating as a cinema and restaurant. He told the Committee that there had previously been some issues regarding people talking and 'souped up' cars driving up and down causing noise nuisance but were not linked to the cinema and restaurant. He advised that he had tried to replicate and combine the conditions from the current two Premises Licences into a single one because the proposed changes combined the two Premises. He outlined that if the Premises carried on being used largely as a cinema and a restaurant with the existing hours proposed the EHS did not consider that there would be any issues with the operation of the Premises. He added that the redevelopment would enable the Applicant to utilise the Premises to provide additional activities for the community.

11. Mr Drayan outlined that his additional conditions were ones that related to the events that would be held after 23:00 hours. He added that as the Applicant was unable to be specific regarding the type of events being held, he had requested that they provide an Events Management Plan compiled by a competent person who understood the importance of promoting the Licensing Objectives. He requested that the Council's model condition relating to a noise limiter be attached to the Premises Licence. He confirmed that the EHS were satisfied with the application as presented and that it was for the Committee to determine how many events, they considered was reasonable for the Premises to hold during the year.
12. In response to the question from the Committee regarding why EHS had not requested an acoustic report, Mr Drayan advised that a report had been submitted to obtain planning permission and had included how the fabric of the building would be constructed to prevent noise escape. Mr Baylis added that the Events Management Plan was still being drafted but that the Operational Management Plan had been submitted to obtain planning permission and had covered potential noise nuisance and installation of machinery and that the plan would effectively become enforceable by both planning and the Licensing Authority.
13. PC Tom Stewart (MPS) advised the Committee that the Police had maintained their representation against the granting of the application as it was likely to undermine the promotion of the licensing objectives particularly the Prevention of Crime and Disorder. He outlined, however, that conditions had been agreed with the Applicant at the hearing today which would include a condition to ensure that there was a minimum of two SIAs on the Premises from 21:00 hours when there were any non-cinema screening events held after 23:00 hours. He advised that the Premises did not fall within any special consideration zone or cumulative impact areas, but the operating hours were considerably beyond the Council's Core Hours Policy.
14. PC Stewart queried how the Applicant considered that there was no increase in hours compared to the current Premises Licence when the application was requesting an increase in the use of the cinema area from 23:00 hours to 01:00 hours. He emphasised that this was a significant increase particularly regarding the extra capacity and the type of events that could be held at the Premises that could typically be associated with higher levels of alcohol consumption. He advised that there had been no incidents reported to the MPS. He further advised that the MPS was concerned about the dispersal of large numbers of people at closing time. However, the additional of the SIAs would go some way to mitigate potential issues and promote the licensing objectives.
15. In response to questions from the Committee, Mr Drabble advised that he had been in the business for 30 years and that there had always been an issue with children under the age of 15 years old trying to obtain entry to see a certificate 15 film. He outlined that there were now schemes being put in place and private companies were creating systems (photo ID technology) to promote checks to ensure that a 12-year-old was not able/allowed into the

building without an adult after 20:00 hours and/or able to see a certificate 15 film.

16. Mr Drabble confirmed that the cinema bar in the foyer would stop supplying alcohol at 23:00 hours and the restaurant would stop supplying alcohol at 01:00 hours. He outlined that customers could only be supplied with an alcoholic drink up to 01:00 hours only if they had first eaten in the restaurant. He added it was not the case that someone could just walk into the restaurant and order a drink without having already had a table meal.
17. Mr James Rankin (Barrister, on behalf of Orbiton Estates) explained how the residents living in the 74 residential flats, 70 metres away, were very concerned about this application because of the lack of operational information in the Application until today at the hearing. He emphasised that all the residents had been presented with was the proposals that had been submitted to gain planning permission.
18. Mr Rankin advised that the residents did not want to see a much-loved institution not be used but they did want to pin the Applicant down on the style of operation and activities that would be held at the Premises. He highlighted that if the Premises was not going to be a nightclub or have live music events and instead be a restaurant and a cinema it should be conditioned as such on the Premises Licence. He requested that regulated entertainment for dance also be pinned down as well.
19. Mr Rankin advised that it was the job of the Applicant to make the application seem as attractive as possible and that was what was happened today. He outlined that the lack of information had resulted in the residents doing a lot of their own digging which had resulted in them discovering that the person behind the redevelopment had a history of turning Premises into nightclubs. He referred to a venue that this person owned in Camden and added that understandably the residents had been concerned.
20. Mr Rankin highlighted that there would be a significant change in the hours currently operated by the cinema because what was being proposed was a 2 hour increase Monday to Saturday and a 1.5 hour increase on Sunday, so for Mr Baylis to advise that there would be no change was 'slight of hand' and misleading to the Committee.
21. He referred the Committee to the proposed conditions contained in the supplementary Additional Pack and advised that residents would like the licensable activities listed out/pinned down so that the Applicant could not move 'the goal posts' on what they could provide as an event, and everyone would be clear on what was being offered at the Premises.
22. Mr Rankin considered that the application should be considered under the Council's Policy PB1 and should therefore only be granted in line with the Council's Core Hours Policy. He advised that as far as the restaurant was concerned the residents were prepared to concede in view of it already having a licence to sell alcohol until 01:00 hours. However, he requested that the

Council's model restaurant condition MC66 be attached to the Premises Licence.

23. Mr Rankin considered that the EHS proposed conditions needed tightening up to prevent patrons stacking drinks because currently the condition allowed someone to purchase large quantities of alcohol and then sit and consume it in the cinema which was undesirable. He suggested therefore that one condition should read 'the sale and consumption of alcohol should cease at 23:00 hours in the areas marked cinema' which included the cinema foyer and bar.
24. Mr Rankin outlined how the Applicant should only be allowed to operate events up to 23:00 hours to see how they were operated and then come back to the Committee with a variation application to apply for later hours once the nature and the types of events held at the Premises had been established. He further highlighted that another condition on the licence should outline that licensable activities should only be provided to patrons seated which prevented events with external DJs and music led events taking place at the venue. He stated that Temporary Event Notices could be applied for which worked well for ad hoc events. Mr Rankin advised the Committee that the residents were not against the application in principle but requested that the Committee impose conditions on the Premises Licence which restrict the operation of the Premises.
25. Mr Rankin called Councillor Lilley (West End Ward) as a witness who outlined that as well as being a Councillor, he was also a nightclub promoter who promoted events in former cinemas as they were ideal establishments for large events. He advised that the existing Premises Licences were limited in their hours and should not be extended and the lack of information about the types of events to be held was worrying for residents. He outlined the type of events that could be held could become raucous and be great fun, but it is not what residents in Mayfair desired in their area. He added that all audiences were unique so the Premises needed to employ experienced operators who could successfully manage a variety of events.
26. Mr Baylis emphasised that the Applicant was not willing or comfortable agreeing to a condition limiting the range of activities that could be held at the Premises or that licensable activities would be restricted to seated persons only. He gave the example of customers coming to see the Rocky Horror film or Abba Voyage who might spontaneously get up and dance and therefore the Applicant would be in breach of his Premises Licence. He added that he was happy to have wording which eliminated it to being a nightclub. Mr Rankin responded that no one was against customers having a quick dance but having a tight condition on the Premises Licence would give comfort to the residents. He added that there was no way a Premises would be reviewed on such a matter as a quick dance at a cinema.
27. Mr Baylis advised that it was unreasonable for licensable activities for the private dining area to be restricted to 23:00 hours. He outlined that the cinema, the cinema foyer and cinema bar were all restricted to 23:00 hours.

28. Mr Richard Brown (on behalf of the Resident Association of Mayfair and St James's) advised that he would be calling Ms B.M as a witness who was very active within the community. He echoed Mr Rankin's submission especially regarding pinning down the licensable activities and the number and type of events that were going to be held at the Premises. He advised that there were strong feelings in the community about these proposals because of the lack of information and vague references provided by the Applicant which had caused many residents to be concerned about the application before the Committee.
29. Mr Brown highlighted that residents were particularly concerned that the Premises would become an event space and part of the reason for this was proposed condition 10 did not state that licensable activities would be ancillary to operating a cinema. He also highlighted the significant increase in hours and that the current Premises Licence for the restaurant contained the restaurant condition MC66 that applied after 23:00 hours and similarly the cinema licence allowed the Premises to be kept open for the purposes of film exhibition through midnight to 02:30 hours.
30. Mr Brown echoed how detailed information regarding the application had not been forthcoming and had primarily come today at the hearing. However, the application was still too wide in scope in terms of hours and use for residents to be completely comfortable with it. He endorsed Mr Rankin's suggestions regarding the amendments to the conditions to further tighten the use of the operation which was key for residents.
31. Mr M.D, (representing the Resident Association of Mayfair and St James's) agreed that this had been a fast-moving event today. He advised that there was still some confusion around the application especially around the disingenuous remarks about the hours of operation and the nature of the venue. He mentioned about external smoking and that glasses should not be allowed to be taken outside and requested that the Council's model condition regarding smoking be attached to the Premises Licence. He advised that the concession being made regarding the cinema foyer not serving alcohol beyond 23:00 hours went some way in satisfying residents' comfort and alleviating their concerns. He added that the original application did not mention screenings of live events such as ballet, so the residents considered that live events indicated live music events/night club activities so more clarification needed to be given regarding the operation of events because residents were seeking to reduce, as far as possible, vertical drinking in Mayfair. This included corporate presentation and reference to indoor sporting references. He advised that he had no objection in principle of what was being proposed however he requested that the Committee carefully look at the detail of the application and condition accordingly to ensure the Premise promotes the Licensing Objectives.
32. Mr Richard Brown called Ms B.M as a witness who advised that local people were concerned about the entire building including its auditorium and sale of alcohol that would open until 02:30 hours. She advised that a survey had indicated that 90% of staff working in such establishments had experienced drunken assaults, people urinating, brawling and anti-social behaviour on the

Premises and the main factor causing these incidents was late night drinking. She advised how the young and elderly were threatened, intimidated, and felt vulnerable by such establishments. She described how at 02:30 hours hundreds of intoxicated people could make a mass exodus when the event/film finishes and disturb residents and their children in their homes sleeping. She wondered how any Operational Plan could stop a mass spill out onto the streets. She added that if this application were granted such extended hours other local traders would want to take advantage of this relaxation of hours. She advised that currently nightclubs in Mayfair have strict restrictions and better public protection such as membership schemes so if people step out of line their membership is removed. She concluded that Everyman cinemas have a food, drink and film format and recently concerned Licensing Committees in other boroughs have demanded that licensable activities cease at midnight, and this would accord to Westminster Council's Core Hours Policy.

33. Mr Baylis highlighted again that entertainment was always evolving and in the next 2-3 years the industry would be introducing new and innovative ways to encourage more audience participation. He explained that there would be consumption of alcohol after 23:00 hours as patrons could take drinks in plastic glasses into the cinema, but all the cinemas' bars would be closed at 23:00 hours. He emphasised that the Applicant was trying to create a cultural hub and not a nightclub.
34. Mr Baylis advised that the Applicant was happy to discuss with the Police how they could prevent the stacking of drinks and then include details in the Management Plan. He confirmed that consumption was not a licensable activity. He highlighted that when the Premises was operating as a cinema the additional conditions being proposed would not be in operation.
35. Mr Baylis explained that under the existing Premises Licence the Applicant could operate the Premises as a nightclub and/or hold events until 02:30 hours. The only difference was that the Applicant could not serve alcohol after 23:00 hours. He advised that this application was just seeking some additional licences for activities such as theatre performances, live music and recorded music. He confirmed he was content with the Council's model smoking condition and that the prices of alcohol would be competitive for the area. He also confirmed that he would surrender any existing Premises Licences that was in his client's control.
36. During his summing up, Mr Rankin requested that if the Committee were minded to grant the application it should be in line with the Council's Core Hours Policy and that clear concise conditions be attached to the Premises Licence so that it was clear to residents what and how the Applicant intended to operate the Premises.
37. During his summing up Mr Baylis advised that there had been no individual residential objections, that there was effectively no extension of hours and in terms of licensable activities live music was permitted until 02:30 hours already on the existing licence. He highlighted that the primary use of this

Premises was going to be a cinema and alcohol would be ancillary to the main function of the Premises as a cinema and events venue.

38. Mr Baylis advised that the Applicant had an Events Management Plan and had recruited Mr Drabble to be Chief Operating Officer who had 30 years of experience in the cinema/entertainment business and not in nightclubs.

DECISION

39. The Committee has determined an application for a **NEW** Premises Licence under the Licensing Act 2003. The Committee is aware that it has a duty to consider each application on its individual merits when determining this application.
40. The Committee is satisfied that, in accordance with the Licensing Act 2003, Home Office Guidance, Westminster's Licensing Policy and on the evidence before it, that it was appropriate and proportionate, in all the circumstances, to **GRANT** the application.
41. In reaching its decision, the Committee were disappointed that there was not enough information available earlier for the objectors to make an informed judgement. However, the Committee had regard, but not exclusively, to the fact that conditions had been agreed with the Responsible Authorities and that the Environmental Health, the Metropolitan Police Services and the Interested Parties were not in principle against the application being granted but wished it to be tightly conditioned and preferable within the Council's Core Hours Policy.
42. The Applicants arguments that the Premises was previously able to trade as a late nightclub was compelling and therefore the hours applied for was commensurate with the proposed operation of the Premises and the restrictive conditions agreed and imposed to promote the Licensing Objectives.
43. The Committee was not persuaded that the application fell under Westminster's Policy PB1. The Application falls under Policy CCSOS1. This Application is outside the West End Cumulative Zones, and it has been demonstrated that the sale of alcohol and late-night refreshment will be ancillary to the venue's primary function as a cinema by way of agreed conditions. The proposed operation of the venue meets the definition for a cinema and cultural venue and the Applicant confirmed that the Premises will not trade as a nightclub and that the Applicant is happy with conditions preventing the same.
44. Condition imposed: *The Premises shall not provide music events, save for music which is ancillary, or part of the premises use as a cinema, and/or when providing cultural, educational, indoor sporting or similar activities.*

This allows the operator to livestream a performance and have live performers playing or singing music but as long as it fits within the named criteria. It does not prevent audience participation events such as at Rocky Horror or Abba

Voyage shows even if they are screened. The Committee has not insisted that customers must be seated at all times as this would not be proportionate, taking into account the operation.

An operator could interpret the licensable activity “anything similar to Live and recorded music or performance of dance” to their advantage, so the following additional condition clearly identifies what is not permitted at the Premises. This condition permits amongst other things, opera (screened and live), talks and live music as long as it is ancillary to the main use of the Premises.

45. Condition: *The Premises shall not operate as a music led venue, such as a nightclub or bar providing music and dancing. DJ led events, with or without dancing, whether externally promoted or not, shall not be permitted, nor shall the Premises provide facilities or specified areas for customer dancing.*

The main concern of the objectors was that the Premises could or would become a nightclub. This condition restricts that type of activity, without interfering with the operators intended use. Also, the Committee noted that the approved plans show fixed seating in the auditorium. These cannot be moved without a formal variation application to amend the plans with the usual public consultation.

46. It was also noted by the Committee that Mr Bayliss agreed the Model restaurant condition as proposed by the objectors and it is appropriate that no deliveries to and from the premises should take place between 23.00 and 08.00 hours on the following day.
47. The Applicant has also agreed to the EHS conditions but if permission is granted to have 100 events ending after 23:00 annually, then it would be appropriate that the sale and consumption of alcohol should cease at 23:00 in the areas marked cinema foyer and cinema bar. The prevention of consumption in the auditorium at 23:00 would not be appropriate or proportionate and would be operationally problematic to enforce.
48. It was also decided by the Committee that as part of the Event Management Plan, the prevention of drink stacking must be properly considered and therefore this has been conditioned.
49. The Committee decided that the Applicant had provided valid reasons as to why the granting of this application would not undermine the licensing objectives. The addition of the conditions is appropriate and proportionate to the proposed style of operation of the Premises trading primarily as a cinema. The application and evidence submitted was therefore found on balance, to meet the requirements of Westminster’s Policies and promote the licensing objectives.
50. In reaching its decision, the Committee concluded that the proposed conditions would also alleviate the parties’ concerns.
51. Having carefully considered the Act, the Guidance issued under sec 182 of the Act, Westminster’s Statement of Licensing Policy committee papers, the

additional papers and the submissions made by all of the parties orally, the Committee has decided, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. To **GRANT** permission:

To Permit:

Plays, films, indoor sporting events, live and recorded music, performance of dance, anything similar to Live and recorded music or performance of dance (Indoors)

Monday to Saturdays 09:00 to 02:30
Sunday: 10:00 to 02:30

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Late Night Refreshments (Indoors)

Monday to Sundays 23:00 to 02:30

The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Day.

Sale of Alcohol (on sales)

Monday to Saturday 10:00 to 01:00
Sunday 12:00 to 23.30

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Hours Premises Are Open to the Public

Monday to Sundays 07:00 to 02:30

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

2 Relevant Mandatory Conditions to apply.

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

Conditions consistent with the operating schedule and agreed as appropriate and proportionate.

12. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a cinema.

13. 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.
14. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
15. All outside tables and chairs shall be rendered unusable by (23.00) hours each day.
16. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
17. A noise limiter shall be fitted to the musical amplification system and maintained in accordance with the following criteria:
 - (a) the limiter shall be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses,
 - b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder,
 - (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team,
 - (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
18. 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.
19. Loudspeakers shall not be located in the entrance and exit of the premises or outside the building.
20. All windows and external doors shall be kept closed after 18:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
21. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
22. 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.

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

26. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day.

27. No deliveries to and from the premises shall take place between 23.00 and 08.00 hours on the following day.

28. A copy of the premises' dispersal policy shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council.

29. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

30. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.

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

32. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.

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

34. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.

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

36. The premises shall install and maintain a comprehensive CCTV system:

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

37. 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 shall 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.

38. 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 shall be completed within 24 hours of the incident and shall record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

39. 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.

40. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.

41. The sale and consumption of alcohol shall cease at 23:00 in the areas marked cinema foyer and cinema bar on the plan.

42 Excluding cinema showings and restaurant use, an Event Management Plan shall be drawn up by a competent person for any Event finishing after 23:00 hours. Such events shall be limited to a maximum of **100** in any calendar year. Each Event

Management Plan shall be signed dated and approved by the Premises Licence Holder or a competent Manager, nominated by the Premises Licence Holder.

43 The Event Management Plan shall be made available on request to the Responsible Authorities and kept for at least one year and shall contain information and assessments, on the following aspects as a minimum:

- Details of responsible person(s) present including at least one person with management responsibilities of the premises licence holder
- Stewarding and Security arrangements (as a minimum there shall be 2 SIA registered Door Supervisors on duty at the premises from a least 21:00 hours until all customers have left the premises and the immediate vicinity.)
- Emergency Evacuation Plan
- Serving of drinks in glass or non-glass containers
- Special effects such as dry ice, cryogenic fog, smoke machines, firearms, pyrotechnics, real flame, strobe lighting and lasers
- Noise Management Plan including arrival and dispersal arrangements.
- Maximum capacities for the rooms or areas used.
- Prevention of stacking of alcoholic drinks by customers. Namely, a customer purchasing numerous alcoholic drinks before 23:00 in an attempt to have a large quantity of alcoholic drinks after 23:00.

44. The certificates listed below shall be submitted to the licensing authority upon written request:

- a. Any permanent or temporary emergency lighting battery or system
- b. Any permanent or temporary electrical installation
- c. Any permanent or temporary emergency warning system
- d. Any inspection of ceiling decorations and structures

45. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

Conditions imposed at Hearing as Appropriate and Proportionate:

46. The provision of licensable activities in the cinema shall only be to persons who have purchased a ticket.

47. The Premises shall not provide music events, save for music which is ancillary, or part of the premises use as a cinema, and/or when providing cultural, educational, indoor sporting or similar activities.

48. The Premises shall not operate as a music led venue, such as a nightclub or bar providing music and dancing. DJ led events, with or without dancing, whether externally promoted or not, shall not be permitted, nor shall the Premises provide facilities or specified areas for customer dancing.

49. In the restaurants and private dining area labelled and shown on the approved plans, the premises shall only operate as a restaurant,

- (i) in which customers are shown to their table or the customer will select a table themselves,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table,
- (iv) which do not provide any takeaway service of food or drink for immediate consumption off the premises,
- (v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

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

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

50. Patrons permitted to temporarily leave and then re-enter the premises, to smoke shall be provided with a designated smoking area and shall not be permitted to leave the premises with glass receptacles or alcoholic drinks.

51. The premises licence holder shall ensure that any patrons queuing, 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.

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

**Licensing Sub-Committee
25 January 2024**

3. ORIOLE, 9 SLINGSBY PLACE, WC2E 9AB

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.6
("The Committee")

Thursday 25 January 2024

Membership: Councillor Robert Eagleton (Chair), Councillor Judith Southern and Councillor Caroline Sargent

Officer Support Legal Advisor: Steve Burnett
Policy Officer: Aaron Hardy
Committee Officer: Jonathan Deacon
Presenting Officer: Karyn Abbott

Others present: Alun Thomas (Thomas and Thomas, representing the Applicant),
Edmund Weil (Oriole Bar Limited – Applicant Company),
Roisin Stimpson (Oriole Bar Limited – Applicant Company),
Jamie Thipthorpe (Longmartin Properties Limited – Applicant Company),
Dave Nevitt (on behalf of the Applicant),

Anil Drayan (Environmental Health Service),
Jessica Donovan (Licensing Authority) and
PC Dave Morgan (Metropolitan Police Service)

Application for a New Premises Licence in respect of Oriole, 9 Slingsby Place, London WC2E 9AB - 23/06829/LIPN.

Full Decision

Premises

Oriole
9 Slingsby Place
London
WC2E 9AB

Applicant

Oriole Bar Limited and Longmartin Properties Limited

Ward

West End

Cumulative Impact

West End

Special Consideration Zone

None

There is a resident count of 119.

Summary of Application

This is an application for a new Premises Licence under the Licensing Act 2003 ("The Act"). The premises intends to operate as a Live Music venue and has benefitted from a number of Temporary Event Notices in 2021.

This application seeks the following:

To Permit:

Sale of Alcohol (Both)

Monday to Sundays 09:00 until 01:00

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Films, live and recorded music, anything similar to Live and recorded music or performance of dance (Indoors)

Monday to Sundays 09:00 until 01:00

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Late Night Refreshments (Indoors)

Monday to Sundays 23:00 until 01:00

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

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Hours Premises Are Open to the Public

Monday to Sundays 09:00 until 01:00

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Representations Received

- Environmental Health Services (EHS)
- Metropolitan Police Services (MPS)
- Licensing Authority (LA)
- 39 Supporting Representation
- Objections x 9. (6 Withdrawn)

Issues raised by Objectors.

The EHS states the proposed licensing activities and for the hours requested may undermine the licensing objectives of Prevention of Public Nuisance and Public Safety.

The MPS states The venue sits within the Westminster Cumulative Impact Zone and the hours sought are beyond those of Westminster's Core Hours Policy. The Police are concerned that the venue may add to the cumulative impact in an already demanding area.

The LA states the premises are located within the West End Cumulative Impact Zone and as such various policy points must be considered, namely CIP1, HRS1 and MD1.

It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone subject to other criteria under this policy. The premises proposes to operate as a Live Music Entertainment Venue and therefore policy requires the applicant to demonstrate exceptional circumstances to depart from policy.

The residents state that having a jazz club open until 01:00 every night will cause a lack of sleep and public nuisance.

Policy Considerations

Policy CIP1 states:

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.

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

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

Policy HRS 1 state:

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

B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant Policies.

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

Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10am to 11.30pm.
Friday and Saturday: 10am to Midnight.
Sunday: Midday to 10.30pm.
Sundays immediately prior to a bank holiday: Midday to Midnight.

Cinemas, Cultural Venues and Live Sporting Premises

Monday to Sunday: 9am to Midnight.

Policy MD1 state:

A. Applications outside the West End Cumulative Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities being within the council's Core Hours Policy HRS1.

5. The application and operation of the venue meet the definition of a music and dance premises or similar entertainment in Clause D.

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

3. The application and operation of the venue continuing to meet the definition of a music and dance premises in Clause D.

D. For the purposes of this policy a music and dance premises is defined as a premises whereby the primary purpose of the venue is to:

1. Provide regulated entertainment in the form of music, either in the form of live performances or recorded, to customers.
2. Provide regulated entertainment in the form of music, either as live performances or recorded, and provide facilities for the provision of dance.
3. The sale by retail of alcohol may be provided as either a considerable element of the operation of the premises or ancillary to the provision of regulated entertainment.
 - a. Examples of venues that would fall within this policy are night clubs or bars that provide music and dancing.
 - b. De-regulated entertainment will not be subject to this policy.

Policy CCSOS1 states:

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.
4. The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
5. The applicant has clearly demonstrated that the sale by retail of alcohol and late-night refreshment will be ancillary to the venue's primary function as a cinema, cultural venue, live sporting premises or outdoor space.
6. The sale by retail of alcohol and/or late-night refreshment after 11pm is limited to customer, patrons or members of the audience who will or have made use of the primary function of the venue as a cultural venue
7. The application and operation of the venue meeting the definition for a cultural venue.

For the purposes of this policy the primary function of cultural venue is defined as Performance Venues for a live performance in front of an audience which may include concert halls, comedy clubs or similar performances venues.

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SUBMISSIONS

1. The Presenting Officer, Karyn Abbott, Senior Licensing Officer, introduced the application to the Committee.
2. Mr Alun Thomas, representing the applicant, outlined the application. Mr Thomas advised the Committee that his client was a respected operator in Carnaby Street, Westminster and also in Shoreditch. He placed emphasis on the application being in keeping with the Council's Policy CCSOS1 (cultural venues) as the premises would be conditioned to operate as a live jazz music entertainment venue. Mr Thomas also referred to the Council's Statement of Licensing Policy giving priority to the development of greater diversity in the types of entertainment and cultural activity on offer and in the age groups attracted to them.
3. Mr Thomas stated to the Members that the new premises would not add to cumulative impact in the CIZ. There would be a tight and effective dispersal policy overseen by SIA security so that residents after 23:00 hours would disperse via St Martin's Courtyard towards Upper St Martin's Lane and not south to Long Acre or east towards Mercer Street. There was a managed estate in Slingsby Place with its own security and CCTV. This, he believed, was an important factor in the reported crimes being low in this part of the CIZ. He referred to six of the nine residents' representations having been withdrawn. He also referred to the letters that were received in support of the application by the Music Venue Trust.
4. Mr Thomas confirmed that the ground floor of the premises would close at Core Hours and after 21:00 hours it could only be used by customers if alcohol was ancillary to food or customers were attending the show in the basement. Mr Weil, the Applicant, added that it would be brought to the attention of walk in patrons that Oriole was a music venue and there was a cover charge for live music. He was seeking an 01:00 terminal hour in the basement for a late jazz show which would encourage grass roots artists. It

was envisaged as a food led concept (approximately 65% of the capacity was laid out as a dining area) with customers being seated during the performances. There would be a maximum of 75 covers.

5. Mr Nevitt, a retired former Environmental Health Officer at the Council, had submitted a report having been asked by the Applicant to carry out an assessment of the site in Slingsby Place and some observations about the Applicant's current premises, Nightjar, in Carnaby Street. He advised that the Applicant had identified where the residents were located, how they could potentially be affected and what could be done to limit the impact. They had produced a departure/dispersal plan in response. This included a reduced capacity after midnight. Mr Nevitt had observed that patrons came from a wide demographic, left Nightjar mostly in small groups rather than all at once and had tended to go home rather than remain in the CIZ.
6. In response to a question from the Committee, Mr Nevitt advised that the younger attendees of approximately student age at Nightjar were well behaved, had arrived quietly, were all checked at the door by the SIA operatives and had all left quietly.
7. Mr Anil Drayan explained that the EHS had maintained their representation largely to assist the Committee. He was satisfied that the premises internally would not undermine the licensable objectives. Noise breakout was not expected to be an issue. He considered that the Applicant had produced a comprehensive dispersal plan and it was for the Committee to consider whether this was sufficient to promote the licensing objectives.
8. Ms Jessica Donovan stated that the LA had made a representation due to the location of the premises in the CIZ. The application had been assessed under the Music and Dance Premises Policy, MD1. However, following the amendments to the Applicant's proposals/conditions, the LA was content that it should now be considered under the Cultural Venues policy, CCSOS1. She added that the LA welcomed the Applicant's agreement to Model Condition 86 so that licensable activities would be ancillary to the function of the premises as a live jazz music entertainment venue. The Applicant had addressed the LA's concerns, including providing a dispersal policy. However, the proposed hours in the application were outside the Council's Core Hours for a Cultural Venue and the Committee therefore needed to be satisfied that the Applicant had demonstrated that the premises would not add to cumulative impact in the CIZ in accordance with Policy CIP1.
9. PC Dave Morgan (representing the Metropolitan Police Service, MPS) advised the Committee that the MPS maintained their objection in relation to the prevention of crime and disorder licensing objective, with the potential for patrons to remain in the CIZ and potentially become victims of crime. However, the Police had no issues with the operators and there was no historic crime data for their Carnaby Street premises.

10. In response to a question from the Committee, Mr Thomas stated that his client would be able to put up discreet notices on barriers outside advising patrons to be aware of their surroundings and look to avoid being victims of crime.
11. Mr Thomas confirmed that he would be content with a condition further clarifying that the capacity on the ground floor could not exceed 32 people, excluding staff.
12. During his summing up, Mr Thomas re-iterated that the premises were appropriate for the jazz venue use. He stated there was a strict and effective dispersal policy. There was very low crime at the Slingsby Place location and no evidence that customers would migrate to and remain in a higher crime CIZ area. It would be a relaxed and seated venue. Conditions had been agreed with residents.

DECISION

The Committee was satisfied that as a result of the agreed proposed conditions and the discussions that had taken place between the Applicant and those who had made representations, the premises would be a bona fide live jazz music entertainment venue and that it should be considered under the Cultural Venues policy, CCSOS1.

The Committee also considered that the cumulative impact in the locality with a new cultural venue operating outside Core Hours, was significantly minimised due to the procedures, conditions and steps the Applicant had proposed. These included the dispersal policy being overseen by SIA security and the capacity reducing from 90 to 75 in the basement after midnight.

Having carefully considered the Act, the Guidance issued under sec 182 of the Act, Westminster's Statement of Licensing Policy committee papers, the additional papers and the submissions made by all of the parties orally, the Committee has decided, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. To **GRANT** permission:

To Permit:

Films, live and recorded music, anything similar to Live and recorded music or performance of dance (Indoors)

Monday to Sundays 09:00 until 01:00

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Late Night Refreshments (Indoors)

Monday to Sundays 23:00 until 01:00

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Sale of Alcohol (Both)

Monday to Sundays 09:00 until 01:00

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Hours Premises Are Open to the Public

Monday to Sundays 09:00 until 01:00

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

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

Conditions consistent with the operating schedule and agreed as being appropriate and proportionate.

11. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the function of the premises as a live jazz music entertainment venue.

12. CCTV Condition:

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

13. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member shall be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

14. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the Premises.

15. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises directly from the public highway.

16. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

17. All windows and external doors shall be kept closed after (21:00) hours, except for the immediate access and egress of persons.

18. After (23:00) hours, customer egress shall be via the exit to the north of the premises only (i.e. not the exit to the east), except in the case of emergency.

19. Loudspeakers shall not be located in the entrance and exit of the premises or outside the building.

20. 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.

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 shall be completed within 24 hours of the incident and shall record the following:

- a) all crimes reported to the venue
- b) all ejections of patrons
- c) any complaints received concerning crime and disorder
- d) any incidents of disorder
- e) all seizures of drugs or offensive weapons
- f) any faults in the CCTV system,
- g) any refusal of the sale of alcohol
- h) any visit by a relevant authority or emergency service.

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

23. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.

24. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

25. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.

26. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall be limited to 8 persons at any one time. The designated smoking area shall be immediately in front of the premises on the north side.

27. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.

28. A copy of the premises' dispersal policy shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council.

29. Deliveries to the premises shall only take place between (07.30) and (11.30) hours Monday to Saturday, and not at all on Sunday.

30. Deliveries from the premises, either by the licensee or a third party, shall only take place between (07.30) and (11.30) hours Monday to Saturday, and not at all on Sunday.

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

32. Waste or recyclable materials, including bottles, shall only be moved, removed from or placed in outside areas between (07.30) hours and (11.30) hours Monday to Saturday, and not at all on Sunday, unless collections are arranged during the times for the Council's own commercial waste collection service for the street.

33. 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.

34. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.

35. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical

equipment, shall at all material times be maintained in good condition and full working order.

36. 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.

37. The sale of alcohol for consumption off the premises shall be:

- a. in sealed containers; or
- b. restricted to alcohol consumed by persons seated in an area appropriately authorised for the use of tables and chairs on the highway; and
- c. restricted to 23:00.

38. On the premises, except in the area coloured blue in the approved plan:

- a. the supply of alcohol shall be by waiter or waitress service only; and
- b. alcohol shall only be consumed by patrons seated at tables.

39. Outside tables and chairs on the section of Slingsby Place to the east of the premises that runs south to Long Arce shall be rendered unusable by (22.00) hours each day.

40. All outside tables and chairs in Slingsby Place shall be rendered unusable by (23.00) hours each day.

41. There shall be no admittance or re-admittance to the premises after midnight except for patrons permitted to temporarily leave the premises (e.g. to smoke or make a phone call).

42. The provision of licensable activities to customers on the ground floor shall cease, and customers shall not be permitted on the ground floor except for the purposes of access / egress or to use the toilet, after 23:30 hours Monday to Thursday; midnight Friday and Saturday; and 22:30 hours Sunday.

43. After 21:00 the supply of alcohol to customers on the ground floor shall be:

- a. ancillary to the consumption of food; or
- b. only to those attending a performance of live music in the basement that evening.

44. A minimum of 1 SIA licensed door supervisor shall be on duty at the premises after (21:00) hours whilst the premises is open for business.

45. The premises licence holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all front of house staff employed by or at the premises complete the ACT

eLearning within a reasonable period not exceeding 3 months from the day they start their employment.

46. All front of house staff at the premises shall receive Welfare and Vulnerability Engagement (WAVE) training by a qualified trainer, and once every 12 months thereafter. The date the training was provided and signed confirmation from the member of staff shall be recorded and made available for inspection by the Responsible Authorities upon request.

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

- a. 90 in the basement, reducing to 75 after midnight; and
- b. 32 on the ground floor, subject to the final capacity of the premises being determined by the Environmental Health Consultation Team but not exceeding 32 and the licensing authority replacing this condition on the licence with a condition detailing the capacity so determined.

48. 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.

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

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

**Licensing Sub-Committee
25 January 2024**

4. FIRST FLOOR, 11 GOODWIN'S COURT, WC2N 4LL

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.6
("The Committee")

Thursday 25 January 2024

Membership: Councillor Robert Eagleton (Chair), Councillor Judith Southern and Councillor Caroline Sargent

Officer Support Legal Advisor: Steve Burnett
Policy Officer: Aaron Hardy
Committee Officer: Jonathan Deacon
Presenting Officer: Karyn Abbott

Others present: Alun Thomas (Thomas and Thomas, representing the Applicant),
Tiffany Smith (Brush and Bubbles Ltd – Applicant)
Lara Goodison (Brush and Bubbles Ltd – Applicant)

Kudzy Mondhlani (Environmental Health Service),

Application for a New Premises Licence in respect of First Floor, 11 Goodwin's Court, London WC2N 4LL- 23/05844/LIPN.

Full Decision

Premises

First Floor
11 Goodwin's Court
London
WC2N 4LL

Applicant

Brush And Bubbles Ltd

Ward

St James's

Cumulative Impact

West End

Special Consideration Zone

None

There is a resident count of 171.

Application

This is an application for a new premises licence under the Licensing Act 2003 (“The Act”). The premises intends to operate as a painting class venue offering an ancillary glass of Prosecco, Champagne or Wine.

This application seeks the following:

To Permit:

Sale of Alcohol (on)

Monday to Sundays 09:00 until 21:00

Hours Premises Are Open to the Public

Monday to Sundays 09:00 until 21:00

Representations Received

- Kudzaishe Mondhlani – Environmental Health Services (EHS)
- Kevin Jackaman – Licensing Authority (LA) - **Withdrawn**
- Objections x 1.

Issues raised by Objectors.

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

The resident state that the grant of the application would cause a nuisance from customers attending events at the premises, create additional footfall and provide no reprieve on Saturdays and Sundays.

Policy Considerations

Policy CCSOS1(B) states:

B. Applications inside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council’s Core Hours Policy HRS1.

3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
5. The applicant has clearly demonstrated that the sale by retail of alcohol and late-night refreshment will be ancillary to the venue's primary function as a cinema, cultural venue, live sporting premises or outdoor space.
6. The sale by retail of alcohol and/or late-night refreshment after 11pm is limited to customer, patrons or members of the audience who will or have made use of the primary function of the venue as a cinema, cultural venue or live sporting premises.
7. The application and operation of the venue meeting the definition for a cinema, cultural venue, live sporting premises or outdoor space as per Clause C.

C. For the purposes of this policy the primary function of a cinema, cultural venue and live sporting premises is defined as:

1. Cinema For the exhibition of feature or shorts films to an audience.
2. Cultural Venues
 - a. Theatres: for the performance of plays, dramatic or other entertainment performances to an audience.
 - b. Performance Venues: for a live performance in front of an audience which may include concert halls, comedy clubs or similar performances venues.
 - c. Cultural Uses: for the exhibition of art (e.g. galleries), a museum, or historical building/site that is open for visitors to visit on payment.

5. For the purposes of above:

- a. The sale of alcohol and late-night refreshment must be an ancillary function to the primary purpose of the venue.
- b. An audience may include either invited guests, members of that venue or associated organisation or members of the public who have purchased a ticket or not.

Policy CIP1 states:

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.

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

D. For the purposes of this policy the premises types referred to in Clause A are defined above.

SUBMISSIONS

1. The Presenting Officer, Karyn Abbott, Senior Licensing Officer, introduced the application to the Committee.
2. Mr Alun Thomas, representing the applicant, outlined the application and advised the Committee that the Premises is located in the CIZ and identified the location of the objector in proximity to the site.
3. The area is well lit and have day and night time Harry Potter tours.
4. The Committee was informed that the operation is to make Art enjoyable where attendees are by invitation and each event only lasting 2 hours. There are no walk ins, and the events will not end past 21:00.
5. Mr Thomas emphasised that the Application fell under Westminster's Cultural use Policy and well withing Core Hours. Groups are no larger than 40 although the District Surveyor assesses a capacity of 60. The Applicant confirmed classes are no more that 15 and they are happy with a cap of 25. No food will be supplied, all attendees are seated and offered a glass of wine/champagne/ fizz. Drink is ancillary and they have never had an issue with intoxication which would not be conducive with a 2-hour art class.
6. The Applicants informed the Committee that although they may be a part of a wedding, hen night, birthday etc, their event is usually the first of the day before groups go on to more high energy events away from the Premises.
7. The Applicants had attempted to contact the objector but failed to have a response.
8. Kudzaishe Mondhlani informed the Committee that the EHS had maintained their objections as the Premises is in a CIZ and there was an outstanding residential objection.
9. The hours applied for are reasonable and there have been no complaints about the Premises. She agreed that the proposed works condition can be deleted.

DECISION

The Committee was satisfied that the premises would provide bona fide Art classes, with limited alcoholic drinks as ancillary to the main use. It was therefore considered under the Cultural Venues Policy, CCSOS1.

The Committee also considered that the cumulative impact this operation operating less than Core Hours was significantly minimised due to the nature of operation, size of classes, length of events, procedures, terminal time of 21:00 and the conditions and steps the Applicant had proposed and agreed.

Having carefully considered the Act, the Guidance issued under sec 182 of the Act, Westminster's Statement of Licensing Policy committee papers, the additional papers and the submissions made by all of the parties orally, the Committee has

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

1. To **GRANT** permission:

To Permit:

Sale of Alcohol (on)

Monday to Sundays 09:00 until 21:00

Hours Premises Are Open to the Public

Monday to Sundays 09:00 until 21:00

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

Conditions consistent with the operating schedule and agreed as being proportionate and appropriate.

9. 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.

10. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

11. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

12. Events taking place at the premises are pre-booked events only.

13. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol and consumption is taking place.

14. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.

15. No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.

16. 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.

17. 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 shall be completed within 24 hours of the incident and shall record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) any visit by a relevant authority or emergency service.

18. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises/building as an Art Studio and only for consumption during art/painting classes.

19. Alcohol shall only be sold for consumption by persons attending a pre-booked and bona fide private function or event to which members of the public are not admitted. A register of person booking the event shall be kept for a minimum period of 31 days at the premises and made available for immediate inspection by police or an authorised officer of the Council throughout the entire 31-day period.

20. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

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

22. 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.

23. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day.

24. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall not be permitted to take glass containers or alcoholic drinks with them.

25. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.

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

27. The number of persons accommodated at the premises (excluding staff) shall not exceed 40.

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

**Licensing Sub-Committee
25 January 2024**

The Meeting ended at 2.00 pm

CHAIRMAN: _____

DATE _____