



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 8th October, 2020**, This will be a virtual meeting.

Members Present: Councillors Tim Mitchell (Chairman), Barbara Arzymanow and Aicha Less

Apologies for Absence: There were none.

1 MEMBERSHIP

1.1. There were no changes to the Membership of the Sub Committee

1.2. For the purposes of this meeting, the Chairman proposed that Councillor Arzymanow be appointed Substitute Chairman. Councillor Less seconded the nomination and Councillor Arzymanow was duly appointed substitute Chairman.

2 DECLARATIONS OF INTEREST

2.1. There were no declarations of interest.

CATSTEPS CAFE, 33 D'ARBLAY STREET, LONDON, W1F 8EU

LICENSING SUB COMMITTEE No. 2

Thursday, 8 October 2020

Membership: Councillors Tim Mitchell (Chairman), Barbara Arzymanow and Aicha Less.

Legal Officer: Vivienne Walker

Policy Officer: Aaron Hardy

Committee Officer: Toby Howes & Cameron MacLean

Presenting Officer: Jessica Donovan

APPLICATION FOR A NEW PREMISES LICENCE 20/07106/LIPN

Present: Mr David Inzani, Poppleston Allen, Solicitors, for the Applicant (Catsteps Café Ltd); Jonathan Arana- Morton, Company Co-founder & George Whitaker, Finance Director, Applicant; Richard Brown, Citizens Advice Bureau Licensing Project (representing residents); Daisy

Gadd, Licensing Authority; and Ayesha Bolton,
Environmental Health Service.

Applicant: Catsteps Café Ltd (trading as “The Breakfast Club”)
Ward: West End
CIA¹: West End

Summary of Application

The application was for a new premises licence to operate a family run café/bar with external tables and chairs for which it had the benefit of a Tables and Chairs licence. This was a new premises application with no premises licence history. However, the premises had previously been granted Temporary Event Notices which were detailed in Appendix 3 of the report.

Proposed Licensable Activities and Hours

Sale by Retail of Alcohol (On and Off Sales)

Monday to Saturday: 10:00 hours to 23:30 hours
Sunday: 12:00 hours to 22:30 hours

Hours Premises Are Open to the Public

Monday to Sunday: 09:00 hours to 23:00 hours

Seasonal variations/non-standard timings: from the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.

Representations Received

1. Environmental Health (Ayesha Bolton)
Licensing Authority (Angela Seaward)
2. Other Persons
3. Representation Received through Public Access, 10 September 2020

Summary of Issues Raised by Objectors

Environmental Health

There was an objection to the application by Westminster City Council’s Environmental Health Service on the grounds that granting the application would have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the area. Officers were of the view that the conditions provided in support of the application did not address their concerns.

Licensing Authority

The premises was located within the West End Cumulative Impact Area (CIA). The operating hours applied for licensable activities fell outside Westminster’s Core Hours and there was, therefore, a presumption against granting the application, although each case would be considered on its merits.

As the application was for On and Off Sales, and there was no condition before 20:00 hours potentially allowing alcohol to be a significant part of the operation, the Licensing Authority encouraged the Applicant to make further submissions on how

¹ Cumulative Impact Area

the premises would not add to the CIA. In addition, how the conditions relating to the operation of the premises as a restaurant would be applied to customers from 20:00 hours, preventing the premises, or a part thereof, from operating as a bar.

Other Persons

Representations were received from several persons objecting to *inter alia* the application to play amplified recorded music (now withdrawn); the failure of the application to meet guidelines for staff and customer toilet facilities; that Companies House records indicated that this was not a family run café/bar as stated in the application, and that the premises were insufficiently equipped to prevent nuisance caused by smells and refuse and that the lack of adequate toilet facilities resulted in public order offences with customers urinating in public.

Policy Position

The Premises was located within the West End Cumulative Impact Area and, as such, various policy points had to be considered, namely CIP1, HRS1 and PB2. The Applicant had to demonstrate how the Premises would not add to cumulative impact in the West End Cumulative Impact Area.

Policy CIP1

It was the Licensing Authority's policy to refuse applications in the CIA other than applications to vary hours within the Core Hours under Policy HRS1. Applications for other licensable activities in the CIA were subject to other policies and must demonstrate that they would not add to the cumulative impact in the CIA.

Policy HRS1

Applications for hours within the Core Hours would, generally, be granted. Applications for hours outside the Core Hours would be considered on their merits, subject to other relevant policies.

Policy RNT2

Applications would be granted subject to other policies in the Council's Statement of Licensing Policy and the relevant criteria and policies CD1, PS1, PN1 and CH1, provided it could be demonstrated that they would not add to the cumulative impact in the CIAs.

SUBMISSIONS AND REASONS

The Sub Committee considered an application by Catsteps Café Ltd, trading as "The Breakfast Club", 33 D'Arbly St, London W1F 8EU for a new premises licence.

Introduction by Ms Jessica Donovan, Senior Licensing Officer

Ms Donovan introduced the report, noting that additional submissions had been made by the Applicant and that these had been circulated to Members of the Sub Committee.

Submissions on Behalf of the Applicant

On behalf of the Applicant, Mr Inzani, made the following submissions.

- (a) The Breakfast Club was part of a well-known chain of 12 café bars with sites in London, Oxford and Brighton. The premises in D'Arbly Street was the first open in 2005.

(b) He noted that several amendments had been made to the application, as follows

-
- The application to play recorded music had been withdrawn;
- In accordance with a request by the Licensing Authority, the plans had been resubmitted excluding the external area from the area demarcated by the red line in the plan;
- The hours on Sunday had been amended to bring them in line with Core Hours;
- Conditions 11, 25 and 26 to be replaced with the following proposed condition:

The premises shall only operate as a restaurant:

- i. in which customers are shown to the table;*
- ii. which provides food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non-disposable crockery;*
- iii. which does not provide any takeaway service of food or drink for immediate consumption; and*
- iv. where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fides taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals.*

Except that up to and including 30 September 2020 point iv of this condition shall not apply until 20:00 hours.

The supply of alcohol at the premises shall only be to persons seated.

Relaxing the requirement that the consumption of alcohol be ancillary to taking a table meal was intended to give the applicant some flexibility in its trade which, it was proposed, was needed at this time and would only apply until 20:00 hours and be time limited to correspond with the current Covid-19 restrictions.

It was proposed that the application, as amended, would not add to the cumulative impact in the area.

(c) Regarding the objections that had been received, Mr Inzani made the following points –

The Ventilation Duct and Nuisance Caused by Odours

In the 15 years that the applicant had been operating these premises, they had never been made aware of any concerns about nuisance caused by odours and was not aware of any complaints having been received by the Environmental Health Service. It was noted that any concerns about the ventilation duct was a planning matter.

Refuse

The issues referred to in the representations were historical and had been previously addressed and the premises had a hygiene rating of 5. Furthermore, Conditions 21 and 22 specifically addressed the issue of litter and refuse collection.

Toilet Provision

There was a staff toilet located in the area restricted to staff and a further toilet for customer use in the basement area. The Environmental Health Service had, therefore, recommended that there be a condition limiting customer capacity to 30 and the applicant had agreed to this condition.

Furthermore, the applicant had not received any complaints about customers urinating in public because of a lack of toilet facilities. It was noted that there were several other alcohol-led premises within the vicinity.

External Seating

An additional table shown in the photograph in the papers before the Sub Committee had been placed there in error and had now been removed. The seating provision now comprised two tables of four seats immediately outside the premises which did not require a pavement licence, and 6 tables and 12 chairs granted under the fast-track licence scheme while the road closure was in place. Therefore, the outside seating was limited to 16 customers.

It was noted that there were several other premises with outside seating and that the additional seating was a temporary measure while the road closure remained in place.

The Chairman thanked Mr Inzani for his submission. In response to several questions by Members, Mr Inzani made the following points.

- (a) The toilet in the basement was for use by customers only and it was on that basis that the Environmental Health Service had proposed that customer capacity be limited to 30. With the pavement licence in place, the number of covers may exceed 30, but it would be for the management to manage the customer numbers accordingly.
- (b) It was confirmed that the name of the premises was "The Breakfast Club" and the application has been made by Catsteps Café Ltd.

Submissions by Richard Brown, CAB Licensing Project, on Behalf of Adrian Bulboaca, Local Resident & Manager of Commercial Premises on D'Arblay Street

Mr Brown referred to his written submissions in the Additional Information Pack sent to Members of the Subcommittee. In so doing, he made specific reference to the following concerns.

- (a) Nuisance caused by odours emanating from the premises because of inadequate ventilation ductwork. In particular, the ventilation extraction did not have a hood and odours were emitted at street level, permeating residential and commercial premises.
- (b) The condition proposed by Environmental Health Services that the customer capacity be limited to 30 as there was only one customer toilet, should include the number of customers that could be seated in the outside area. Furthermore, should either the staff toilet or the customer toilet not be working, one toilet for 30 customers and staff was not enough.
- (c) Specific reference should be made to Wardour Mews in Condition 21 to ensure that it was not just the front of the premises that was swept and/or washed, and refuse stored accordingly.

- (d) The description of some of the applicants premises as “secret bar” gave rise to concern should approval be given to conditions which would allow the premises to operate as a bar until 8 PM.
- (e) Customers queueing at the front of the premises had the effect of obscuring the adjacent shop frontage, causing damage to decorative greenery, and creating litter.
- (f) Various policy considerations should be considered, including Policy PN1 regarding nuisance, along with the Council’s model condition on smells and odours.

The following information was provided in response to questions by Members –

- (a) Mr Inzani stated that he was not aware of any plans to upgrade the duct extracting fumes from the premises. However, the matter of the ductwork had been referred by Environmental Health Services to Planning Services.
- (b) To address concerns about queueing, Mr Whitaker stated that the applicant now used a queueing app called “Walk Up” across its premises whereby customers would be sent a message when their table was available. If a queue did ever form outside the premises, customers were directed to queue from the Mews. Mr Whitaker confirmed it was the company’s intention to continue to use the app post-coronavirus.

Submission on Behalf of Environmental Health Services

Ms Ayesha Bolton, Environmental Health Officer, made the following submissions.

- (a) In response to a request by Environmental Health Services (EHS) for further information, the Applicant had provided the asked-for information and had made significant amendments to the application. In response, EHS had proposed that the customer capacity be limited to 30, and the applicant had agreed to this proposed condition.
- (b) Because of the Applicant’s agreement to the condition limiting customer capacity to 30, and the amendments to the application, EHS no longer had any objections to the application.

In response to a question by the Chairman regarding the adequacy of having only one customer toilet when considering the additional seating outside, Ms Bolton stated that the use of the outdoor seating area would vary with the seasons and, because it was now October, she was satisfied that one toilet and the condition restricting customer capacity to 30 was sufficient.

Submissions on Behalf of the Licensing Authority

Ms Gadd, Senior Practitioner (Licensing), stated that, following mediation with the Applicant, the only remaining matter of concern was the temporary proposal to exclude the requirement to order a substantial table meal when ordering alcohol before 8.00 pm. The requirement for customers to be seated before being served reduce the possibility of vertical drinking taking place.

Regarding the location of the premises within the West End Cumulative Impact Area (CIA), Ms Gadd reminded the Sub Committee of the test to be applied i.e., that the granting of the application should not add to the cumulative impact in the area.

Referring to Condition 28 in the papers before the Subcommittee, Ms Gadd proposed that, because two tables and four chairs were located on a private forecourt in front of the premises, the wording of the condition should be amended, as follows –

“... by persons who are seated in an area appropriately authorised for the use of tables and chairs ...”

to be reworded to read:

“... by persons seated in an area used for outside tables and chairs...”

In so rewording the condition, this would incorporate the tables and chairs located on the private forecourt and would avoid any concerns regarding enforcement.

Ms Gadd confirmed that the licensing authority had no further comments on the Council's policies.

In response to a Member's question, Mr Inzani stated it was his understanding that the refuse storage bins on Wardour Street were kept locked and there was a daily refuse collection.

SUMMARY OF PRESENTATIONS

The Chairman invited the various parties to sum up their representations.

Richard Brown, CAB Licensing Project

In summing up his presentation, Mr Brown made the following points:

- (a) During discussions with his client, it had been made clear that the premises' extract duct was a source of odours from the premises that were a nuisance. Environmental Health Services had requested additional information on the duct, and he could confirm that it was at street level.
- (b) Regarding the extract/ventilation duct, there was no planning condition that could be enforced as a Certificate of Lawful Existing Use or Development (CLEUD) precluded enforcement action. Therefore, he proposed that the matter could not simply be left to the Planning Authority to resolve.
- (c) He was not clear whether the limit on customer capacity to 30 persons was 30 persons total i.e., indoors and outdoors, or 30 persons indoors with scope for further customers to sit outdoors in good weather. He stated he would like some clarification on this point in relation to the availability of toilet facilities.

Licensing Authority

Ms Gadd stated that she had nothing further to add to her submission other than to refer to the CIA policy requirement that the Applicant demonstrate an exceptional circumstance before the application could be granted.

Environmental Health Services

In summing up her submissions, Ms Bolton referred to the following matters.

- (a) That it was the Planning Department that would be responsible for any matters to do with the ductwork.
- (b) No complaints had been received from residents or businesses regarding nuisance in the form of smells or odours as a result of the premises' ductwork.

- (c) If residents or local businesses wished to complain about nuisance as a result of the ductwork, they should report the matter to the Council's Noise Team who would investigate any alleged nuisance under the Environmental Health Protection Act 1990.
- (d) Refuse collections in the area took place Monday to Sunday from 10 am to 12 pm.
- (e) The decision to agree to a customer capacity of 30 was based on the temporary approval to outdoor seating until the end of the month. Thereafter, the customer capacity of 30 would apply to customers who would necessarily be seated inside the premises with the concurrent requirement to ensure rules on social distancing were observed.
- (f) Regarding nuisance caused by odours, it was noted that the provisions of the Council's Model Condition 87 addressed this concern in the following terms –
No fumes, steam or odours shall be emitted from the licensed premises to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

Mr Inzani, Poppleston Allen, Solicitors, for the Applicant

Mr Inzani made the following points in his closing submission.

- (a) The applicant concurred that there be a suitable amendment to the wording of Condition 28, as suggested by Ms Gadd.
- (b) The points raised by objectors to the adequacy of the toilet facilities had been addressed by the Environmental Health Services Officer, Ms Bolton, including the capacity condition in relation to the number of customers permitted in the premises.
- (c) The concerns raised about the duct and refuse were not impacted by whether the sale of alcohol was permitted, but the applicant was happy to address these concerns by the imposition of appropriate conditions, in particular Model Condition 87.
- (d) The bins on Wardour Mews were locked by the applicant. Given the possibility of fly tipping in Wardour Mews, it would be too onerous a response to make the Applicant responsible for all waste in the Mews.
- (e) The purpose of yesterday's late submission to the Sub Committee was to make the exception to the restaurant condition until 8 pm time-limited in accordance with the Covid-19 legislation which provided the exceptional circumstance in the Applicant's argument.

In conclusion, Mr Inzani stated that the Sub Committee had before it an application for a licence for premises within the CIA that was within core hours with the restaurant condition supported by policy with a modest, time-limited relaxation of that policy until 8 pm under exceptional circumstances.

The Chairman announced that this concluded the public part of the proceedings and that the Sub Committee would retire to consider its decision. A summary of the Sub Committee's decision would be issued by the Licensing Service within five working days.

ADJOURNMENT

Having heard the various parties sum up their submissions and representations, the Chairman announced that the Sub Committee would adjourn and that the Members of the Sub Committee would retire to make their decision. He stated that a summary of the Decision would be sent to the parties by the Licensing Service within five working days of today's hearing.

DECISION

To **Approve** the application.²

SOPHISTICATS, BASEMENT & PART GROUND FLOOR, 3-7 BREWER STREET, LONDON, W1F 0RD

LICENSING SUB COMMITTEE No. 2

Thursday, 8 October 2020

Membership: Councillors Tim Mitchell (Chairman), Barbara Arzymanow and Aicha Less.

Officer Support: Legal Officer: Vivienne Walker
Policy Officer: Aaron Hardy
Committee Officers: Toby Howes & Cameron MacLean
Presenting Officer: Jessica Donovan

APPLICATION FOR A NEW PREMISES LICENCE 20/06824/LIPN

Present: Michael Bromley-Martin, QC (Counsel for the Applicant), Jack Spiegler, Thomas & Thomas Partners LLP (Solicitors for the Applicant), John McKeown (Applicant), PC Bryan Lewis, Metropolitan Police Service, Daisy Gadd, Licensing Authority, Anil Dryan, Environmental Health Services, Richard Brown, CAB Licensing Project (on behalf of The Soho Society), Jane Doyle, The Soho Society, Marcus Lavell, Complete Licensing (representing Tony Nash, Objector).

Representations: Representations were received from the Metropolitan Police Service; Environmental Health Service; the Licensing Authority; The Soho Society (representing a resident); and Complete Licensing (representing an objector)

Applicant: John McKeown Clubs Ltd
Ward: West End
CIA³: West End

Summary of Application

The application proposed a new premises licence on the same terms, conditions, layout and hours as the existing premises licence, save for the removal of Condition

² See the Appendix to this part of the minute detailing the Sub Committee's Decision and reasons for the Decision.

³ Cumulative Impact Area

9 viz. The sale of intoxicating liquor shall be ancillary to the provision of striptease entertainment and whilst the premises is operating under a Sexual Entertainment Venue (SEV) licence.

Proposed Licensable Activities and Hours

Live Music, Recorded Music, Performance of Dance, Anything of a Similar Description (indoors)

Monday to Saturday: 09:00 hours to 03:00 hours
Sunday: 09:00 hours to 23:00 hours

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

An additional hour when British summertime commences.

Late Night Refreshment (indoors)

Monday to Saturday: 23:00 hours to 03:00 hours

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

An additional hour when British summertime commences.

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

Monday to Saturday: 09:00 hours to 03:00 hours
Sunday: 09:00 hours to 22:30 hours

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

An additional hour when British summertime commences.

Hours Premises Are Open to the Public

Monday to Saturday: 09:00 hours to 03:00 hours
Sunday: 09:00 hours to 23:00 hours

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

An additional hour when British summertime commences.

Representations Received

1. Metropolitan Police Service (represented by PC Bryan Lewis)
2. Licensing Authority (represented by Ms Daisy Gadd)
3. Environmental Health (represented by Mr Anil Dryan)
4. Ms Jane Doyle of the Soho Society (represented by Mr Richard Brown, Citizens Advice Bureau, Licensing Project)
5. Mr Tony Nash (represented by Mr Marcus Lavell, Barrister, Complete Licensing)

Summary of Issues Raised by Objectors

Metropolitan Police Service

That, if granted, the application would undermine the Licensing Objectives viz it would exacerbate policing problems in the location of the venue in the West End

Cumulative Impact Area where, traditionally, there were high levels of crime and disorder.

Environmental Health Services

The types of regulated entertainment and the proposed hours of operation could result in increased Public Nuisance in the West End Cumulative Impact Area as well as adversely affecting Public Safety.

Licensing Authority

It was the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within Core Hours unless the applicant could demonstrate exceptional circumstances. Accordingly, it was proposed that the applicant provide further submissions as to how the premises would not add to the cumulative impact in the Cumulative Impact Area.

Complete Licensing (on Behalf of an Objector)

That the applicant, in the person of John McKeown, was unfit to hold a Premises Licence.

Richard Brown, CAB Licensing Project, on Behalf of The Soho Society

The Soho Society objected to the application as it was currently presented on the grounds that, without added conditions as proposed in the representation, the application did not promote the Licensing Objectives.

Policy Position

Policy CP1

It was the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast-food premises, and premises offering facilities for music and dancing, other than applications to vary hours within the Core Hours under Policy HRS1.

Applications for hours outside the Core Hours would be considered on their merits, subject to other relevant policies.

Policy HRS1

Applications for hours within the Core Hours would generally be granted, subject to not been contrary to other policies in the Statement of Licensing Policy.

Policy MD2

It was the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within Core Hours under Policy HRS1.

Policy PB2

It was the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within Core Hours under Policy HRS1.

INTRODUCTION

Ms Jessica Donovan, Senior Licensing Officer, stated this was an application by John McKeown Clubs Ltd for a new premises licence to replace the existing licence,

the details of which could be found on pages 32 and 33 of the report before the Members of the Sub Committee.⁴

SUBMISSIONS AND REASONS

The Sub Committee considered an application by John McKeown Clubs Ltd.

Submissions on Behalf of the Applicant

On a preliminary matter, Mr Bromley-Martin, QC, asked the Sub Committee to consider whether or not the representations made by Mr Tony Nash amounted to relevant representations for the purposes of section 18 of the Licensing Act 2003.⁵ Specifically, it was Mr Bromley-Martin's contention that the representations were frivolous and vexatious and that the issues raised by Mr Nash had previously been considered by the Sub Committee at its meeting on 10 April 2019, the minutes of which could be found on Page 55 of the Additional Information Pack.

The Chairman stated that the Sub Committee would take legal advice on the preliminary matter raised by Mr Bromley-Martin. He added that this was not a Court of Law and that the application was for a premises licence and not a personal licence, and the Sub Committee would take that into consideration in its deliberations.

Mr Bromley-Martin acknowledged that a relevant representation was required to be about the likely effect of the grant of a premises licence on the promotion of the Licensing Objectives and that the fitness or otherwise of a Director of the applicant company, referred to in the representation made by Mr Nash, was not relevant.

On behalf of the Applicant, Mr Bromley-Martin made the following submissions.

- (a) The reason for the application being made was a direct result of the introduction of the Covid-19 Regulations resulting in the premises closing on 23rd March and, in keeping with all SEV's, unlike other hospitality venues, having to remain closed.
- (b) Regarding the representations by the responsible authorities and The Soho Society, these had been resolved by the Applicant's agreement to further conditions as set out on Page 25 of the Additional Information Pack.
[Mr Bromley-Martin summarised the conditions which had been agreed].
- (c) It was implicit that, should the licence be granted, the two premises licences would not operate at the same time. Should the government's Covid-19 regulations permit the reopening of SEV's, the premises would operate under the SEV licence and not as a lounge bar, should the present application be granted.
- (d) Regarding policy considerations, Policy PB2⁶ was relevant. Paragraph 2.5.23 of the Council's Statement of Licensing Policy dealt with exceptions to Policy PB2 where there were exceptional circumstances. The exceptional circumstance in this instance was the replacement of the existing licence with a similar licence with added conditions but excluding Condition 9 of the present licence.

⁴ Pages 66 and 67 of the Public Report Pack

⁵ Determination of application for premises licence

⁶ It is the Licensing Authority's policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within the Core Hours under policy HRS1.

- (e) If granted, the replacement licence would operate in the same way as the existing licence. Therefore, there would be no effect on the cumulative impact area.
- (f) Referring to the representations made by Mr Nash, Mr Bromley-Martin made the following submissions –

- i. The representations took the form of an objection i.e., that the applicant was unfit to hold a premises licence, by which it was understood that the objection was that Mr McKeown, as a Director of the applicant company, was not fit to be a director of a company holding a SEV licence.
- ii. The objection was supported by a large amount of evidence which went to the fitness of Mr McKeown and were not, therefore, relevant representations. However, Mr Bromley-Martin would address various allegations set out in the representation, as follows. That –

- Mr McKeown was involved in a mortgage fraud (Paragraph 44 of Mr Nash's Witness Statement: Page 62 of the papers before the Sub Committee).

Mr Bromley-Martin referred the Sub Committee to various matters in the papers stating that there was no evidence of fraud on the part of Mr McKeown. Furthermore, the allegation had been presented to the Sub Committee at its meeting on 10 April 2019. In his summing up, the Chairman of the Sub Committee at that meeting had made it plain that it was not a function of the Sub Committee to make findings of fact in relation to allegations of criminal conduct. In making today's representations, Mr Nash had ignored the comments of the Chairman in his summing up.

- Mr McKeown and Mr Langer had arranged for evidence relating to other SEV's to be fabricated and used to support objections to the renewal of premises licences of these SEV's. Mr Bromley-Martin referred the Sub Committee to Paragraphs 13 and 14 of the Witness Statement of Mr Langer (Page 66) where it was stated (Paragraph 14) –

"I explained to Mr Pelling that Mr McKeown wanted him to go into the clubs and see if girls were breaking the rules or doing anything else that may be a breach of licence conditions..."

Mr Bromley-Martin stated that this was a clear indication that Mr McKeown's purpose was not to fabricate evidence but to find out if other clubs were observing their licence conditions and if they were not, to report that fact to the licensing authorities.

Westminster City Council Licensing Sub Committee subsequently found, as a matter of fact, that there had been breaches of the licensing conditions at the SEV's in question and refused to renew one SEV licence. Therefore, Mr McKeown made no apology for reporting these breaches of licence as he had found it increasingly difficult to run his business in accordance with the licence conditions when other SEV's were breaching their licence conditions.

- Mr McKeown had paid for taxis taking customers to and from the premises.

Mr Bromley-Martin noted that, in so doing, Mr McKeown in compliance with Conditions 30 and 45 of the premises licence.⁷

iii. That the representations were not relevant.

Submissions on Behalf of The Metropolitan Police Service (MPS)

PC Bryan Lewis, on behalf of the MPS, stated that the Police objected to the exclusion of Condition 9 which would allow the premises to operate as a bar, should a new premises licence be granted. He noted that several significant conditions had been proposed should the licence be granted.

In response to Members' questions, PC Lewis stated that there had been no recent reports of nuisance relating to these premises.

Submission on Behalf of the Licensing Authority

Ms Daisy Gadd, on behalf of the Licensing Authority, noted that this was an application to permit licensable activity outside Core Hours for a time limited basis until September 2021. The Council's policy was not to refuse applications for licences that went beyond Core Hours, but to consider each application on its merits. In so doing, applicants were expected to consider issues such as dispersal, and it would be helpful if the applicant could be heard on this matter as the type of activity within the premises would change if the licence was granted. As it had been proposed that the premises may operate as a lounge bar and/or restaurant, it would be helpful if the applicant were to inform the Sub Committee if the proposed lounge bar was the preferred option and how this might operate.

The main concern for the Licensing Authority was the temporary change in the way alcohol would be sold at the premises as the licence, if granted, would permit the operation of a bar. Accordingly, the Council's policies on pubs and bars would have to be taken into consideration as there was the potential for the premises to be used exclusively or primarily for the consumption of alcohol which would require the applicant to rely on exceptional circumstances that would allow the Sub Committee to depart from the policy. As the premises was in a Cumulative Impact Area (CIA), the Sub Committee would have to be satisfied that, should the licence be granted on a temporary basis, this would not add to the cumulative impact in the area.

Submission on Behalf of Environmental Health Services

Mr Anil Dryan on behalf of Environmental Health Services (EHS) stated that, as the applicant had agreed to the proposed conditions, EHS no longer had any objections to the application. However, he did wish to draw the Sub Committee's attention to several matters, as follows.

- (a) The premises used to operate as Shadowlands Nightclub and, as such, had generated a lot of complaints to EHS about noise transfer from the nightclub to residential premises above the nightclub.

⁷ Condition 30: the licence holder shall enter into an agreement with the Hackney carriage and/or private hire firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.

Condition 45: There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.

- (b) The applicant had agreed not to change the sound limiter setting which had been set by EHS in accordance with the operation of premises as a SEV (it was noted that sound levels in SEV's were not generally set at the level used for nightclubs).
- (c) Enquiries to City Inspectors who inspected the premises every quarter confirmed that, having checked the records, there had been no issues with the way in which the premises had operated.
- (d) EHS would advise against any changes in conditions that would allow the premises to revert to a nightclub operation.

Mr Bromley-Martin stated that the applicant had agreed with EHS that the premises would not operate as a nightclub should the licence be granted.

Submission by Mr Richard Brown, CAB Licensing Project (on Behalf of The Soho Society)

Mr Richard Brown, representing of The Soho Society, stated he had not submitted a written representation as he had been in communication with Mr Spiegler about conditions to be added to the licence, if granted. He stated that the proposed conditions had been agreed subject to one amendment.

He stated that his purpose in attending the meeting was to clarify the position of The Soho Society; and to consider how the proposal that the premises might operate as a restaurant and any concerns that this might raise.

Mr Brown noted that, during the consultation period, Mr McKeown had met with some of the residents living above the premises to explain why the application was being made i.e., that SEV's had been excluded from reopening as part of the relaxation of the Coronavirus Regulations. He stated that, in terms of impact on the licensing objectives, residents preferred that the premises operate as a SEV and not as a nightclub. Therefore, they were willing to give the applicant some leeway regarding the present application and had asked The Soho Society to make representations on their behalf. Accordingly, The Soho Society had taken the residents' view into consideration when submitting its representations.

Mr Brown stated that the position adopted by The Soho Society regarding this application was, given the circumstances of the application, without prejudice to the position The Soho Society might adopt in relation to any other premises licence applications.

Regarding the proposed operation of the premises as a restaurant, Mr Brown concurred with the submission made by Ms Gadd that it would be helpful to have more information on how a restaurant might operate in these premises.

Ms Jane Doyle, Resident

Ms Doyle stated that she had nothing further to add to the comments made by Mr Brown. However, residents were concerned about the proposal that the premises might operate as a restaurant. Residents were concerned that appropriate measures be in place for deliveries, odour extraction and waste disposal.

Ms Doyle concurred with Mr Brown that any acquiescence by the residents in relation to the present application was without prejudice to any representations and/or objections that residents might wish to make about any other premises licence applications. Residents would also welcome any measures taken by the applicant to discourage pedicabs operating within the vicinity of the premises late at

night, although this was not presently an issue given the restrictions on opening hours.

In response to a Member's question, Mr Dryan, EHS, stated that the capacity of the premises operating as a SEV was 100. It had been agreed with the applicant that, when there were changes to the Coronavirus Regulations, the Applicant would ensure that the premises would operate in accordance with those changes, including measures to ensure social distancing was maintained, and that this be made a condition of the licence. City Inspectors would ensure compliance with the Regulations.

Regarding the operation of the premises as a restaurant, the applicant had confirmed that the premises had full height discharging extract ventilation and that odours should not cause a nuisance. The current licence required food to be provided, but not to the extent that would be provided if the premises were operating as a restaurant.

Mr Dryan stated that EHS had not objected to the application as they had not received any representations from residents living immediately above the premises. Having received complaints from residents when the premises operated as a nightclub, Mr Dryan stated that he was confident that residents knew to contact EHS should they have any concerns.

Submission by Mr Marcus Lavell, Counsel: Complete Licensing

Before making his submission, Mr Lavell stated he wished to address several points raised by Mr Bromley-Martin in his submission. The Chairman agreed that Mr Lavell be allowed to address the Sub Committee on those points before making his formal submission.

Response to Matters Raised by Mr Bromley-Martin

Mr Lavelle stated that his representations had been submitted to the Licensing Authority under the Licensing Objective of Prevention of Crime and Disorder and that the representations were not a comment on whether a director of the applicant company was a fit and proper person to hold a premises licence. However, where a company had a Sole Director and that Director had failed to promote the Licensing Objectives, as in the Camden case to which Mr Lavell would refer in his submission, and the same Director was the Sole Director of the present applicant, it was appropriate for the Sub Committee to take that history into consideration in its deliberations.

Referring to various points raised by Mr Bromley-Martin, Mr Lavell made the following submissions.

- (a) Regarding the allegation of mortgage fraud, he did not intend to address that as it was a matter for the Sub Committee.
- (b) There was no foundation in fact that Mr Nash was employed by Mr Langer, as suggested by Mr Bromley-Martin.
- (c) Referring to Mr Bromley-Martin's comment –

“From the horse's mouth, it just sounds as if Mr McKeown wanted to do the right thing effectively and identify breaches were taking place elsewhere.”

in relation to paragraph 14 of Mr Langer's Witness Statement on Page 66 of the papers before the Sub Committee, Mr Lavell stated he had no issue with that observation. However, if Mr Bromley-Martin wished the Sub Committee to consider the statement, he referred Members to the Paragraphs on pages 67 and 68 under the subheading "Construction of Evidence", in particular, Paragraph 23:

[23. Mr McKeown explained to Mr Millbank at this meeting that he wanted to get evidence of any licence breaches and that Veronica and Dana knew a dancer who worked at Platinum Lace (Ms Julia Tabacaru – Stage Name "Carla") and between them all, they would create and witness breaches to ensure this was achieved.]

Contrary to Mr Bromley-Martin's assertion that Mr McKeown was doing the right thing, the Mr Langer's Witness Statement suggested otherwise.

- (d) Referring to Page 50 and Condition 45, Mr Lavell stated that, even if taxi drivers were paid no more than the fare to transport customers to Sophisticats, the condition was sufficiently widely drawn to prohibit payment by the licence holder to taxi drivers to transport customers to the premises.
- (e) Referring to the nature of the representation made by Mr Nash, and Mr Bromley-Martin's contention that the Sub Committee had to refer to section 18 of The Licensing Act 2003 in deciding if this was a relevant representation i.e., that the representation was neither frivolous nor vexatious, Mr Lavell made the following submissions –
 - i. Evidence in Mr Nash's representation alleging fraud and exploitation of customers by the promotion of excessive consumption of alcohol by their very nature could not be considered frivolous and had been tested before Camden Council's Licensing Sub Committee.
 - ii. The evidence submitted to the Camden Council Licensing Sub Committee had never been presented to a Westminster City Council Licensing Sub Committee and, therefore, could not be considered vexatious.
 - iii. A new witness with an intimate understanding of the business run by Mr McKeown had come forward and their evidence changed the nature and substance of the evidence in Mr Nash's representation.

Submission

The Sub Committee had to consider the effect the licence would have if granted i.e., it would put in place a permission to sell alcohol which does not presently exist and alcohol would begin being sold by a company with a sole director, Mr McKeown, who was the sole director of a sister premises under the same brand under his management in Camden.

Mr Lavell referred Members to the minutes of the meeting of the London Borough of Camden Licensing Panel D on 30 January 2020 starting on Page 77 of the Additional Information Pack. Specifically, Mr Lavell referred members to the following paragraphs.

- (a) The evidence presented by Mr Robert Cohen, Barrister, representing the Applicant, the Metropolitan Police Service (MPS), on pages 78 & 79 where he informed Camden Council's Licensing Panel D that –

- i. *“... repeated concerns had been raised about Sophisticats. Within the last 18 months there had been 12 incidents of crime, where the initiation of the offence began in Sophisticats in Brewer Street, Westminster and then continued in the Sophisticats in Eversholt Street, Camden ... Thus, providing a link to London Sophisticats venues and leading the Police to believe it was indicative of the management of the premises.”*
 - ii. *“Investigations into those allegations had revealed a pattern of concerning behaviour which, in his view, could not be tolerated at any licensed premises. This included:*
 - *Selling inappropriate quantities of alcohol (including to already intoxicated customers);*
 - *Selling large quantities of alcohol shortly before the closing time of the premises (in the expectation, presumably, that the customer would drink a large quantity in a short time) [; and]*
 - *Pressure selling alcohol*
 - iii. It was the decision of Camden Council's Licensing Panel D that the premises licence be revoked.
 - iv. Mr Lavell stated that concerns expressed by the MPS in the Camden case related directly to the present case. The way in which the sale of alcohol had taken place at the Camden venue had left people highly vulnerable and exposed to fraud taking place on the premises, thereby undermining the Licensing Objectives, in particular, the Prevention of Crime and Disorder.
- (b) Mr Lavell then referred the Sub Committee to the final paragraph on Page 4 of the minutes (Page 80 of the Additional Information Pack) which read, as follows –
- *“Mr Cohen said that the CCTV footage showed that the complainant was intoxicated to the extent that he did not have full control of his faculties and was struggling to complete normal tasks. He suggested that irresponsible licensee would have taken steps in these types of circumstances to stop serving the customer. The approach, however, taken by Sophisticats was to the opposite effect as they sold him to further 3 litre bottles of champagne. In total the complainant purchased 9 litres of champagne (108 units of alcohol) and 5 Jagerbombs (five units of alcohol) whilst at Sophisticats, totalling 113 units of alcohol. Mr Cohen suggested that this was inconsistent with the usual licensing practice and objectives.”*
- (c) Mr Lavell then referred the Sub Committee to Form 691: Application for the Review of a Premises Licence or Club Premises Certificate under the Licensing Act 2003 on Page 91 of the Additional Information Pack. Specifically, he referred Members to the third substantive paragraph on Page 93 which stated –
- *“The informant attended the Club in Brewer Street to establish what had happened.*
 - *A manager looked at the receipts and stated that most of them were from their other venue near King's Cross, due to the times shown.*
 - *This is when the informant Contacted Camden Council Licensing department.*

- *It transpires that the victim was transported from Brewer Street to Sophisticats, Eversholt Street by the venue in one of their vehicles. The victim has no memory of this or for the time that he attended Eversholt Street.*
- *Having viewed the CCTV footage for the allegation made on 27/02/19 relating to both the Sophisticats in Westminster and in Camden, it is clear that the informant is not fully aware of what is going on around him.*

Mr Lavell stated that the Westminster premises were the same premises that was the subject of today's application which did not currently have a licence to sell alcohol but would be able to do so if today's licence application was granted. He noted that these were the same premises where a customer was rendered so vulnerable through the aggressive sale of alcohol that he could not protect himself and was transported to the Sophisticats venue in Camden where they were further exploited and lost £50,000.

These matters were subsequently investigated by the Police and put before Camden Council's Licensing Panel D. Therefore, these matters, which were before the Sub Committee today, were neither frivolous nor vexatious.

Having concluded his submissions, Mr Lavell invited the Sub Committee to hear representations from Mr Nash on changes that had taken place since he last presented evidence to the Sub Committee and, as a former Senior Police Officer, to comment on the findings of fact by Camden Council's Licensing Panel D.

Mr Bromley-Martin asked the Sub Committee to consider if it was appropriate for Mr Nash, despite his experience as a former Police Officer, to give his opinion as to the facts. That the matter of fact finding was one for the Sub Committee and not for a former police officer.

Mr Lavell stated that what he was proposing was that Mr Nash look to the findings of Camden Council's Licensing Panel D based on the evidence presented to it in formal statements by the Police and to provide his opinion on this. He noted that Mr Bromley-Martin had invited the Sub Committee to find these submissions frivolous and vexatious. Regarding the rules of evidence and procedure before the Sub Committee, Mr Lavell noted that it was open to the Sub Committee to hear any evidence before it when forming its opinion.

In response to a point raised by Mr Bromley-Martin, Mr Lavell stated that, unless new evidence was being introduced, it was not necessary for Mr Nash, or any other party, to submit a written statement when giving their opinion. Mr Bromley-Martin proposed that, as Mr Nash was a witness, it was not appropriate for him to give his opinion on matters of fact as fact finding was a matter for the Sub Committee.

The Chairman proposed that Mr Lavell might wish to put questions to Mr Nash to elucidate the points that Mr Nash might wish to make. Mr Lavell proposed, and the Chairman agreed, that Mr Nash simply amplify on the evidence he had provided and that the Sub Committee's Legal Adviser intervene if it was felt that Mr Nash was presenting evidence in an inappropriate manner.

Submissions by Mr Nash

Mr Nash stated that the reason for making the representation was a statement by the Chairman of the Westminster City Council Licensing Sub Committee at its meeting in April of last year when he said that, should anything change, or if there were any criminal actions, the matter should be brought back before the Sub Committee. He

stated that, earlier this year he had been contacted by Mr Simon Langer, the former business partner of Mr McKeown, who provided him with a statement and supporting documents that questioned Mr McKeown's submissions to the Sub Committee in April 2019 regarding the extent of his involvement in covert visits to other SEV's. Mr McKeown had informed the Sub Committee that he had known about the covert visits but that he had not been actively involved. According to Mr Langer's statement, Mr McKeown had paid Mr Langer and/or others to carry out the covert visits.

Referring to Paragraph 14 of Mr Langer's statement, which Mr Bromley-Martin had had referred to in his submission, Mr Nash noted that the paragraph went on to read, as follows –

“... Mr McKeown was ‘cocky’ about his plan and made it quite clear he wanted the clubs closed down so that we could be rid of the opposition.”

Although the view had been expressed by Mr Bromley-Martin that Mr McKeown was doing this for the right reasons, Mr Langer did not share this view.

At the Sub Committee's hearing in April of last year, it was alleged that there had been no breaches of the licence conditions. However, a Westminster City Council City Inspector had visited the premises and witnessed, in breach of the premises licence conditions, contact between customers and dancers.

Mr Nash then referred to the various Crime Reports detailed in Form 691: Application for the Review of a Premises Licence or Club Premises Certificate under the Licensing Act 2003, beginning on Page 91 of the Additional Information Pack. He noted that all the incidents involve the excessive consumption of alcohol, placing customers in a vulnerable position and thereby undermining the Licensing Objective of Promoting Public Safety. There were allegations of crimes of a similar nature taking place, or having taken place, in all Sophisticats venues, the nexus between these crimes being the transportation of customers from one venue to another in taxis arranged for them by the management of the premises.

Mr Nash confirmed that this concluded his submission.

The Chairman then invited Members and officers to ask any questions they might have. In response to a question by Vivienne Walker, Solicitor Advocate, Westminster City Council, Mr Bromley-Martin stated that the Applicant had agreed to the proposed additional conditions set out in the correspondence on Page 25 of the Additional Information Pack, including the following condition –

“There shall be a minimum of two door supervisors to be employed at the entrance of the premises whenever there is regulated entertainment [this condition would replace existing condition 10, using the current premises licence numbering]”.

SUMMING UP

The Chairman then invited the various parties to sum up their presentations.

Mr Richard Brown, Citizens Advice Bureau Licensing Project (On Behalf of the Soho Society)

Mr Brown stated that, if it was understood by the Sub Committee why The Soho Society had taken the position it had, and that this was without prejudice to any future representations and/or submissions on future applications, he had no further comments.

Mr Marcus Lavell, Complete Licensing, and Mr Tony Nash

Mr Lavell stated the applicant was an operator with a history of a particular type of alcohol retail and a sole director of a company that has previously had its licence revoked elsewhere. The applicant had demonstrably undermined the Licensing Objectives of the Prevention of Crime and Disorder and Public Safety by placing persons who had gone out for an evening in Westminster in an element of danger whereby they may be subjected to an excessive amount of alcohol consumption and taken elsewhere where they might be further exploited, as evidenced by the Camden Council Licence Panel D proceedings. Police evidence had demonstrated that this was not an organisation that could be trusted to promote the Licensing Objectives of Protecting Public Safety and Preventing Crime and Disorder.

Mr Nash stated that he was concerned that the Sole Director, Mr McKeown, was not promoting the Licensing Objectives referred to by Mr Lavell, and that he was allowing serious crimes involving significant sums of money to take place on premises under his control.

Referring to the statement by Mr Langer, Mr Nash stated that this indicated that, at the meeting of Westminster City Council's Licensing Sub Committee in April of last year, Members had been misled by the applicant.

Ms Daisy Gadd On Behalf of the Licensing Authority

Ms Gadd reiterated the Council's Pubs and Bars policy requiring the Applicant to provide an exceptional circumstance for the grant of the applied-for licence. Regarding the Conditions proposed by the Licensing Authority, Ms Gadd, concurring with Mr Brown and Mr Dryan, stated that it was no longer necessary to consider the Applicant surrendering the existing premises licence.

Mr Dryan On Behalf of Environmental Health Services (EHS)

Mr Dryan stated that potential concerns regarding dispersal, and collections and deliveries to and from the premises, had raised concerns. However, these had been addressed by the Applicant's agreement to the inclusion of conditions designed with these concerns in mind, as well as a condition relating to queueing outside the premises.

Mr Bromley-Martin on Behalf of the Applicant

Mr Bromley-Martin stated he would respond to the various questions and points raised by Members of the Sub Committee and others during the submissions before summing up his presentation, as follows.

Replies to Questions and Points Raised

- (a) On behalf of Mr McKeown, Mr Bromley-Martin stated that Mr McKeown would give an undertaking to provide the Licensing Authority with a Dispersal Policy or submission within 14 days of today's date. He stated that consideration had not yet been given to a Dispersal policy because it was not known how many customers would be permitted into the premises, or the opening hours of the premises.
- (b) Mr McKeown would also give an undertaking to provide a Delivery Policy which would cause the least possible disturbance to residents within the next 14 days.

- (c) The layout of the premises would not remain the same. There would be considerably fewer tables and it had yet to be determined how much space would be required to ensure compliance with the rules on social distancing and Coronavirus Regulations. It was anticipated that the number of persons would be restricted to approximately 60.
- (d) Regarding Pedicabs, Mr Bromley-Martin referred to Condition 30 requiring the licence holder to enter into an agreement with a hackney carriage and/or private hire firm to provide transport for customers. He confirmed that such an arrangement was in place.

Summing up

- (a) Referring to the Statement of Licensing Policy and Policy PB2, Mr Bromley-Martin stated that Paragraph 2.5.23 made it clear that the grant of new licences to pubs and bars within Cumulative Impact Areas (CIAs) should be limited to exceptional circumstances. Paragraphs 2.4.2 to 2.4.13 of the Statement of Licensing Policy referred to exceptional circumstances. Specifically, Paragraph 2.4.3 stated –

“it is not possible to give a full list of examples of when the council may treat an application as an exception. However, in considering whether a particular case is exceptional, The Licensing Authority will consider the reasons underlying the Cumulative Impact Area special policies on cumulative impact.”

The principal purpose behind the CIA policy was to ensure, as far as possible, that no further impact was made by the granting of a licence. It was the applicant's case that this application would have no additional impact on the CIA as the conditions were precisely the same. The only difference being that there would be no striptease on the premises.

Mr Bromley-Martin noted that none of the parties represented at today's hearing were of the view that granting the licence would add to the cumulative impact in the area. But for the exceptional circumstances engendered by the coronavirus pandemic, and the government's Coronavirus Regulations, it would not have been necessary to make this application. Therefore, for these two reasons i.e., that the licence, if granted, would not add to the cumulative impact on the area, and the exceptional circumstances created by coronavirus, it was proposed that the application fell squarely within the provisions of exceptional circumstances.

- (b) Regarding the objections by Mr Nash to the granting of this application, these involved several wide-ranging allegations of criminal conduct on the part of Mr McKeown, the most serious of which was an allegation of mortgage fraud. This allegation had been raised at the Sub Committee's meeting in April of last year when it was made clear that the Sub Committee was not assisted by unsubstantiated allegations of crime. Mr Bromley-Martin went on to say that, since that time, there had been no investigation of these allegations, or any proceedings.

The allegations against Mr McKeown had been made by parties currently involved in litigation with Mr McKeown in the civil courts. As such, it was suggested that the allegations against Mr McKeown had nothing to do with licensing matters and everything to do with the civil suits.

- (c) Referring to the decision of Camden Council's Licensing Panel D to revoke the premises licence for the Sophisticats SEV situated at 34 – 38 Eversholt Street,

London NW1 1DA, Mr Bromley-Martin referred the Sub Committee to Page 84 of the Additional Information Pack.

[In response to an objection by Mr Lavell that Mr Bromley-Martin was making a new submission in relation to these documents and that he would not have an opportunity to respond to that submission, the Chairman stated that, as the Sub Committee had heard from Mr Lavell on this matter, he was prepared to allow Mr Bromley-Martin to address the Sub Committee on the Camden Council Licensing Panel D proceedings].

He stated that Sarah Lefevre, Counsel for Mr McKeown, had set out the case for Sophisticats in Eversholt Street. Referring to her assessment of the Police representations at that hearing, Mr Bromley-Martin declared that there was no allegation of any crime having been committed at Sophisticats at Brewer Street; that there had never been an investigation into any alleged crime at the Brewer Street premises; and that there had never been any criminal proceedings relating to crimes committed at Sophisticats. Therefore, it was wholly untrue to suggest that there had ever been any crimes committed at Sophisticats. The complainant about payments had been made by credit card and the credit card companies, after investigation, had confirmed the payments and refused to refund the complainants. It was noted that the Camden decision was the subject of appeal proceedings which had been delayed because of the coronavirus pandemic.

In conclusion, Mr Bromley-Martin noted that none of this evidence had been relied upon by PC Bryan Lewis when making his submission on behalf of the Metropolitan Police Service.

Rebuttal by Mr Lavell

Replying to Mr Bromley-Martin's presentation of Ms Sarah Lefevre's review of the Police representations during the Camden Council Licensing Panel D proceedings, Mr Lavell reminded the Sub Committee that it was the Police representations at that hearing, and not those of Ms Lefevre, that had been instrumental in the Panel's decision to impose the ultimate sanction of revoking the premises licence.

Mr Lavelle went on to say that Licensing Police had investigated alleged crimes at these premises, and it was the Licensing Police that had made the application to review of the premises licence on the grounds of Crime and Disorder.

By way of reply, Mr Bromley-Martin referred the Sub Committee to the Minutes of the meeting of Camden Council's Licensing Panel D where it was stated in the first paragraph on Page 89 of the Additional Information Pack that –

“The Panel noted that the licence holder had said that there was no evidence to support the complaints and no offences had been proven by the Police.”

ADJOURNMENT

Having heard the various parties sum up their submissions and representations, the Chairman announced that the Sub Committee would adjourn and that the Members of the Sub Committee would retire to make their decision. He stated that a summary of the Decision would be sent to the parties by the Licensing Service within five working days of today's hearing.

DECISION

To **Approve** the application.⁸

The Meeting ended at 3.05 pm

CHAIRMAN: _____

DATE _____

⁸ See the Appendix to this part of the minute detailing the Sub Committee's Decision and reasons for the Decision.

APPENDIX 1

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

Thursday, 8 October 2020

Membership: Councillor Tim Mitchell (Chairman), Councillor Barbara Arzymanow and Councillor Aicha Less

Officer Support: Legal Adviser: Vivienne Walker
Policy Officer: Aaron Hardy
Committee Officer: Toby Howes & Cameron MacLean
Presenting Officer: Jessica Donovan

Parties Present: Mr. David Inzani, Poppleston Allen, Solicitors for the Applicant; Jonathan Arana-Morton, Company Founder and George Whitaker, Finance Director for the Applicant, Richard Brown, CAB Licensing Project for residents, Daisy Gadd for the Licensing Authority and Ayesha Bolton for the Environmental Health Service.

APPLICATION FOR A NEW PREMISES LICENCE – CATSTEPS CAFÉ, 33 D'ARBLAY STREET LONDON W1F 8EU

FULL DECISION

Premises

Catsteps Café Limited
T/A the Breakfast Club
33 D'Arblay Street
London
W1F 8EU

Applicant

Catsteps Cafes Limited

Cumulative Impact Area

The Premises are within the West End Cumulative Impact Area

Ward

West End

Summary of Application

The Sub-Committee has determined an application for a new Premises Licence under the Licensing Act 2003 ("The Act"). The Premises proposed to operate a family run café/bar with external tables and chairs.

Proposed Licensable Activities and Hours

Sale by Retail of Alcohol (On and Off Sales)

Monday to Saturday: 10:00 to 23:00 hours
Sunday: 12:00 to 22:30 hours
Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Hours Premises are open to the Public

Monday to Sunday: 09:00 to 23:00 hours
Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Representations Received

- Environmental Health Service (Ayesha Bolton)
- Licensing Authority (Angela Seaward)
- Other Persons

Summary of issues raised by Objectors

- Granting the application would have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the area.
- The operating hours applied for licensable activities fell outside Westminster's Core Hours and there was, therefore, a presumption against granting the application, although each case would be considered on its merits.
- The application was for On and Off Sales, and there was no condition before 20:00 hours potentially allowing alcohol to be a significant part of the operation, the Licensing Authority encouraged the Applicant to make further submissions on how the Premises would not add to the Cumulative Impact Area. In addition, how the conditions relating to the operation of the Premises as a restaurant would be applied to customers from 20:00 hours, preventing the premises, or a part thereof, from operating as a bar.

Policy Position

- Policies CIP1, HRS1, RNT2 and CIA apply under the City Council's Statement of Licensing Policy. The Premises are located within the West End Cumulative Impact Area and, as such, the Applicant must demonstrate that the application will not add to cumulative impact in the West End Cumulative Impact Area.

SUBMISSIONS AND REASONS

The Presenting Officer, Ms Donovan introduced the report to the Sub-Committee, noting that additional submissions had been made by the Applicant and that these had been circulated to Members of the Sub-Committee.

Members heard from Mr. Inzani, on behalf of the Applicant who stated: -

1. The Breakfast club was part of a well-known chain of 12 café bars with sites in London, Oxford and Brighton. The Premises in D'Arblay Street was the first to open in 2005.
2. A number of amendments had been made to the application, as follows:
 - The application to play recorded music had been withdrawn;

- In accordance with a request by the Licensing Authority, the plans had been re-submitted excluding the external area shown with the red line on the plan;
- The hours on Sunday had been amended to bring them in line with core hours.
- Conditions 11, 25 and 26 were replaced with Model Condition 66 which stated:
“The Premises shall only operate as a restaurant:” –
 - i) In which customers are shown to the table;
 - ii) Which provides food in the form of substantial table meals that are prepared on the Premises and are served and consumed at the table using non-disposable crockery;
 - iii) Which does not provide any takeaway service of food or drink for immediate consumption; and
 - iv) Where intoxicating liquor shall not be sold, supplied, or consumed on the Premises otherwise than to persons who are bona fides taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals.

Mr. Inzani explained that relaxing the requirement that the consumption of alcohol be ancillary to taking a table meal was intended to give the Applicant some flexibility in its trade which it was proposed, was needed at this time and would only apply until 20:00 hours and be time limited to correspond with the current Covid-19 restrictions.

Mr. Inzani stated that regarding the objections received in respect of the ventilation duct and nuisance caused by odours, in the fifteen years that the Applicant had been operating these premises, they had never been made aware of any concerns about such nuisance. The Applicant was not aware of any complaints having been received by the Environmental Health Service.

Mr. Inzani explained that the issues referred to with regard to refuse were historical and had been previously addressed. The Premises had a hygiene rating of 5.

It was noted that concerns were raised about the provision of toilet facilities at the premises. Mr. Inzani stated that there was a staff toilet located in the area restricted to staff and a further toilet for customers' use in the basement area. The Environmental Health Service had recommended that there be a condition limiting customer capacity to 30, and the applicant had agreed to this condition.

Mr. Richard Brown, from CAB Licensing Project on behalf of Mr. Bulboaca, local resident and manager of Commercial Premises on D'Arblay Street, made specific reference to the nuisance caused by odours emanating from the Premises because of inadequate ventilation ductwork, customers queueing at the front of the Premises and the effect of obscuring the adjacent shop frontage, causing damage to decorative greenery and creating litter.

In response to questions raised by Members, Mr. Inzani stated that he was not aware of any plans to upgrade the duct extracting fumes from the premises, but the matter had been referred by the Environmental Health Service to Planning Services.

Ms. Ayesha Bolton, on behalf of Environmental Health Service stated that the Applicant had provided the requested information and had made significant amendments to the application, as set out above. In response, the Environmental Health Service had proposed the customer capacity.

Ms. Bolton stated as a consequence of the Applicant's agreement to the condition of limiting customer capacity to 30, the Environmental Health Service no longer had any objections to the application.

Ms. Bolton in response to a question by the Chairman of the Licensing Sub-Committee regarding the adequacy of having only one customer toilet when considering the additional seating outside. Ms. Bolton stated that the use of the outdoor seating area, would vary with the seasons and she was satisfied that one toilet and the condition restricting customer capacity to 30 was sufficient.

Ms. Gadd, on behalf of the Licensing Authority, stated that following mediation with the Applicant, the only matter of concern was the temporary proposal to exclude the requirement to order a substantial table meal when ordering alcohol before 8:00pm. The requirement for customers to be seated before being served reduced the possibility of vertical drinking taking place.

Ms. Gadd stated that because the Premises are located within the West End Cumulative Impact Area, the test to be applied, is that the granting of the application would not add to the cumulative impact in the area.

Having carefully considered all the submissions made by all parties both orally and in writing, the Licensing Sub-Committee decided to **grant** the application subject to the amended conditions.

The Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would be an exception to policy and not add to negative cumulative impact in the Cumulative Impact Area and promote the licensing objectives.

In reaching its decision the Sub-Committee took into consideration all relevant matters which are not limited to the following: -

1. The Applicant's explanation that the purpose of the application was to allow relaxation as to the premises' operation under COVID-19 restrictions;
2. The application is time limited until September 2021;
3. The capacity for the Premises is 30 people;
4. The number of additional conditions that have been added to the licence would promote licensing objectives;

The Licensing Sub-Committee having regards to the Applicant's submissions relating to the impact of the pandemic on the operation of the Premises and the fact that the application is time-limited, deemed these sufficient to provide an exception to the Council's Statement of Licensing Policy.

In conclusion, the Sub-Committee was satisfied that, in all the circumstances of the case, it was reasonable, appropriate and proportionate to **grant** the licence.

The application was granted subject to the following conditions in addition to the Mandatory Conditions applicable to this type of application

CONDITIONS IMPOSED BY THE COMMITTEE AFTER A HEARING

1. The Premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every

person entering in any light condition. The CCTV system shall continually record whilst the Premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of the Police or authorised officer throughout the preceding 31-day period.

2. A staff member from the Premises who is conversant with the operation of the CCTV system shall be on the Premises at all times when the Premises are open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
3. The supply of alcohol shall be by waiter or waitress service only.
4. Substantial food and suitable beverages other than intoxicating liquor shall be available during the whole of the permitted hours in all parts of the Premises where intoxicating liquor is sold or supplied.
5. All sales of alcohol for consumption off the Premises shall be in sealed containers only, and shall not be consumed on the Premises except that alcohol can be sold in open containers and consumed in any designated area for the use of table and chairs shown on the plan attached to the Premises Licence or where tables and chairs are permitted to be placed under the Highways Act 1980 or the Business and Planning Act 2020.
6. The capacity at the premises, at any one time, shall be 30 inside (excluding staff).
7. After 21:00 hours all external doors and windows to be kept closed except for immediate access and egress of persons.
8. No noise shall emanate from the Premises nor vibration be transmitted through the structure of the Premises which gives rise to a nuisance.
9. Clearly legible notices shall be displayed at all exits from the Premises requesting patrons to respect the needs of local residents and to leave the Premises and area quietly.
10. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and to leave the Premises and area quietly.
11. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
12. The area immediately outside the premises, shall be swept and/or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
13. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
14. 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.

15. An incident log shall be kept at the Premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and 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.
16. There shall be no vertical drinking allowed on the premises.
17. All tables and chairs shall be removed from the outside area by 23.00 hours each day.
18. The sale and supply of alcohol for consumption off the Premises shall be restricted to sales in sealed containers, and to alcohol consumed by persons seated in an area for outside tables and chairs, and after 20:00 where persons are bona fide taking a substantial table meal there, where the consumption of alcohol by such persons is ancillary to a table meal, and where the supply of alcohol is by way of waiter / waitress service only.
19. The Premises shall only operate as a restaurant:
 - (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (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 using non disposable crockery,
 - (iv) which do not provide any takeaway service of food or drink for immediate consumption
 - (v) which do not provide any takeaway service of food or drink after 23.00, and
 - (vi) 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.

Except that up to and including 30 September 2021 point (iv) of this condition shall not apply until 20:00 hours.

Notwithstanding this condition customers are permitted to take from the Premises part consumed and resealed bottles of wine supplied ancillary to their meal.
20. 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.

This is the full decision reached by the Licensing Sub-Committee. This decision takes immediate effect.

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APPENDIX 2

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

Thursday 8 October 2020

- Membership:** Councillor Tim Mitchell (Chairman), Councillor Barbara Arzymanow and Councillor Aicha Less
- Officer Support:** Legal Adviser: Vivienne Walker
Policy Officer: Aaron Hardy
Committee Officers: Toby Howes & Cameron MacLean
Presenting Officer: Jessica Donovan
- Parties Present:** Michael Bromley- Martin, Counsel for the Applicant, Jack Spiegler, Thomas & Thomas Partners, Solicitor for the Applicant, John McKeown, the Applicant, PC Bryan Lewis, Metropolitan Police Service, Daisy Gadd for the Licensing Authority, Anil Drayan, Environmental Health Service, Richard Brown CAB Licensing Project for the Soho Society, Jane Doyle for the Soho Society and Marcus Lavell for Tony Nash, Objector.

APPLICATION FOR A NEW PREMISES LICENCE – SOPHISTICATS, BASEMENT AND PART GROUND FLOOR 3 -7 BREWER STREET LONDON W1F 0DR - 20/06824/LIPN

FULL DECISION

Premises

Sophisticats
Basement and Part Ground
3-7 Brewer Street
London W1F 0DR

Applicant

John McKeown Clubs Limited

Cumulative Impact Area

The Premises are within the West End Cumulative Impact Area

Ward

West End

Summary of Application

The Sub-Committee has determined an application for a new Premises Licence under the Licensing Act 2003 ("The Act"). The Premises have had the benefit of a Licence number 19/03892/LIPDPS. The Premises also hold a Sexual Entertainment Venue Licence number 20/04218/LISEVR which is valid until 30 September 2021.

The applicant proposed a new Licence on the same terms, conditions, layout and hours as the current Premises Licence save for the renewal of condition 9 which reads: "the sale of intoxicating liquor shall be ancillary to the provision of striptease

entertainment and whilst the premises are operating under a Sexual Entertainment Venue Licence”.

Proposed Licensable Activities and Hours

Live Music, recorded music, performance of dance, Anything of similar description (Indoors)

Monday to Saturday: 09:00 to 03:00 hours
Sunday: 09:00 to 23:00 hours
Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day with an additional hour when British Summer time commences.

Late Night Refreshment (Indoors)

Monday to Saturday: 23:00 to 03:00 hours
Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day with an additional hour when British Summer time commences.

Sale by retail of Alcohol (On Sales)

Monday to Saturday: 09:00 to 03:00 hours
Sunday: 09:00 to 23:00 hours
Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day with an additional hour when British Summer time commences.

Hours Premises are open to the Public

Monday to Saturday: 09:00 to 03:00 hours
Sunday: 09:00 to 23:00 hours
Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day with an additional hour when British Summer time commences.

Representations Received

- Metropolitan Police Service (PC Bryan Lewis)
- Environmental Health Service (Anil Drayan)
- Licensing Authority (Daisy Gadd)
- Tony Nash
- Soho Society (Richard Brown)

Summary of issues raised by Objectors

- The application if granted would undermine the licensing objectives. The venue is located in the West End Cumulative Impact Area, a locality where there is traditionally high levels of crime and disorder and this application will cause further policing problems in an already demanding area.
- The hours requested for Regulated Entertainments, the Supply of Alcohol, the provision of Late-Night Refreshment and the non-standard timings may lead to an increase in Public Nuisance.

- There are concerns as to how the premises would promote the four licensing objectives. The operating hours applied for licensable activities currently fall outside core hours.

Policy Position

Policies CIP1, HRS1, MD2, PB2 and CIA apply under the City Council's Statement of Licensing Policy. The Premises are located within West End Cumulative Impact Area and, as such, the Applicant must demonstrate that the application will not add to cumulative impact in the West End Cumulative Impact Area.

SUBMISSIONS AND REASONS

The Presenting Officer, Ms Donovan summarised the application to the Sub-Committee. She confirmed that this was an application for a New Premises Licence made on behalf of the Applicant, John McKeown Clubs Limited.

Mr. Anil Drayan on behalf of Environmental Health Services stated that, as the Applicant had agreed to the proposed conditions, the Environmental Health Service no longer had any objections to the application.

Mr Drayan did, however, draw to the Sub-Committee's attention the following:

- a. The premises used to operate as Shadowlands Nightclub and, as such, had generated a number of complaints to the Environmental Health Service about noise transfer from the nightclub to residential premises above the nightclub;
- b. The Applicant had agreed not to change the sound limiter setting which had been set by the Environmental Health Service in accordance with the operation of the premises as a Sexual Entertainment Venue;
- c. Enquiries to City Inspectors who inspected the premises every quarter confirmed that, having checked the records, there had been no issues with the way in which the premises had operated;
- d. The Environmental Health Service advised against any changes in conditions that would allow the premises to revert to a nightclub operation.

Mr. Bromley-Martin QC, for the Applicant, stated that the Applicant had agreed with the Environmental Health Service that the premises would not operate as nightclub should the licence be granted.

PC Bryan Lewis on behalf of the Metropolitan Police Service, stated that the Police objected to the exclusion of Condition 9, as this would allow the premises to operate as a bar, should a new licence be granted.

In response to member's questions, PC Lewis stated that there had been no recent reports of nuisance relating to these premises.

Ms. Daisy Gadd, on behalf of the Licensing Authority, noted that this was an application to permit licensable activity outside Core Hours for a time limited basis until September 2021.

Ms. Gadd stated that the Council's policy was not to refuse applications for licences that went beyond Core Hours, but to consider each application on its merits. Applicants were expected to consider issues such as dispersal.

Ms Gadd stated that the main concern for the Licensing Authority was the temporary change in the way alcohol would be sold at the premises as the licence, if granted, would permit the operation of a bar. The Council's policies on pubs and bars would have to be taken into consideration as there was the potential for the premises to be used exclusively or primarily for the consumption of alcohol which would require the Applicant to rely on exceptional circumstances that would allow the Sub-committee to depart from the policy.

Ms. Gadd stated that, as the premises were located in a Cumulative Impact Area (CIA), the Sub-Committee have to be satisfied that should the licence be granted on a temporary basis, this would not add to the cumulative impact in the area.

Mr. Richard Brown, from the CAB Licensing Project, representing the Soho Society, stated that his purpose in attending the meeting was to clarify the position of The Soho Society, and to consider the proposal that the premises might operate as a restaurant and any concerns this might raise.

Mr. Brown stated that during the consultation period, it was noted that Mr. McKeown had met with some of the residents living above the premises to explain why the application was being made. He stated that the Sexual Entertainment Venue (SEV) had been excluded from reopening as part of the relaxation of the Coronavirus Regulations.

Mr. Brown stated that in terms of impact on the licensing objectives, residents preferred that the premises operate as a (SEV) and not as a nightclub. Therefore, residents were willing to give the applicant some leeway with regard to the present application.

Ms. Jane Doyle, resident, stated the residents were concerned about the proposal that the premises might operate as a restaurant. In particular, residents were concerned that appropriate measures be in place for deliveries, odour extraction and waste disposal.

In response to a Member's question, Mr. Drayan, stated that the capacity of the premises operating as a SEV was 100. It had been agreed with the Applicant that, when there were changes to the Coronavirus Regulations, the Applicant would ensure that the premises operate in accordance with those changes.

Mr Drayan stated that regarding the operation of the premises as a restaurant, the Applicant had confirmed that the premises had a full height discharging extract ventilation and that odours should not cause a nuisance.

Mr. Bromley-Martin, QC, for the Applicant stated the following: -

1. The reason for the application was a direct result of the introduction of the Covid-19 Regulations resulting in the premises closing on 23rd March 2020, and in keeping with all Sexual Entertainment Venues (SEVs), unlike other hospitality venues, having to remain closed.
2. The representations by the Responsible Authorities and The Soho Society had been resolved by the Applicants agreement to further conditions.
3. Should the licence be granted, the two premises licences would not operate at the same time. Should the Government's Covid-19 Regulations permit the reopening of SEVs, the premises would operate under the SEV licence and not as a lounge bar.

4. Regarding policy considerations, Policy PB2 was relevant. Paragraph 2.5.23 of the Council's Statement of Licensing Policy dealt with exceptions to Policy PB2 where there were exceptional circumstances. The exceptional circumstances in this instance were the replacement of the existing licence with a similar licence with added conditions but excluding Condition 9 of the present licence.
5. Should the licence be granted, the replacement licence would operate in the same way as the existing licence. Therefore, there would be no effect on the Cumulative Impact Area.

Having carefully considered all the submissions made by all parties both orally and in writing, the Licensing Sub-Committee decided to **GRANT** the application subject to conditions.

The Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives.

In reaching its decision, the Sub-Committee took into consideration all relevant matters which are not limited to the following:

1. Mr Drayan on behalf of the Environmental Health Service stated that enquiries to City Inspectors who inspected the premises every quarter, had no issues with the way in which the premises had operated;
2. The application was an exception to the Council's Statement of Licensing Policy and would not add to negative the Cumulative Impact Area;
3. The application was time limited until 30 September 2021, and the application was a replacement of the current Licence 19/03892/LIPDPS;
4. Having regard to the Applicant's submissions relating to the impact of the pandemic on the operation of the premises and the fact that the application was time limited deemed it sufficient to provide an exception to policy.

In conclusion, the Sub-Committee was satisfied that, in all of the circumstances of the case, it was appropriate and proportionate to **GRANT** the licence.

The application was granted subject to the following conditions in addition to the Mandatory Conditions applicable to this type of application:

CONDITIONS IMPOSED BY THE COMMITTEE AFTER A HEARING

1. There shall be a minimum of two door supervisors to be employed at the entrance of the premises whenever there is regulated entertainment.
2. All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility jackets or vests.
3. Door supervisors shall remain on duty to supervise the area immediately outside the premises until at least 15 minutes after the last patron has left the premises.
4. There shall be a personal licence holder on duty at the premises at all times when the premises are authorised to sell alcohol.
5. Substantial food and non-intoxicating beverages, including drinking water, shall be available during the whole of the permitted hours in all parts of the premises where intoxicants are provided.

6. The supply of alcohol shall be by waiter/waitress service at tables only and there shall be no vertical drinking of alcohol at the premises.
7. Any person permitted to temporarily leave and then re-enter the premises, e.g., to smoke, shall not be permitted to take drinks or glass containers with them.
8. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewings of recordings shall be made available immediately upon the request of the Police or authorised officer of the City Council throughout the preceding 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 are open. This staff member must be able to provide the Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
10. The premises management will become members and actively participate in a pub watch scheme (or similar) if one is operating in the area of the premises.
11. A sound limiting device located in a separate and remote lockable cabinet from the volume control shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service to ensure that no noise nuisance is caused to local residents. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device. The operational panel of the noise limiter shall then be secured to the satisfaction of officer from the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only and shall not be accessed by any other person. The limiter shall not be altered without prior agreement with the Environmental Health Service.
12. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
13. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
14. All 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.
15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and use the area quietly.
16. 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.
17. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between (23:00) hours and (08:00) hours.

18. 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.
19. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
- (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received
 - (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.
20. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given:
- Dry ice and cryogenic fog
 - Smoke machines and fog generators
 - Pyrotechnics including fire works
 - Firearms
 - Lasers
 - Explosives and highly flammable substances
 - Real flame
 - Strobe lighting
21. The licence holder shall enter into an agreement with a hackney carriage and/or private hire firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
22. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
23. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
24. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
25. The approved arrangements at the premises, including means of escape provisions, fire warning and firefighting equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

26. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately and clearly identified in accordance with the plans provided.
27. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
28. Patrons permitted to temporarily leave and then re-enter the premises e.g., to smoke, shall be limited to (5) persons at any one time.
29. Patrons will have a designated smoking area, which shall be supervised by a SIA door supervisor.
30. Performers/Dancers shall not be permitted to temporarily leave to smoke and then re-enter the premises.
31. An attendant shall be on duty in the cloakroom during the whole time that it is in use.
32. A challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
33. The certificates listed below shall be submitted to the Licensing Authority upon written request:
 - a) Any emergency lighting battery or system;
 - b) Any electrical installation;
 - c) Any emergency warning system.
34. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties (save insofar as they are necessary for the prevention of crime).
35. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
36. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.
37. No person on behalf of the premises or on behalf of a person carrying or attempting to carry on a licensable activity at the premises shall cause, permit, employ or allow, directly or indirectly through a third party, whether on payment or otherwise, any person(s) to importune, solicit or tout members of the public on any public highway within the specified area outlined below for the purpose of bringing customers to the premises.
38. For the purposes of this condition, 'Specified Area' means the area encompassed within Shaftesbury Avenue, Piccadilly Circus, Regent Street up to the junction with Pall Mall, Cockspur Street, Trafalgar Square, Strand up to the junction with Bedford Street, Garrick Street, Great Newport Street and Charing Cross Road to the junction of Shaftesbury Avenue.

39. The maximum number of persons accommodated at any one time (excluding staff and performers) shall not exceed 100 persons.
40. 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.
41. Customers shall not enter or leave the premises other than the Brewer Street entrance/exit, except in the event of an emergency.
42. The sale of alcohol shall be ancillary to and whilst the premises are operating as either:
 - a. a lounge bar providing live music and/or dance performances, with alcohol consumed only by persons seated;
 - b. a restaurant where alcohol is sold ancillary to a table meal.
43. The premises licence holder shall not allow a queue to form outside the premises.
44. The licensable activities permitted under this licence shall end after 30 September 2021.

INFORMATIVE: The Applicant will ensure measures are taken to discourage pedicabs operating within the vicinity of the premises late at night.

This is the Full Decision reached by the Licensing Sub-Committee. This Decision takes immediate effect.

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