



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Thursday 29th July, 2021**, This will be a virtual meeting.

Members Present: Councillors Murad Gassanly (Chairman), Louise Hyams and Aziz Toki

1. MEMBERSHIP

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

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

1 Order of Proceedings

2. 10 AM: HOME GROWN, 44 GREAT CUMBERLAND PLACE, W1H 7BS - APPLICATION FOR PREMISES LICENCE VARIATION

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.5 ("The Committee")

Thursday 29 July 2021

Membership: Councillor Murad Gassanly (Chairman), Councillor Louise Hyams and Councillor Aziz Toki

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Kerry Simpkin
Committee Officer: Cameron Maclean
Presenting Officer: Kevin Jackaman

Application for a New Premises Licence in respect of Home Grown
44 Great Cumberland Place London W1H 7BS 21/03349/LIPV

Full Decision

Premises

Home Grown
44 Great Cumberland Place
London
W1H 7BS

Applicant

Home Grown Club Limited represented by Craig Baylis Solicitor of BCLP.

Cumulative Impact Area

N/A

Special Consideration Zone

N/A

Ward

Bryanston And Dorset Square

Case Summary

The Committee has determined an application for a Variation of Premises Licence under the Licensing Act 2003 ("The Act"). The Premise operates as a Private Members Club with accompanying accommodation and are located within the Bryanston And Dorset Square Ward. The Premises have had the benefit of a licence since 2012 (licence number 19/09266/LIPDPS) The Premises are not located within the West End Cumulative nor Special Consideration Zone. There is a resident count of 202.

The Applicant seeks to vary the licence as follows:-

Suspend the operation of conditions 51, 53 and 54 below until 30th September 2021

Condition 51: Any external terrace areas may only be used for the consumption of alcohol on Fridays and Saturdays.

Condition 53: Any external terrace areas shall be vacated by 19:00 save for persons using the area to smoke;

Condition 54: No more than ten persons, excluding staff, shall be permitted on the first-floor terrace at any one time.

Insert a new condition as follows:-

"No more than 25 patrons (who shall be seated) may occupy the terrace between 11.00 and 22.00 on any day until 30th September 2021 when this condition shall cease to have effect."

Representations were received from Environmental Health Service (EHS), Three Local Ward Councillors and 18 Local Residents (comprising individuals and the amenity society). The thrust of those objection site public nuisance and crime and disorder.

Activities and Hours applied for

As per the Premises Licence save for the variations applied for.

Representations Received

- Environmental Health Service (EHS) (Dave Nevitt)
- Councillors Barbara Arzymanow, Richard Beddoe and Eoghain Murphy
- Mr Guy Austin Marylebone Association
- 18 Local Residents

Summary of Objections

- *Great Cumberland Place is a quiet residential street as is the adjoining Brunswick Mews. Following several resident's representations to the Ward Councillors we are objecting to the application for a licence variation 21/03349/LIPV at Home Grown Club as it will cause a public nuisance in this residential area. The noise created by giving permission to Home Grown customers to sit outside on a terrace will have a wide ranging "cauldron" effect due to the amplification created by the surrounding tall buildings. Therefore, the noise would span a large number of residential properties across 6 streets. This variation is significantly contrary to the spirit of the original licensing conditions made in 2019 18/05022/LIPV and when planning permission was granted 2017. Currently all entertainment licences at this location are internal including next door at The Prince Akatoki Hotel (previously The Arch). The former New Cavendish Club (currently the Home Grown site) was also mainly internal. The Home Grown Club's business does not serve the local community unless one is a member of the Club. We are all fully aware of the needs for businesses to reopen, which the Club is able to do on 17th May. Any additional external hospitality must be balanced against the needs of local residents. In this case, Councillors are of the opinion that needs of surrounding residents must be protected.*
- *The terrace of the Home Grown club is connected to the back of my house and I am concerned with the high levels of noise and the echo effect at the back of the buildings which will be very disruptive for me and my family - especially with the COVID challenges of needing to work from home. In addition, during the summer months it gets hot in the home and we need to have back windows open and cigarette smoke travels into the house which is also disruptive. I am not supportive of this application.*
- *The use of the terrace in the way now proposed would cause public nuisance, and affect the amenity of the many residential properties surrounding this terrace. Furthermore, the height of the buildings around the terrace means that sound echoes and so would affect properties as far away as Montagu Street. I*

hope that the Council continues to restrict activity on this terrace, so that we can enjoy the peace and quiet of our own homes.

- I oppose the variation of licence which would permit up to 25 people up to 10pm 7 days a week on their terrace. We have already suffered from noise pollution from the limited amount of people on the terrace, and also from the music system in their basement which manages to travel through multiple buildings.*
- I object strongly to this application for a variation the grounds that it will cause public nuisance to me in my home and to the numerous residents surrounding this property. Having the terrace used for hospitality purposes would make my own (and others') properties unliveable, due to noise, primarily, but also due to smells,. When cigarettes are being smoked on the terrace , the smell emanates into my home.*

We are disappointed that the Homegrown Club has applied for such a variation, when residents and the adjoining hotel, made it clear, before they opened as a new club, that use of the terrace would affect the amenity for the residents of the surrounding properties - with noise pollution. The area at the back of the premises is totally residential and surrounded by high buildings - along Great Cumberland Place, George Street, Montagu Street and Upper Berkeley Street - and so noise within that area echoes around, affecting the back of these properties as well as the mews houses in Brunswick Mews and Montagu Mews South. With no other commercial activity in this area, it is normally very quiet and peaceful.

- We hope that the Council considers the adverse impact that this would have on the residents surrounding the terrace of 44 Great Cumberland Place, and rejects this application to vary the conditions that were considered so carefully by previous Licensing Committee.*
- We believe conditions 51, 53 and 54 are essential to ensure that people living in adjoining residential premises and staying at our hotel are able to reside in those premises without undue noise and nuisance emanating from the Home Grown Club during evening and early morning hours.*
- THIS REPRESENTATION is made by the Marylebone Association, which is recognised by Westminster as the Amenity Society for the Marylebone Area south of Marylebone Road and so represents the interests of those who live and work in this area. We are writing to oppose the application by Home Grown Club 21/03349/LIPV as we believe that if granted it will be contrary to Westminster Policy PN1. We are supportive of the need for the hospitality and entertainments sectors to recover from the effects of the Covid lockdown. However, the licensing authority needs to balance the needs of business with the needs of residents and other businesses who live and operate in the surrounding area.*
- I am writing on behalf of the Marble Arch London BID to express our support for the proposal by Home Grown for a temporary variation of their trading hours within their outdoor courtyard until 30 September 2021. Established in 2016, Marble Arch London BID is a not-for-profit company funded by 200 member businesses for the improvement of the area.*

Policy Considerations

Policy HRS1 applies under the City Council's Statement of Licensing Policy (SLP)

- Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:

The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.

Policy COMB1 applies

- Applications outside the West End Cumulative Impact Zone for premises that propose to operate as a 'combined use premises' will be considered on their merits and subject to the application meeting the requirements of policies CD1, PS1, PN1 and CH1.
- The hours for licensable activities for the relevant use being within the Council's Core Hours Policy HRS1.

SUBMISSION AND REASONS

The Presenting Officer Mr Jackaman introduced the application and confirmed that this was a variation application relating to Home Grown 44 Great Cumberland Place London W1H 7BS. The Premise operates as a Private Members Club with accompanying accommodation and are located within the Bryanston And Dorset Square Ward. The Premises have had the benefit of a licence since 2012 (licence number 19/09266/LIPDPS) and are not located within the West End Cumulative nor Special Consideration Zone. The Applicant is wishing to vary the licence by the suspension of licence conditions namely; 51, 53 and 54 until 30th September 2021 and the insertion of a new proposed condition relating to the terrace area of the Premises effectively allowing up to 25 seated patrons between the hours of 11:00 to 23:00 until 30 September 2021.

Representations were received from Environmental Health Service (EHS), Three Local Ward Councillors and 18 Local Residents (comprising individuals and the amenity society). The thrust of those objection site public nuisance and crime and disorder.

Mr Craig Baylis Solicitor appearing on behalf of the Applicant outlined the nature of the application. He advised that Home Grown was not to be confused with Home Grown's sister club which was different to home house. Mr Baylis referred the Sub-Committee to the terrace photos and plans on pages 44 and 45 of the committee papers. He emphasised the importance of the outside terrace area and explained that there would be 25 patrons to use the terrace but that they would be seated at all times. Members of staff would supervise the area to ensure that noise is kept to a

minimum. Mr Baylis advised that the terrace area was to be used for meetings in light of the Covid-19 pandemic and that outside areas were generally supported by Government as safe places due to the transmission of the virus being lowered from person to person and felt that this should be encouraged here.

Mr Baylis advised that the terrace was well managed by staff and overseen by the General Manager and would continue to do so if the application was granted. He was not aware of any complaints that had been made in respect of nuisance. He said that it was the Applicant's intention to look after its guests at all times especially those sleeping in its hotel rooms as they would not want to be disturbed by any potential noise coming from the terrace. He also said this extended to local residents and did not want for the Applicant to be a bad neighbour but instead to get on with residents and work together harmoniously.

Andrew Richardson of the Applicant Company stated that the purpose of the club is based purely on business grounds attracting entrepreneurs. The difference being Home House is that specific premises operates as a social club and so the distinction needs to be made when comparing Home Grown. He said that the Premises will be used as a space to hold events and meetings to help and assist its Members with their business ideas. He advised that alcohol sales are carried out at Home House whereas at Home Grown the majority was still water.

The Sub-Committee was advised that the application was not driven by revenue as this was minimal benefit to the Applicant. The rationale was to allow its members to use the outside area seated temporarily to hold business meetings for a limited period until 30 September 2021 and that really was the crux of the application.

Dave Nevitt on behalf of the EHS addressed the Sub-Committee. Mr Nevitt stated that the Premises was well run and had not been the subject of any complaints or concerns of the Police. He said that the time limited application was noted but the main concern the Sub-Committee should have regard to is the outside terrace area because it was overlooked by residents and was in close proximity to those resident's bedrooms. Consequently, this would have the potential for noise escaping and causing a disruption to local residents. He said that the area was quiet given its residential nature. Mr Nevitt said that noise buffering preventive measures could be put in place by the Applicant to reduce noise such as furniture, artificial grass and appropriate screening if the Sub-Committee was minded granting the application.

Richard Brown of the Westminster Citizens Advice Licensing Project said that he represented 6 of the 18 objections. He said that the current licence conditions restrict the use of the terrace and the consumption of alcohol were imposed for that very reason and could see no reason why the Sub-Committee should depart from this. He referred the Sub-Committee to the application that was submitted in 2016 where similar issues were raised by residents with regard to noise nuisance and the effect overall this was having on local residents. Mr Brown said that in his view the position had not really changed with the passage of time, and the granting of the application would only exacerbate the current problems residents were still experiencing.

The Sub-Committee heard from 4 local residents, including Councillor Acton who objected in her personal capacity. The thrust of those representations from the residents to the Sub-Committee said that the character of the neighbourhood was a

crucial factor in the determining of the application because the area was residential in nature quiet and referred to the terrace area being small, being in close proximity to nearby homes where sound would travel with up to 25 patrons being seated in the outside area (no matter how quiet they were) as sound transmission would still travel. Concerns were raised in respect of smoking in the terrace by patrons, the affect nuisance would have on young children and the fact that residents are having to work from home due to the current Covid-19 pandemic which would cause disruption because windows would be open during the period of the time limited licensable activities. The consensus view amongst residents was that the application should be refused and this sentiment was noted by the Sub-Committee.

Conclusion

The Sub-Committee noted that the Premises operates as a Private Members Club with accompanying accommodation and has had a licence since 2012 with various licensable activities. The Premises are not located within the West End Cumulative nor Special Consideration Zone.

The Sub-Committee noted that representations were received from Environmental Health Service, three Local Ward Councillors and 18 Local Residents (comprising individuals and the amenity society). The thrust of those objections cited public nuisance and crime and disorder as a cause for grave concern.

The Sub-Committee noted and considered the Agenda Papers and the additional documentation supplied by Richard Brown of Westminster CAB Licensing Project including the offered conditions.

The Sub-Committee realises that it has a duty to consider the application on its individual merits and took into account all the committee papers, supplementary submissions made by the Applicant, Responsible Authorities, various resident objectors and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee when determining the application considered the Character of the Neighbourhood and this was a major factor and influence in the making of the Decision by the Sub-Committee in that the Premises was in close proximity to residential accommodation and that would give rise to public nuisance (noise, dispersal of customers, smoking etc) given the weight of objection from the Ward Councillors, the strong arguments and relevant key points advanced to the Sub-Committee from those residents who attended the hearing.

The Sub-Committee expressed concerns regarding the use of the Premises operating as a Members Club and what impact that would have locally in particular the outside terrace area which could accommodate up to 25 seated people drinking (including alcohol) and talking where noise would amplify in the Mews area. It was noted by the Sub-Committee that residents were working from home also due to the current Covid-19 pandemic and there was still families with young children who could be adversely affected by the activities of the outside terrace by club members. Therefore, Policy PN1 under the Council's SLP is fully engaged in all respects when it comes to looking at issues of nuisance and the complications this will have for residents when enjoying daily life of their respective homes.

The Sub-Committee did consider whether the offered conditions and noise prevention measures suggested by EHS to mitigate the concerns of residents but concluded this would not help matters when it came to nuisance and noise break out from the Premises and the disturbance this would cause to nearby residents albeit this was a time limited application. It was the Sub-Committee views that the impact to residents would still be disproportionate and unnecessary given the residential nature of the area.

Whilst the application was dealt with on its merits, similar issues were raised in 2016 when a previous application came before a Licensing Sub-Committee. The Sub-Committee, however, did not consider those previous issues binding for the purposes of determining this application.

The Sub-Committee was not persuaded by the Applicant that the promotion of the licensing objectives would be upheld particularly the public nuisance licensing objective. The Sub-Committee when looking at the evidence had due regard to the policy considerations arising under Polices PN1, CD1 and CH1 under the City Council's Statement of Licensing Policy.

The Sub-Committee decided that the Applicant had *not* provided sufficient reasons as to why the granting of the variation application and the suspension of certain conditions for a limited period, the adding of new conditions would promote the licensing objectives and therefore **refused** the application in all the circumstances of the case.

The application is Refused.

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

**The Licensing Sub-Committee
29 July 2021**

**3. 2 PM: 52 LUPUS ST (GROUND FLOOR), LONDON SW1V 3EE -
APPLICATION FOR NEW PREMISES LICENCE**

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.5
("The Committee")**

Thursday 29 July 2021

Membership: Councillor Murad Gassanly (Chairman); Councillor Louise Hyams and Councillor Aziz Toki

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Kerry Simpkin
Committee Officer: Cameron MacLean
Presenting Officer: Karyn Abbott

Application for a New Premises Licence in respect of Ground Floor, 52 Lupus St, London SW1V 3EE 21/01357/LIPN

FULL DECISION

Premises

Ground Floor, 52 Lupus Street, London SW1V 3EE

Applicant

Merano Ltd, trading as Brewhouse represented by Stephen Thomas, Solicitor Advocate, of Stephen Thomas Law.

Cumulative Impact Area?

N/A

Ward

Warwick Ward

Proposed Licensable Activities and Hours

Retail Sale of Alcohol – On and Off Sales

Monday to Saturday 11:00 to 23:00 hours and Sunday 11:00 to 21:00 hours.

- Seasonal Variations: None

Hours Premises are open to the Public

Monday to Saturday 08:00 to 23:00 hours and Sunday 08:00 to 21:00 hours.

- Seasonal Variations: None

Representations Received

- Metropolitan Police Service (PC Cheryl Boon)
- Environmental Health Service (Maxwell Koduah)
- The Federation of Residents' Associations in Pimlico
- A local business
- Local residents (21)

Summary of Objections

- MPS proposed 12 conditions in order to promote the licensing objective of the prevention of crime and disorder

- EHS noted that the supply of alcohol may have the likely effect of causing an increase in public nuisance and may affect public safety within the area

Summary of Application

The Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises intends to operate as a coffee shop and is situated in Warwick Ward. The Premises have had the benefit of Temporary Event Notices which took place in December 2020 without complaint. The outside area is to stop being used from 20:00 hours and all tables and chairs shall be rendered unusable. However, during the hearing the Applicant amended the application further to state that the outside area would not be used after 18:00 hours and that all alcohol sales would cease from 19:00 hours inside the Premises. The Premises are not located within the West End Cumulative nor Special Consideration Zone. There is a resident count of 311.

Policy Position

Under Policy HRS1, applications within the core hours set out in the policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy and applications for hours outside the core hours set out in the policy will be considered on their merits, subject to other relevant policies, and with particular regard to the matters identified in Policy HRS1

Under Policy RTN1, applications outside the West End Cumulative Impact Zone will generally be granted subject to: 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The hours for licensable activities being within the council's Core Hours Policy HRS1. 3. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone. 4. The application and operation of the venue meeting the definition of a restaurant as per Clause C.

SUBMISSIONS AND REASONS

Ms Karyn Abbott, Senior Licensing Officer, introduced the report of the Director of Public Protection & Licensing that was before the Sub-Committee, noting that additional submissions had been received from a number of parties and that these were set out in the Additional Information Pack that was also before the Sub-Committee.

Following an enquiry from FREDA,¹ Westminster City Council City Inspectors had confirmed that the forecourt outside the Premises was private and, therefore, the tables and chairs placed on the forecourt by the Applicant did not require a Street Trading Licence.

Ms Abbott went on to say that late amendments to the application had been received from the Applicant which brought forward the proposed terminal hour for the retail sale of alcohol to 20:00 hours; would require that the tables & chairs on the forecourt

¹ Federation of Residents' Associations in Local

be brought inside the Premises by 19:00 hours; and that Westminster City Council's Model Condition (MC) 29² be added to the list of proposed conditions to be added to the Premises Licence, should the application be granted.

In conclusion, Ms Abbott noted that the Premises was within the Warwick Ward and was not within a cumulative impact area.

PRESENTATION BY THE APPLICANT

Mr Stephen Thomas, Solicitor Advocate, Stephen Thomas Law (on behalf of the Applicant)

Mr Thomas, having briefly summarised the Applicant's association with the area and his other business operations, including Merano Café at Albert Embankment, stated that the Applicant, Mr John O'Donnell, had acquired the Premises in July 2020 and that the Premises had subsequently opened for business in August 2020.

Mr Thomas described the nature of the business which, during the second coronavirus pandemic lockdown, had operated as a takeaway café. He noted that, in November 2020, the Applicant had applied for, and been granted, two Temporary Event Notices (TENs) for December 2020; the first TEN being for three days, and the second TEN for four days, during which time the Applicant sold mulled wine and bottled beers to customers, along with turkey sandwiches and mince pies.

Mr Thomas noted that the terminal hour for the TENs had been 20:00 hours. Given the success of the TENs, and having read the concerns of Residents about the present application, Mr O'Donnell decided to amend the application to reduce the terminal hour for the sale of alcohol to 20:00 hours.

Having submitted the application for a Premises Licence in March of this year, Mr O'Donnell subsequently agreed to the Premises Licence conditions proposed by the Metropolitan Police Service (MPS), as set out on page 28 of the Additional Information Pack. The Environmental Health Service (EHS) also proposed Premises Licence conditions to which Mr O'Donnell also agreed as they complemented the conditions proposed by the MPS.

In response to objections to the application, Mr O'Donnell had contacted Westminster City Council's Licensing team to say that he would welcome the opportunity to discuss the proposals with those residents and parties who had lodged objections to the application. It was proposed that this could be done by way of a Zoom meeting. However, the offer was not taken up by any of the parties that had submitted representations. Mr Thomas also noted that, when Mr O'Donnell submitted his application, he had made it known that he was willing to provide a telephone number which could be used to contact the Premises during its hours of operation should any persons have any concerns about the operation of the Premises.

Having read the submissions by those parties objecting to the application, Mr O'Donnell wished to make it clear that the Premises would not be operating as a bar, as had been mistakenly advertised, but as a café, and that the conditions proposed by the Police and accepted by Mr O'Donnell, prohibited vertical drinking on the Premises.

² MC 29: No superstrength beer, lacquers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium views and ciders supplied in glass bottles.

Regarding the late submission by Councillor Jacqui Wilkinson opposing the application, Mr Thomas stated that Mr O'Donnell did not wish to take advantage of any technical regulations that would preclude consideration of Councillor Wilkinson's objection and was willing for Members of the Sub-Committee to consider her representation.

Referring to photographs of the Premises that were in the papers before the Sub-Committee, Mr Thomas described the layout of the Premises and the tables and chairs on the private forecourt. He stated that Mr O'Donnell proposed that the Premises would make a positive contribution to the area.

In response to questions by the Members of the Sub-Committee, Mr Thomas provided the following information.

1. It was not proposed that there would be a substantial alcohol offer as evidenced by Mr O'Donnell's willingness to accept MC29³. Alcohol could only be served to persons seated at a table, as was consistent with the operation of the Premises as a café.
2. In response to the suggestion that customers could buy a bottle of wine to consume on the Premises and the only food they might order might be a sandwich, Mr Thomas noted that, in the case of Timmis v Millman (1965),⁴ it was determined by the Lord Chief Justice, Lord Parker, that a "substantial sandwich" accompanied by pickles and beetroot was a "table meal" and "not a mere snack from the bar".⁵

The conditions agreed with the Police required that the sale of alcohol for consumption using the tables and chairs on the Premises' forecourt would be ancillary to a substantial meal. There was no such restriction for the consumption of alcohol inside the Premises, other than customers must be seated.

3. The inside capacity of the Premises was 25 and the outside capacity seated at the tables and chairs was 22.
4. In line with the Merano Café at Albert Embankment, it had been Mr O'Donnell's intention that the Brewhouse Premises on Lupus Street would also be licensed. The delay in applying for the Premises Licence had been occasioned by the effect of the coronavirus pandemic lockdowns and the requirement to open the Premises as soon as possible so as to start generating income. Having successfully managed two TENs, Mr O'Donnell had then applied for a Premises Licence.
5. Should the application be granted, it was Mr O'Donnell's expectation that this would increase the volume of business of the Premises by about 20%.
6. A bar, unlike a café, was a Licensed Premise where vertical drinking was permitted and where there was no restriction on the types and strength of alcohol that could be sold. If granted, the application would require customers be seated; there would be a limit on the strength of alcohol that might be sold; and food would be available throughout the hours of operation.
7. In keeping with Merano Café at Albert Embankment, it was not Mr O'Donnell's intention that Brewhouse would be an alcohol-led operation.

³ MC29: No superstrength beers, lagers, ciders, or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises except for premium beers and ciders supplied in glass bottles.

⁴ 109 SJ 31

⁵ The case followed Solomon v Green (1955) 119 JP 289 where sandwiches and sausages on sticks were found to amount to a meal.

8. In response to a proposal by the Chairman, who had expressed concerns that Brewhouse would be a drink led Premises located in a residential area with nearby schools and no history of licensed premises in the area (other than a Delicatessen which had a Premises Licence for Off Sales only), Mr O'Donnell confirmed he would be willing to agree to a condition prohibiting the use of the outside tables and chairs after 6 PM.
9. In response to a further proposal by the Chairman that the sale of alcohol cease at 6 PM, the Mr O'Donnell stated he would be willing to accept a condition which made the sale of alcohol ancillary to the operation of the Premises as a café

[Mr Thomas then described in detail the operation of Merano Café at Albert Embankment and how it was Mr O'Donnell's intention to operate Brewhouse along similar lines].

PRESENTATIONS BY RESPONSIBLE AUTHORITIES

Metropolitan Police Service (MPS)

PC Bryan Lewis stated that the Premises Licence conditions proposed by the Police had been agreed with the Applicant. However, given the representations opposing the application, the Police had agreed to maintain their representations in respect of the application to allow Members of the Sub-Committee to ask any questions they might wish to put to the Police.

In response to questions by Members of the Sub-Committee, PC Lewis provided the following information.

1. He did not regard Brewhouse as a high-risk Premises and that the proposed Premises Licence conditions were sufficient to promote the Licensing Objectives.
2. His is only comment regarding the operation of the Premises was that the Applicant might wish to consider placing a cordon round the outside tables and chairs.
3. He was satisfied that the Premises would not be the sort of operation that would attract street drinkers or other problem drinkers.

Environmental Health Service (EHS)

Mr Maxwell Koduah, Environmental Health Officer, stated that, because the area was heavily residential, there was a risk, unless the Premises were appropriately managed, that the operation of the premises could give rise to public nuisance. Accordingly, the Premises Licence conditions proposed by the EHS and agreed with the Applicant were intended to prevent the Premises from operating as a bar, thereby becoming a potential source of public nuisance.

He noted that the Applicant had made considerable concessions in amending the application both prior to the hearing and during the course of the proceedings, including agreement to Westminster City Council's Model Condition (MC) 86 viz.

"The licensable activities authorised by this license and provided at the premises shall be ancillary to the main function of the premises as a café."

He stated that, regarding the concerns expressed by residents, these related to what might happen if the Premises were not properly managed, and not to the Operator of the Premises *per se*, particularly as the Applicant was willing to work with residents and that this application could be the start of a working relationship between the Applicant and Residents in the coming days.

That the Applicant had agreed to the proposed Police condition that the consumption of alcohol on the forecourt area be ancillary to a meal was to be welcomed as the potential for public nuisance was greatest outside the Premises.

Taking all the agreed conditions together, Mr Koduah stated that he was satisfied that these would mitigate the concerns raised by those parties objecting to the application.

[At this stage of his presentation, Mr Koduah corrected a number of anomalies and duplications in the various schedules of proposed conditions].

Mr Koduah noted that concerns had also been raised by residents regarding potential noise in relation to waste disposal from the Premises. He stated that the premises could currently operate as a café from 08:00 to 23:00 and beyond and it was only if a Premises Licence was granted could the local authority impose conditions on the operation of the Premises. Therefore, a condition proposing that waste only be deposited outside the Premises no more than one hour before a scheduled waste collection would be a reasonable and proportionate requirement.

The Members of the Sub-Committee did not have any questions for Mr Koduah.

PRESENTATIONS BY PARTIES OBJECTING TO THE APPLICATION

Richard Brown, Citizens Advice Westminster, Licensing Project (On Behalf of Several Residents Opposing the Application)

Mr Brown stated that he was representing 10 of the 22 objectors (21 of whom were residents, and one being a local business) who had made representations opposing the application. He stated that the Residents he represented viewed the application, if granted, as a major change in the use of the Premises that would adversely impact upon them. Mr Brown commented that, if the Premises was operating as a coffee shop, why was there a requirement to sell alcohol.

Mr Brown noted that, in his submission, Mr Thomas had stated that there may have been a misunderstanding about the nature of the application. He stated that there was no misunderstanding about the application and that Residents were aware that the application was for the On-and Off-Sales of alcohol until 23:00 (amended to 20:00) from Premises that had never previously had a Premises Licence for On-Sales of alcohol; which had closed at 18:00 and which was part of a parade of shops directly underneath, opposite and adjacent to Residents.

[Mr Brown then noted the location of the Premises in relation to nearby residential streets and that objections to the application had been received from residents from these nearby streets. He also noted that, until recently, there had been no Licensed Premises within 75 metres of the Premises⁶].

Mr Brown stated that Residents were concerned that alcohol sales would predominate over the current business model. He stated that there were a number of common themes to the Residents' objections to the application, as follows –

1. Planning-

- (a) In his submissions to the Sub-Committee, there was a reference to a proposed change of use of the Premises which, although no longer relevant due to changes in Planning Law, had been included in his submissions as the

⁶ There now existed a Delicatessen at numbers 58-60 Lupus Street with an Off-Sales only Premises Licence.

comments of the Planning Inspector on that proposed change of use reflected the concerns expressed by those Residents objecting to the application; and
(b) Whether the area outside the Premises was public highway or a private forecourt: if a tables and chairs licence was required, any consideration of an application for such a licence would necessarily have to take into account issues such as obstruction, noise and amenity, as had been the case with the Delicatessen at No's. 58-60 Lupus Street when its application for a Premises Licence had been considered by the Sub-Committee.

2. **On-Sales of Alcohol:** notwithstanding the representations by Mr Thomas as to how it was intended to operate the Premises, it was for the Sub-Committee to consider the bigger picture, including the possibility that the Premises Licence could be transferred [to another operator] at a later stage with limited recourse by Residents to possible Review proceedings.
3. **Consumption of Alcohol and Smoking by Persons Seated at the Outside Tables and Chairs:** this was a major concern for Residents in terms of noise and nuisance.

[Mr Brown then referred the Sub-Committee to photographs in the Additional Information Pack to illustrate the proximity of the residential properties to the Premises, as well as other sensitive properties in the area, including local schools and sheltered housing accommodation].

Mr Brown then referred the Sub-Committee to Paragraph 4.12 of his submission in the Additional Information Pack which reproduced the comments of one objector which, it was proposed, reflected the sentiments expressed in other objections to the application.

Regarding Policy considerations, Mr Brown referred to Policy PN1 as set out in Paragraph 5.2 of his submission on page 43 of the Additional Information Pack. He noted that an application for a Premises Licence would only be granted if the application met the requirements of Policy PN1 which stated that stricter considerations would apply when considering applications in residential areas.

Addressing matters referred to in Mr Thomas's letter that was before the Sub-Committee, Mr Brown stated that the two TENs held in December 2020, contrary to the assertion by Mr Thomas, did not demonstrate that the sale of alcohol would not impact on the community, and that the sale of alcohol may impact on the community in the long term.

Regarding the capacity of the Premises, which was described by the Applicant as "small", it should be noted that [if operating to its maximum capacity] half the licensable activity, should the application be granted, would take place outside the Premises.

Regarding the reference to there being three-and-a-half car lengths plus the pavement between the Premises and Residents, this was not the case for the residents of Neate House directly above the Premises.

Finally, it had been averred by the Applicant that traffic noise would mask any noise from the Premises. Having consulted with the Residents, Mr Brown stated that he had been advised that noise created by the current operation of the Premises was not masked by traffic noise.

Before turning to questions of the Sub-Committee to Mr Brown, the Chairman stated that, having taken legal advice, it had been confirmed that the area outside the

Premises comprised a private forecourt and, therefore, there was no requirement for the tables and chairs outside the Premises to be licensed as part of the licensable area. Consequently, any discussion about a requirement that the tables and chairs be licensed was not relevant to the present application.

In response to a question by the Chairman about proposed amendments to the application, as agreed by the Applicant, and the issue of the forecourt, Mr Brown stated that –

1. He acknowledged that it was not the role of the Sub-Committee to determine whether the forecourt was private land or public highway and, should it be the case that this was public highway, a tables and chairs licence would be necessary. Whether the forecourt was private property or public highway, use of the outside tables and chairs would be a source of nuisance in any event; and
2. To the extent that he had been able to take instructions on the amendments proposed by the Applicant, this still did not address the core concerns of Residents and that the proposals were an unwelcome change in the use of the Premises which, if granted, would set a precedent for other Premises in the area which would be “the thin end of the wedge”.

Ms Liz Cox (On Behalf of the Federation of Residents’ Associations in Pimlico (FREDA))

Ms Cox stated that she was representing FREDA and, by way of introduction, explained who were FREDA and what FREDA represented.⁷ she stated that it was unusual for FREDA to comment on a Premises Licence application and that a discussion had taken place at a FREDA meeting in January 2020 about the possibility of an On-Sales Licensed Premises in this parade of shops. It had been agreed by FREDA at that meeting that this was not a suitable location for On-Sales Licensed Premises.

Ms Cox recounted the history of the Premises and described the layout of the streets and highways adjacent to the Premises which, she said, made these Premises unsuitable for use as Licensed Premises, including the outside area, the use of which, she proposed, should be subject to approval by the Licensing Authority given the safety concerns when serving alcohol to customers seated outside the Premises.

Ms Cox then referred to the proximity of the Premises to local schools, noting that the Premises were opposite Pimlico Academy, and that it was not comparing like-with-like, for reasons she described, when Mr Thomas referred to Goya, a long-established Spanish restaurant with a Premises Licence at No. 34 Lupus St. She noted that the Applicant’s Premises was surrounded by residential properties and was not suitable for an operation that could become an alcohol-led business operating for longer hours than the adjacent commercial premises.

Having considered the possibility of Licensed Premises at this location on Lupus Street, FREDA had concluded that this was not a suitable location for Licensed Premises.

In response to a question by the Chairman, Ms Cox stated that the proposal that tables and chairs be taken inside the Premises at 18:00, and not just rendered unusable, was to be welcomed in line with the requirements for other nearby Premises. However, FREDA remained concerned about allowing outside drinking

⁷ FREDA was the umbrella organisation for the 18 Residents’ Associations in Pimlico.

because of the nearby schools and overcrowding on the area outside the Premises. Regarding the proposed terminal hour for the sale of alcohol, Ms Cox noted that the Delicatessen at No's 58-60 Lupus Street was permitted to sell Off-Sales until 20:00 but generally closed at 19:00 with tables and chairs being taken in at 18:00. Ms Cox stated that, if the Premises Licence was to be granted, it would be FREDA's preference that the hours be in line with the operating hours of the adjacent Premises.

Pauline Ward (Local Resident)

Ms Ward stated that she was a local resident who lived in the residential block above the Premises. She said that she was concerned that, should the application be granted, this would mark a significant change in the type of business in the area and one which could create a substantial change in the character of the area.

[Ms Ward then described the various businesses which had previously occupied these Premises, including a supermarket which had an Off-Sales Premises Licence, before describing the nature of the other businesses in the parade of shops in which the Applicant's Premises were located, including the nearby Delicatessen which had a Premises Licence for Off-Sales of alcohol].

Ms Ward then described the residential properties next to and opposite the Premises, noting that this part of Lupus Street was generally quiet after 6 PM. She stated that residents supported local businesses and valued the shops. However, the current application had concerned residents as it was at variance to the operation of the other Premises, even with the proposed reduced hours of operation. In particular, Residents were concerned that, if the application was granted, this would allow the business to develop from a café style operation to a more alcohol-led business which would constitute a significant change. Residents were concerned that, if the sale of alcohol was permitted during the proposed hours, this would create problems in terms of noise and disturbance resulting in public nuisance, as well as having an adverse effect on the Licensing Objectives of Public Safety and The Protection of Children from Harm, given the close proximity of three local schools. There was also concern that the increased availability of alcohol would result in an increase in antisocial behaviour and crime and disorder, particularly as there were several Off-Licence Premises operating off Lupus Street. There was also a concern about groups gathering outside the Premises and becoming disorderly. In addition, the Premises was located near a traffic junction making this an unsuitable location for groups to gather.

Ms Ward stated that the current application would lead to an increase in noise from both customers inside and outside the Premises, including background music inside the Premises. She noted that the residential block above the Premises comprised a 1950s build with no internal sound insulation.

Regarding the suggestion that traffic noise would mask any sound from the Premises, Ms Ward stated that there was not a lot of traffic noise and that more noise was created by customers sitting outside the Premises, affecting people's amenity, including the effects of people smoking outside the Premises. In addition, if the Premises were to open later in the evening, there would also be an issue of the bright lights within the Premises affecting those Residents living opposite the Premises. If the application was granted, Residents were concerned that this would result in an increase in noise and, given the proposed operating hours, this would

affect Residents' amenity. Residents were also concerned about increased noise late at night as a result of the disposal of waste, including glass bottles.

Ms Ward stated that this area was significantly different from Albert Embankment, the site of the applicant's other Café Premises, and that Planning applications for Premises in this area had recognised the validity of residential amenity as a Planning consideration.

In conclusion, Ms Ward asked that the Sub-Committee refuse the application in its entirety.

Ms Kate Gaplevskaja (Local Resident)

Ms Gaplevskaja stated that she was a resident of St George's Drive; that she was pregnant; and that she hoped that her children would go to Eaton Square Nursery and to the primary and nursery schools at Pimlico Academy. Consequently, she had a significant investment in the residential nature of the area, as well as protecting her children from harm. She was concerned that, if the Premises was allowed to sell alcohol, her children would have to walk past drunk people on their way to and from St George's Drive and Pimlico Academy and that they would be witnessing the consumption of alcohol at an age when the consumption of alcohol may appear attractive to children.

Ms Gaplevskaja stated that, in her view, the distinction between a bar and a café was a technicality as there was nothing to stop –

1. Customers visiting the Premises with the intention of consuming only alcohol;
2. The Premises becoming an alcohol-led venue; and/or
3. The transfer of the Premises Licence, if granted, to another operator who might operate the Premises exclusively as a bar.

Ms Gaplevskaja then described the nature of the area, which comprised residential properties, schools, a library and a hostel supporting persons recovering from alcohol related mental health problems. In addition, Ms Gaplevskaja noted that school children congregated at the Thomas Cubitt statue [in Denbigh Street] where there was a bench, and which was an area which attracted people who like to go there to drink and relax. Therefore, if the Applicant was granted a Premises Licence the Premises would serve to promote alcohol-related nuisance and public disorder in this area. Ms Gaplevskaja noted that there was an increasing concern about violent crime in the area, including recent stabbings, although it was not known if these were alcohol related incidents.

Regarding the Applicant's agreement to terminate sales of alcohol outside the Premises at 18:00 Ms Gaplevskaja stated that children would be coming out of school at 3 PM and would be in the area between 15:00 and 18:00.

In conclusion, Ms Gaplevskaja stated that she was supportive of the café and was a customer. However, if the application was pushed through against the wishes of Residents, this would be counter-productive to the operation of the business.

she proposed that the application be refused on the grounds of failure to promote both the Prevention of Crime and Disorder and the Prevention of Harm to Children licensing objectives.

QUESTIONS BY OFFICERS SUPPORTING THE SUB-COMMITTEE

The Legal Adviser to the Sub-Committee stated that he had no specific questions. However, he did confirm the wording of proposed MC86 (supra) and asked for any comments that the Applicant and/or Mr Brown might wish to make on this proposed condition.

Maxwell Koduah, Environmental Health Service

While the Applicant and Mr Brown were considering their responses response to that question, Mr Koduah, in response to a question by the Chairman regarding the capacity of the Premises, stated that there were two toilets on the Premises and that, if the forecourt was in private ownership, the licenced area of the Premises would extend to the forecourt. As there were only two toilets, he proposed that the capacity of the Premises both inside and outside should be restricted to 30.

[Mr Thomas ultimately confirmed that his client was willing to accept a restriction on the overall capacity of the premises to 30, as suggested by Mr Koduah].

Stephen Thomas, Solicitor Advocate, Stephen Thomas Law (on behalf of the Applicant)

In response to the request by the Legal Advisor for comments on MC86, Mr Thomas stated that the two TENs held in December 2020, where his client had been permitted to sell alcohol for consumption off the premises until 20:00, had worked well. Therefore, in a spirit of compromise, Mr O'Donnell would agree to 17:00 hours as the terminal hour for the sale of alcohol inside the premises (having already agreed that the terminal hour for the sale of alcohol outside the Premises would be 18:00 hours).

The Legal Advisor stated that it was proposed that the terminal hour for the sale of alcohol both inside and outside the Premises would be 18:00 hours. Mr Thomas stated that the Applicant would not be willing to agree to a terminal hour of 18:00 hours for the sale of alcohol inside the Premises.

Mr Brown subsequently confirmed in his Summing Up that the Residents that he represented remained opposed to the application being granted. However, if the Sub-Committee was so minded to grant the application, it was preferable that the terminal hour for the sale of alcohol was 18:00 hours for both inside and outside the Premises as opposed to 18:00 hours for the sale of alcohol outside the Premises, and 17:00 hours for the sale of alcohol inside the Premises.

[In response to a subsequent question by Ms Cox of FREDa, Mr Thomas confirmed that the tables and chairs outside the Premises would be taken inside the Premises at 18:00]

Pauline Moran (Local Resident)

Ms Moran stated that, as a ground floor resident living opposite the applicant's Premises, everything that took place on the Neate House parade of shops could be seen and heard in the residential properties across the road. There had been objections to this application from residents in several adjoining streets and the residents living near to the Premises were dreading the effects this application, if granted, would have on their quality of life. She stated that the Premises were totally unsuitable for all-day drinking and that the application was a Trojan Horse tactic i.e., opening the Premises as an innocuous coffee shop, waiting a while, and then allowing the sale of coffee to become ancillary to the sale of alcohol, as evidenced

by the Opening Hours proposed in the original application. She noted that, on the Companies House website, the Applicant's profession was stated to be Publican, which indicated which way this application was going to go. The idea of a coffee shop with both On- and Off-Sales of alcohol was an anomaly. She stated that the Applicant had already overwhelmed the public highway with up to 6 tables and 18 chairs on Lupus Street, and three tables and up to 9 chairs on St. George's Drive.

If the application was permitted, there would be a permanent sound of raised voices which would be impossible to escape or control. In the darker evenings, when the Premises' interior lights were lit, it would be like living opposite a cruise ship, and it was for this reason that all other Premises along the parade had been asked to turn off their lights at 18:00.

Ms Moran went on to say that there was a danger that granting this application would set a precedent for other businesses on Lupus Street, some of which operated Licensed Premises elsewhere. If granted, these Licensed Premises would turn Lupus Street into an elongated open-air drinking strip which operated operating all day and into the evening, with no respite for local residents.

Ms Moran noted that Neate House turned sharply left into St. George's Drive which meant that the flats above were surrounded by the noise and smoke of customers sitting outside the Premises in addition to the background music inside the Premises, resulting in 12 hours of uninterrupted nuisance, Monday to Saturday and eight hours on Sunday. She stated that Councillor Wilkinson was right to support the Residents, and that there was no possibility of negotiated compromise with the Applicant as this type of business did not belong in this location.

Ms Moran went on to say that, with regret, Residents, from past experience, had no confidence in Conditions and Informatives [attached to Premises Licences] which could be flouted and ignored, and which only served as a means to mitigate, and not resolve, problems. In all cases, prevention was better than cure which meant refusing this application which, if granted, would destroy Residents' rights to quiet enjoyment in their own homes. Once that was gone, it was, she said, gone for good.

As Ms Moran had not been able to be present throughout the meeting, the Chairman informed her of the amendments to the application agreed by the Applicant.

Conclusion

The Premises intends to operate as a coffee shop. The Premises are not located within the West End Cumulative nor Special Consideration Zone

The Sub-Committee has a duty to consider the application on its individual merits and took into account all the committee papers, supplementary submissions made by the Applicant, Responsible Authorities, various resident objectors and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee noted that the Applicant had agreed to a number of changes to the application as submitted, namely:

- a. 19:00 inside and 18:00 outside for the sale of alcohol;
- b. 18:00 outside for the removal of tables and chairs;

- c. MC 29: re. the strength of beers and spirits;
- d. MC 86: sale of alcohol is ancillary to its function as a coffee shop;
and
- e. Condition on numbers [capacity].

The Sub-Committee was grateful to the Applicant for seeking to positively engage with both the Sub-Committee and interested parties. However, the Sub-Committee had to consider whether the licensing objectives would be upheld if the licence was granted. In determining this matter, the Sub-Committee had regard to the evidence put before it and the policy considerations arising under Policies PN1, CD1 and CH1 under the City Councils Statement of Licensing Policy.

Applying this approach, the Sub-Committee was not persuaded by the Applicant that the promotion of the licensing objectives would be upheld particularly the public nuisance and crime and disorder licensing objectives. In reaching its Decision, the Sub-Committee had particular regard to the following matters–

The Prevention of Public Nuisance

- (a) To allow customers to sit at tables and chairs on the forecourt while consuming alcohol, notwithstanding the Applicant's agreement that the sale of alcohol to customers seated on the forecourt would be ancillary to a substantial meal, would add to the noise nuisance and nuisance caused by cigarette smoke described by Residents living directly above and opposite the Premises.
- (b) Allowing customers to order and consume alcohol inside the Premises without the requirement that the sale of alcohol be ancillary to a substantial meal increased the likelihood of the Premises becoming an alcohol-led Premises with the attendant noise and public nuisance problems associated with daytime drinking in a concentrated residential area, including noise nuisance as groups of two or more customers arrived at and/or left the premises.
- (c) The Applicant had not demonstrated to the satisfaction of the Sub-Committee that the application, if granted, would meet the requirements of the Council's Policy on the Prevention of Public Nuisance (Policy PN1), as set out in the Council's Statement of Licensing Policy, as follows –

Prevention of Public Nuisance Policy PN1

- A. The Licensing Authority will not grant applications that do not promote the prevention of public nuisance licensing objective.*
- B. When considering Clause A, the Licensing Authority will apply the criteria and take into account any relevant considerations as set out below:*

Criteria

- 1. The potential for nuisance associated with the style, characteristics and activities of the business to be carried out at the premises and the potential steps which would be taken to reduce the risk of nuisance occurring. This will particularly apply in areas of residential accommodation and where there is residential accommodation in proximity of the premises.*

Considerations

- 2. Whether Operating Schedules contain adequate measures to prevent noise... generated from within the premises [or] outside it... that may*

cause disturbance to people in the vicinity. Regard will be had to disturbance of people whether at home, at work, staying in, or visiting the vicinity. However, stricter conditions will be imposed on premises licences in areas that have denser residential accommodation or have residential accommodation close to them.

The Protection of Children from Harm

Given the close proximity of the Premises to two primary schools, Pimlico Primary School & Churchill Gardens Primary Academy, and to Pimlico Academy, all of which were within a few hundred yards of the Premises, with schoolchildren passing by the Premises to and from their way to school, the Sub-Committee was not satisfied that the Applicant had demonstrated to the satisfaction of the Sub-Committee that the application, if granted, would meet the requirements of the Council's Policy on Protecting Children from Harm (Policy CH1) as set out in the Council's Statement of Licensing Policy, as follows –

Protecting Children from Harm Policy CH1

- A. The Licensing Authority will not grant applications that do not promote the protection of children from harm licensing objective.*
- B. When considering Clause A, the Licensing Authority will apply the criteria and take into account any relevant considerations as set out in Clauses C and D below.*
- C. The Licensing Authority will consider the following general protection of children from harm criteria and relevant considerations:*

Criteria

- 1. Whether there are appropriate measures in place to protect children from harm.*

Considerations

- 2. Whether there are effective measures to check the age of young people who appear under 18 to ensure that:
 - Alcohol is not sold to a person under the age of 18.*
 - Those under 16, if permitted to enter the premises are accompanied by an adult**
- 3. Whether the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.*
- 4. ...*
- 5. The likelihood of children being attracted to the premises; e.g., by the nature of activities or facilities provided whether or not these are licensed.*
- 6. ...*
- D. Safeguarding of children applies to all staff (paid or unpaid) involved in the operation and management of the licensed premise and is a key part to protecting children from harm. The Licensing Authority will expect applicants to demonstrate that they will have systems and processes in place to adequately safeguard children as set out within the minimum criteria below.*

Minimum Criteria

- 1. The applicant should ensure that their staff have a basic awareness of child protection issues. This includes:*

- ...
 - *The licensee can demonstrate that they understand their responsibilities for ensuring that they and their staff are familiar with, and competent with Safeguarding Children.*
2. *In operating and managing a licensed premises the applicant should designate either themselves or a senior staff member to have the following responsibilities in relation to safeguarding children for the licensed premises:*
- *Ensure safeguarding children training is provided for all staff.*
 - *Monitor and record whether all staff have received the minimum (initial and refresher) safeguarding children training.*
 - ...
 - *Provide advice and support to staff when they have a concern about safeguarding a child.*
 - *Have a system in place to record all concerns raised by staff.*

The Sub-Committee noted that the application was controversial for a number of reasons and was heavily objected to by local residents. The Sub-Committee did consider whether the conditions offered by the Applicant would mitigate the concerns raised by the resident objectors but concluded that they would not. The Sub-Committee realises that a balance act has to be struck when considering the competing interests of all respective parties. In weighing up the evidence the Sub-Committee considered the various arguments advanced by the Applicant as presented by Mr Thomas in his submissions to the Sub-Committee and the use of potential conditions being imposed on the premises licence to safeguard the promotion of the licensing objectives.

The Sub-Committee will appreciate that the decision to refuse the application will be somewhat disappointing news to the Applicant, however, the Sub-Committee was particularly persuaded by the personal testimony from those residents who attended the hearing. It was abundantly clear to the Sub-Committee that local residents were familiar with their area and aware too of the local issues affecting the area when it came to matters such as crime and disorder, public nuisance and issues protecting school children if alcohol was to be sold at the Premises. The Sub-Committee concluded that the evidence in this regard was made overwhelmingly by residents and recognised that this was not in any way to be downplayed due to the passionate and heartfelt submissions by residents.

The Sub-Committee in its determination of the matter decided that the application would have a negative impact on the Premises and the area as a whole and would fail to promote the licensing objectives when it came to the issue of “prevention” for the safeguarding of the licensing objectives.

Accordingly, the Sub-Committee decided that the Applicant had *not* provided sufficient reasons as to why the granting of the application would promote the licensing objectives and therefore **refused** the application in all the circumstances of the case.

The Application is Refused.

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

This Decision takes immediate effect.

The Licensing Sub-Committee

29 July 2021

WCC LICENSING SUB-COMMITTEE NO. 5 (“The Committee”)

Thursday 29 July 2021

Membership: Councillor Murad Gassanly (Chairman); Councillor Louise Hyams and Councillor Aziz Toki

Application for a New Premises Licence in respect of Ground Floor, 52 Lupus St, London SW1V 3EE 21/01357/LIPN

Summary Decision

The Committee has determined an application for a New Premises Licence under the Licensing Act 2003 (“The Act”). The Premises intends to operate as a coffee shop and is situated in Warwick Ward. The Premises have had the benefit of Temporary Event Notices which took place in December 2020 without complaint. The outside area is to stop being used from 20:00 hours and all tables and chairs shall be rendered unusable. However, during the hearing the Applicant amended the application further to state that the outside area would not be used after 18:00 hours and that all alcohol sales would cease from 19:00 hours inside the Premises. The Premises are not located within the West End Cumulative nor Special Consideration Zone. There is a resident count of 311.

This application seeks the following licensable activities and operating hours: -

Activities and Hours applied for

Retail Sale of Alcohol – On and Off Sales

Monday to Saturday 11:00 to 23:00 hours and Sunday 11:00 to 21:00 hours.

Seasonal Variations: None

Hours Premises are open to the Public

Monday to Saturday 08:00 to 23:00 hours and Sunday 08:00 to 21:00 hours.

Seasonal Variations: None

The Committee noted that representations were received from The Metropolitan Police Service (MPS) Environmental Health Service (EHS), and 22 Local Residents. The thrust of those objection cited public nuisance, crime and disorder and protection of children from harm issues as a cause for grave concern.

The Committee noted and considered the Agenda Papers and the additional documentation supplied by the Applicant and Richard Brown of Westminster CAB Licensing Project including the offered conditions.

Applicant

Merano Ltd, trading as Brewhouse represented by Stephen Thomas, Solicitor Advocate, of Stephen Thomas Law.

Summary Decision

The Premises intends to operate as a coffee shop. The Premises are not located within the West End Cumulative nor Special Consideration Zone

The Committee has a duty to consider the application on its individual merits and took into account all the committee papers, supplementary submissions made by the Applicant, Responsible Authorities, various resident objectors and the oral evidence given by all parties during the hearing in its determination of the matter.

The Committee, however, was not persuaded by the Applicant that the promotion of the licensing objectives would be upheld particularly the *public nuisance* and crime and disorder licensing objectives. The Committee when looking at the evidence had regard to the policy considerations arising under Polices PN1, CD1 and CH1 under the City Councils Statement of Licensing Policy.

The Committee decided that the Applicant had *not* provided sufficient reasons as to why the granting of the application would promote the licensing objectives and therefore **refused** the application in all the circumstances of the case.

The Applicant is advised that the reasoned Decision will set out the full reasons of the Committee in due course.

This is a summary of the decision reached by the Licensing Sub-Committee. The fully reasoned decision will be sent out to all parties as soon as possible. This will also include details of the submissions made by the parties. The time limit for appealing this decision will not start until the parties have been notified of the fully reasoned decision.

The Licensing Sub-Committee
29 July 2021