



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 23rd September, 2021**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Jim Glen (Chairman), Maggie Carman and Louise Hyams

#### 1. MEMBERSHIP

THERE WERE NO CHANGES TO THE MEMBERSHIP.

#### 2. DECLARATIONS OF INTEREST

THERE WERE NO DECLARATIONS OF INTEREST.

#### APPLICATIONS

#### 1. BASEMENT AND GROUND FLOOR, 16 MANETTE STREET, W1D 4AR

##### WCC LICENSING SUB-COMMITTEE NO. 3

Thursday 23<sup>rd</sup> September 2021

Membership: Councillor Jim Glen (Chair), Councillor Louise Hyams and Councillor Maggie Carman

Officer Support: Legal Advisor: Horatio Chance  
Policy Officer: Kerry Simpkin  
Committee Officer: Sarah Craddock  
Presenting Officer: Kevin Jackaman

#### Application for a New Premises Licence 21/04707/LIPN

#### Full Decision

## **Premises**

Basement and Ground Floor  
16 Manette Street  
London  
W1D 4AR

## **Applicant**

Mr Brian Kavanagh

## **Cumulative Impact Area?**

West End Cumulative Impact Area

## **Ward**

West End

## **Special Consideration Zone**

None

## **Summary of Application**

This is an application for a new Premises Licence. The Premises proposes to operate as an Italian restaurant with a capacity of 40 customers, excluding staff, and would operate with licensable activities authorising the sale of alcohol (on the Premises) between 11:00 to 22:30 Monday to Sunday. The original application had sought Live and Recorded Music however this aspect of the application had been withdrawn and was no longer sought by the Applicant. The Environmental Health Service, the Metropolitan Police Service and the Licensing Authority had maintained their representations as they all had concerns as to how the Premises would promote the four Licensing Objectives. The Premises was not situated in a residential area.

## **Activities and Hours applied for**

### [Retail Sale of Alcohol \[On Sales\]](#)

Monday to Sunday 11:00 to 22:30  
Sunday 06:30 to 00:00

Seasonal Variation/Non-Standard Timings: None

### [Hours premises are open to the public](#)

Monday to Sunday 07:00 to 23:00

Adult Entertainment: None

## **Representations Received**

- Metropolitan Police Service (PC Reaz Guerra)
- Environmental Health Service (“EH”) (Maxwell Koduah)
- Licensing Authority (Roxana Haq)
- The Soho Society
- 3 Local Residents

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

- The application as presented would have the likely effect of undermining the Licensing Objectives in a locality where there was traditionally high levels of crime and disorder.
- There was insufficient detail within the operating schedule to promote the Licensing Objectives.
- The Premises was located within the West End Cumulative Impact Area and therefore the applicant had to demonstrate exceptional circumstances to allow the Sub-Committee to depart from policy.

## **Policy Position**

The Premises is located within the West End Cumulative Impact Area and as such various policy points under the City Council’s Statement of Licensing Policy (SLP) must be considered, namely CIPI, HRSI and RTNI.

## **SUBMISSIONS AND REASONS**

Kevin Jackaman Presenting Officer summarised the application for the purposes of the Sub-Committee. He advised that this was an application for a New Premises Licence for an Italian Restaurant in respect of Basement and Ground Floor, 16 Manette Street, W1D 4AR. The Applicant had applied for a Premises capacity of 40 customers, excluding staff, and licensable activities authorising the sale of alcohol (on the Premises) between 11:00 to 22:30 Monday to Sunday. He further advised that additional submissions had been received from the Police which had been circulated to all the relevant parties before the Sub-Committee hearing.

Mr Brian Kavanagh the Applicant addressed the Sub-Committee and provided a detailed overview of the intended operation of the Premises which was to sell pizza and pasta with a glass of wine. He confirmed that alcohol such as wine and beer (no cocktails) would only be served ancillary to a table meal and that the model restaurant condition would be attached to the Premises Licence. He explained that the Premises would be a unique addition to the area and would stand out amongst the chain restaurants/cafes that were popping up all over the West End. He commented that people came to the West End to experience something unique and different from the ‘ordinary’ and this was what he was offering with this new restaurant. He advised that there would be no live music at the Premises. He explained that the Premises had a capacity of 40 customers, excluding staff (20 in the basement and 20 on the ground floor). He further explained that he would apply

for a variation to the Premises Licence to have table and chairs outside in the new pedestrian area when the building works in the surrounding vicinity had been completed. He emphasised that he had not applied for any Temporary Event Notices (TENs) and Environmental Health confirmed that the TENs related to the Premises next door and this was noted by the Sub-Committee. Mr Kavanagh highlighted that the Premises was not situated in a residential area and there had been no residential objections to the application.

Mr Maxwell Koduah, representing the Environmental Health Service, advised that the Applicant had agreed to all the proposed conditions and that he was pleased that the Applicant had agreed to operate within the Council's Core Hour Policy. He advised that the Environmental Health Service had yet to do a site visit, so the works conditions had to remain on the licence until such time an inspection had been completed.

PC Reaz Guerra, representing the Metropolitan Police Service, advised he was pleased that the Applicant had now agreed to operate within the Council's Core Hour Policy. He stated that he would like Mr Kavanagh to accept the proposed condition 22: *'Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke or make a phone call, shall not be permitted to take glass containers with them'*. Mr Kavanagh confirmed that he accepted this condition and would not let patrons take glass containers outside of the Premises. He further confirmed that he had accepted all the proposed conditions that the Responsible Authorities had requested during the consultation period.

Roxana Haq, representing the Licensing Authority, advised that they had maintained their representation as the Premises was located in the West End cumulative impact zone. She further advised that it was therefore for the Applicant to demonstrate that the operation of the Premises would not add to cumulative impact and in addition demonstrate to the Sub-Committee the exceptional circumstances which would allow it to depart from the Council's Licensing Policy.

## **Conclusion**

The Sub-Committee realises that it has a duty to consider each application on its individual merits and concluded based on the evidence before it that the application would not add to cumulative impact when considering the likely impact the application would have on the West End Cumulative Impact Zone, noting that premises that operate as a restaurant do not have to prove an exception as provided for under Paragraph D25 on page 29 of the SLP so there is no presumption to refuse such an application.

The Sub-Committee noted also that the Premises capacity was small with just 40 covers and that the style, nature and character of the Premises was that of an old style Italian restaurant serving traditional food consisting of pizza and pasta with a uniqueness of an "art deco" theme that will add to the overall experience and ambience for diners. The Sub-Committee further noted that there had been no residential objections to the application. It was also recognised that this would be a unique restaurant which would offer something different to visitors to the West End and that the model restaurant condition was to be adopted and imposed on the Premises Licence meaning that alcohol had to be served to a person seated taking a

substantial table meal there and for consumption by such a person as ancillary to their meal along with waiter and waitress service.

The Sub-Committee was confident based on the various undertakings given by the Applicant that he would be a responsible operator that would run his premises well in accordance with the promotion of the licensing objectives, compliance of conditions as well as engage fully with local residents and the Responsible Authorities on any potential issues that might arise.

The Sub-Committee considered in the full circumstances of the case that exceptional reasons had been demonstrated which allowed it to depart from policy. The Sub-Committee was pleased to note that the Applicant had agreed all the proposed conditions with the Responsible Authorities and that it would operate as a restaurant within the Council's Core Hours Policy. .

Having taken into account all the evidence and the individual circumstances of this case the Sub-Committee was satisfied that the Applicant had provided valid reasons and that the application was suitable for the local area and had addressed any concerns raised. The Applicant had demonstrated that there were exceptional circumstances which would allow the Sub-Committee to depart from policy in granting the application, which was considered appropriate, with the conditions considered proportionate and restrictive enough to ensure that it promoted the licensing objectives and did not add to cumulative impact.

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

1. To grant permission for the Retail Sale of Alcohol (On and Off) Monday to Sunday 11:00 to 22:30 **Seasonal Variation:** None
2. To grant permission the **Hours the Premises are Open to the Public** Monday to Sunday 07:00 to 23:00 **Seasonal Variation/Adult Entertainment:** None
3. To add conditions in the terms specified below.
4. That the licence is subject to any relevant mandatory conditions.
5. That the licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

#### **Conditions imposed by the Committee after a hearing**

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

7. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
8. 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.
9. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity
10. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
11. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day
12. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day
13. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day
14. The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.

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

15. The supply of alcohol shall be by waiter or waitress service only
16. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises
17. 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

18. 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
19. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke or make a phone call, shall not be permitted to take glass containers with them
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
21. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined, not to exceed 40, excluding staff.
22. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority
26.
  - (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
  - (b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
  - (c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
  - (d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
  - (e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
27. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
28. 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.

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

**The Licensing Sub-Committee  
23 September 2021**

**2. MILK AND HONEY (SHADOW LICENCE), 61 POLAND STREET, W1F 7NU**

**WCC LICENSING SUB-COMMITTEE NO. 3**

Thursday 23 September 2021

Membership: Councillor Jim Glen (Chairman), Councillor Louise Hyams and Councillor Maggie Carman

Officer Support: Legal Advisor: Horatio Chance  
Policy Officer: Kerry Simpkin  
Committee Officer: Sarah Craddock  
Presenting Officer: Kevin Jackaman

**Application for a New Premises Licence 21/02902/LIPN**

**Full Decision**

**Premises**

61 Poland Street  
London  
W1F 7NU

**Applicant**

Mrs Heena Rajiv Sodha  
Represented by Craig Baylis (Agent for the Applicant)

**Cumulative Impact Area?**

West End Cumulative Impact Area

**Ward**

West End

**Special Consideration Zone**

None



## **Summary of Application**

The Freeholders of the Premises known as “Milk and Honey” have applied for a shadow licence due to a current commercial dispute with their tenant regarding unpaid rent during the Covid-19 pandemic.

## **Activities and Hours applied for**

### Retail Sale of Alcohol [On and Off Sales]

Monday to Saturday 10:00 to 03:00  
Sunday 10:00 to 00:30

Seasonal Variation/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. On the morning on which British summer time begins, the permitted hours shall extend until 04:00 hours and opening hours until 04:30. Sundays before bank holidays (except Easter Sunday) 09:00 to 03:00.

### Late Night Refreshment

Monday to Saturday 23.00 to 03.30  
Sunday 23:30 to 02:00

Seasonal Variation/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. On the morning on which British summer time begins, the permitted hours shall extend until 04:00 hours and opening hours until 04:30. Sundays before bank holidays (except Easter Sunday) 09:00 to 03:30.

### Performance of Dance, Film, Performance of Live Music, Recorded Music and Anything of a Similar Description

Monday to Saturday 09.00 to 03.00  
Sunday 09:00 to 02:00

Seasonal Variation/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. On the morning on which British summer time begins, the permitted hours shall extend until 04:00 hours and opening hours until 04:30. Sundays before bank holidays (except Easter Sunday) 09:00 to 03:00.

### Hours premises are open to the public

Monday to Saturday 09.00 to 03.30  
Sunday 09:00 to 02:00

Seasonal Variation/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. On the morning on which British summer time begins, the permitted hours shall extend until 04:00 hours and opening hours until 04:30. Sundays before bank holidays (except Easter Sunday) 09:00 to 03:30.

### **Representations Received**

- Licensing Authority (withdrawn following agreement with conditions)
- Soho Society (withdrawn following consultation)
- Three local residents (following consultation one resident withdrew their representation)

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

- The application will likely have the effect of undermining the four Licensing Objectives in a locality where there was traditionally high levels of public nuisance and crime and disorder.
- This property backs onto Sandringham Court in Dufours Place. Any licence granted must take into account the right of residents to have a peaceful night's sleep.
- The building has a roof terrace which has historically been problematic with groups drinking and making loud cackling noises as people do when drunk into the night. Restrictions were placed on the previous venue; no alcohol on roof, terrace not occupied after 9pm (even for smoking) groups of no more than three people on the terrace at any time. No barbecues on the roof or smoke pollution from the premises.
- The Soho society supports the representation from a resident objecting to this application for a shadow licence on the same terms as the existing licence 20/10038/LIPT. We object on the grounds that it will fail to promote the licensing objectives and will add to cumulative impact in the West End Cumulative Impact Zone.

### **Policy Position**

The Premises is located within the West End Cumulative Impact Area and as such various policy points must be considered, namely CIP1, HRS1, and PB1 (B) under the City Council's Statement of Licensing Policy (SLP).

### **SUBMISSIONS AND REASONS**

Kevin Jackaman Presenting Officer summarised the application for the purposes of the Sub-Committee. He advised that this was an application for a New Premises Licence in respect of address 61 Poland Street, W1F 7NU and explained that this application was for a shadow licence of the existing Premises Licence covering various licensable activities detailed on pages 24-25 of the report. He further advised that representations had been received from the Licensing Authority but had been consequently withdrawn after consultation with the Applicant.

Mr Baylis, Solicitor representing the Applicant, addressed the Sub-Committee and provided an overview of the situation that the Freeholders of the Premises had found themselves in. He explained that the Freeholders were currently in dispute with the existing Premises Licence Holder because he had not paid rent for over a year under the lease arrangements. The Freeholders therefore wished to be granted a shadow licence on the same terms and conditions as the existing Premises Licence to ensure that they could market the Premises with an existing Premises Licence to new potential lease holders. Mr Baylis confirmed that the shadow Premises Licence would then be directly transferred from the Freeholders to the new lease holders.

The Sub-Committee discussed proposed condition 50 as featured in the report (re-numbered Condition 48 below) and confirmed that it should be amended to read "*The shadow licence will not take effect whilst the current licence is operational*" (and for the avoidance of doubt this shall mean on the happening of the original licence lapsing, or otherwise surrendered or revoked)

### **Conclusion**

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so for the purposes of this application. It was noted by the Sub-Committee that the Licensing Authority had withdrawn their objection along with the Soho Society and two resident objectors. The Landlord Applicant was the only party present at the hearing.

The Sub-Committee in light of the evidence before it and the arguments advanced by Mr Baylis in his submissions to the Sub-Committee considered Paragraph D20 on page 49 of the SLP which reads:-

*"The Licensing Authority may consider granting applications for licences that duplicate the terms and conditions of the current operational licence for that same premises but are issued to the landowner, or other person with an interest in the property and that the licence has no affect by condition. These 'Shadow Licences' are normally sought by the landowner to protect the interest of their property due to the Policy to refuse certain new applications. A Shadow Licence will, in the event that a licence lapses, is surrendered or is revoked the property own can look to market the property with the licence. The holder of the Shadow Licence would in those circumstances need to apply to the Licensing Authority to vary the licence to remove any conditions preventing the use of that licence. At that point the Licensing Authority will consider whether the operation of the premises is likely to be an exception to policy. It will be for the Shadow Licence licensee to demonstrate that they are an exception within the applications operating schedule"*

The Sub-Committee using its discretionary powers concluded that Paragraph D20 of the Policy had been met by the Applicant on the basis that this was an application for a shadow licence identical to the existing Premises Licence in terms of hours and conditions. Therefore, the Sub-Committee could see no real justification for rejecting the application. The Sub-Committee did, however, advise that the Licensing Authority should be informed of who eventually takes over the shadow licence.

Having taken into account all the evidence and the individual circumstances of this case the Sub-Committee decided to grant the application. The Sub-Committee was satisfied that the application was suitable for the local area and had addressed any concerns raised. The Applicant had demonstrated that there were exceptional circumstances which would allow the Sub-Committee to depart from policy in

granting the application, which was considered appropriate, with the conditions considered proportionate and restrictive enough to ensure that it promoted the licensing objectives and did not add to cumulative impact.

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

1. To grant permission for the **Retail Sale of Alcohol [On and Off Sales]** Monday to Saturday 10:00 to 03:00 Sunday 10:00 to 00:30

**Seasonal Variation/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. On the morning on which British summer time begins, the permitted hours shall extend until 04:00 hours and opening hours until 04:30. Sundays before bank holidays (except Easter Sunday) 09:00 to 03:00.

2. To grant permission **Late Night Refreshment (Indoors)** Monday to Saturday 23.00 to 03.30 Sunday 23:30 to 02:00

**Seasonal Variation/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. On the morning on which British summer time begins, the permitted hours shall extend until 04:00 hours and opening hours until 04:30. Sundays before bank holidays (except Easter Sunday) 09:00 to 03:30.

3. To grant permission the **Performance of Dance, Film, Performance of Live Music, Recorded Music and Anything of a Similar Description (Indoors)** Monday to Saturday 09.00 to 03.00 Sunday 09:00 to 02:00

**Seasonal Variation/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. On the morning on which British summer time begins, the permitted hours shall extend until 04:00 hours and opening hours until 04:30. Sundays before bank holidays (except Easter Sunday) 09:00 to 03:00.

4. To grant permission the **Hours the Premises are Open to the Public** Monday to Saturday 09.00 to 03.30 Sunday 09:00 to 02:00

**Seasonal Variation/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. On the morning on which British summer time begins, the permitted hours shall extend until 04:00 hours and opening hours until 04:30. Sundays before bank holidays (except Easter Sunday) 09:00 to 03:30.

5. To add conditions in the terms specified below.
6. That the licence is subject to any relevant mandatory conditions.

7. That the licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

### **Conditions imposed by the Committee after a hearing**

8. Substantial food and suitable beverages other than alcohol (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where alcohol is sold or supplied.
9. The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment
10. After 23:00 hours the sale of alcohol is only permitted on any evening where the premises or part of the premises are open for music, dance or entertainment and to:
  - (a) Persons who have paid a minimum annual membership fee of at least £150 payable in advance for music, dancing or entertainment (not to be credited against consumables), a list of all persons who have paid an annual membership fee will be held at reception for inspection by the relevant authority;
  - (b) Persons who have a pre-booked table meal, list to be held at reception
  - (c) bona fide guests of members whilst accompanied by a member (no member to be permitted more than 4 guests at a time)
  - (d) bona fide guests of the proprietor (not exceeding 10% of the total capacity) a list of whom shall be kept at reception
  - (e) Artistes and persons employed on the premises
  - (f) Corporate memberships (the cost no less than £160 per card). No more than 5 guests per membership. All card holders to sign in with name and position in company - such information to be held at reception.
11. Subject to the following paragraphs, the permitted hours for the sale or supply of alcohol on Monday to Saturday shall commence at 10:00 and extend until 03:00 the following morning except that:
  - (i) the permitted hours shall end at midnight on any day on which music and dancing is not provided after midnight; and
  - (ii) on any day that music and dancing end between midnight and 03:00 the following morning, the permitted hours shall end when the music and dancing end.

12. The permitted hours for the sale or supply of alcohol on Sunday (except immediately before bank holidays) shall commence at 12.00 and extend until 00:30 the following morning except that:
  - (i) the permitted hours shall end at midnight on any Sunday on which music and dancing is not provided after midnight; and
  - (ii) where music and dancing end between midnight on any Sunday and 00:30 on the following morning the permitted hours shall end when the music and dancing end.
13. The permitted hours for the sale or supply of alcohol on Sunday immediately before bank holidays shall commence at 12.00 and extend until 03:00 except that:
  - (i) the permitted hours shall end at midnight on any such Sunday on which music and dancing is not provided after midnight; and
  - (ii) where music and dancing end between midnight on any such Sunday and 03:00 on the following morning the permitted hours shall end when the music and dancing end.
14. The provision of films shall be ancillary to other licensable activities and there shall be no cinema style showing of films.
15. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
16. Save for the windows on the stair lobby all windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
17. The external terraced area on the 4th floor shall ceased to be used by patrons and staff after 23:00 hours.
18. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
19. 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. Notices shall also be prominently displayed on the roof terrace stating that no mobile phones shall be used on that roof terrace.

20. Patrons temporarily leaving the premises such as for the purposes of smoking shall not take any drinks with them and after 23:00 hours shall be limited to a maximum of 15 persons at any one time.
21. The number of persons accommodated (excluding staff) at any one time shall not exceed:
  - o Basement : 50
  - o Ground Floor: 65
  - o First Floor: 25
  - o Second Floor: 20
22. 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 events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public. This does not prohibit the distribution of leaflets to persons within the premises.
23. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.
24. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorized officer throughout the preceding 31 day period.
25. 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 a Police or authorized council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
26. An incident log shall be kept at the premises, and made available on request to an authorized 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 or searching equipment or scanning equipment

- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

27. No deliveries or collections shall be made to or from the premises between 23:00 and 08:00 hours.
28. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
29. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0700 hours.
30. During the hours of operation 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 the aforementioned 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.
31. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
32. The edge of the treads of steps and stairways shall be maintained so as to be conspicuous.
33. All exit doors shall be available at all material times without the use of a key, code, card or similar means. Any fastenings or electrically controlled locks shall be approved by the Council.
34. Only hangings, curtains, upholstery and temporary decorations, complying with the relevant British (or where appropriate European) Standard shall be used. Where necessary these shall be periodically tested for flame resistance and re-treated as necessary.
35. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
36. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
37. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
38. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing should be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes, other



than foyers, entertainment areas or function rooms, should be non-combustible.

39. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
40. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

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

41. 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.
42. 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 7 days prior notice being given to Westminster City Council Consultation Team where consent has not previously been given:
  - a. dry ice and cryogenic fog;
  - b. smoke machines and fog generators;
  - c. pyrotechnics including fireworks;
  - d. firearms;
  - e. lasers;
  - f. explosives and highly flammable substances;
  - g. real flame;
  - h. strobe lighting.
43. The certificates listed below, together with, if necessary, satisfactory details of remediation works identified, shall be submitted to the Environmental Health Consultation Team upon written request:
  - a. Any emergency lighting battery or system
  - b. Any electrical installation
  - c. Any fire alarm system.
44. SIA licences worn by door staff shall be clearly displayed and visible at all times.
45. The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
46. On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing

time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 02.00.

47. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
48. The shadow licence will not take effect whilst the current licence is operational.

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

**The Licensing Sub-Committee  
23 September 2021**

**3. CUMBERLAND FOOD AND WINE, 11 GREAT CUMBERLAND PLACE,  
W1H 7LU**

**WCC LICENSING SUB-COMMITTEE NO. 3**

Thursday 23 September 2021

Membership: Councillor Jim Glen (Chair), Councillor Louise Hyams and  
Councillor Maggie Carman

Officer Support: Legal Advisor: Horatio Chance  
Policy Officer: Kerry Simpkin  
Committee Officer: Sarah Craddock  
Presenting Officer: Kevin Jackaman

**Application for a Premises Licence Variation 21/02317/LIPV**

**Full Decision**

**Premises**

Cumberland Food and Wine  
11 Great Cumberland Place  
London  
W1H 7LU

**Applicant**

Chelsea Food and Wine Company Limited  
Mr Shahnawaz Alwani (Applicant)  
Represented by Thomas O'Maoileoin (Solicitor for the Applicant)

## **Cumulative Impact Area?**

None

## **Ward**

Bryanston and Dorset Square

## **Special Consideration Zone**

Edgware Road

## **Summary of Application**

The Premises currently operates as a convenience store with 'off' Sales of Alcohol. The Applicant wishes to vary the existing Premises Licence to vary the terminal hour for the sale of alcohol for consumption off the Premises to 00:00 Monday to Saturday until 30 September 2022. In addition, the Applicant wishes to remove the Environmental Health works conditions namely Conditions 12, 24 and 36. The Premises have had the benefit of a Premises Licence since October 2005. The Environmental Health Service and the Metropolitan Police Service have maintained their representations on the grounds of the prevention of crime and disorder and that the proposed permanent increase in hours of 'off' sales of alcohol and the removal of the 'works' conditions may lead to an increase in Public Nuisance and Public Safety in the area. The Marylebone Association have also maintained their representation on the grounds that extending 'off' sales of alcohol beyond the Council's Core Hours Policy would be counter to policies PN1 and CD1 and outside HRS1.

## **Current and Proposed Activities and Hours**

### [Retail Sale of Alcohol \[Off Sales\]](#)

The hours for the sale of alcohol off the Premises shall be extended to 00:00 until 30 September 2022. From 1<sup>st</sup> October 2022, the hours for off sales will revert to: 08:00 to 23:00 Monday to Saturday and 10:00 to 22:30 Sunday

### **Current Hours**

Monday to Saturday 08:00 to 23:00

Sunday 10:00 to 22:30

### **Proposed Hours**

Monday to Sunday 08:00 to 00:00

Seasonal Variation/Non-Standard Timings: None

### [Retail Sale of Alcohol \[On Sales\] – No Change](#)

Monday to Thursday 10.00 to 23:30

Friday to Saturday 10:00 to 00:00

Sunday 12:00 to 22:30

Seasonal Variation/Non-Standard Timings: None

Late Night Refreshment – No Change

Monday to Sunday 23.00 to 05.00

Sunday 23:30 to 00:00

Seasonal Variation/Non-Standard Timings: None

Hours premises are open to the public – No Change

Monday to Sunday 08:00 to 05.00

Removal of EH works conditions at 12, 24 and 36

**Representations Received**

- Metropolitan Police Service (PC Adam Deweltz)
- Environmental Health Service (“EH”) (Ian Watson)
- Marylebone Association (Mr Guy Austin represented by Mr Richard Brown, Licensing Lawyer from the Westminster Citizens Advice Bureau)
- Cumberland Court (not present at the hearing)
- Cumberland Court Tenants Association (not present at the hearing)

**Summary of issues raised by objectors**

- The application as presented would have the likely effect of undermining the Licensing Objectives, namely the prevention of crime and disorder as there is a likelihood that intoxicated persons would be attracted to the Premises to purchase further alcohol.
- The removal of the time limited extension permitting increased hours of ‘off sales’ and the ‘works’ conditions would likely lead to an increase in Public Nuisance in the area and impact on Public Safety.
- The numerous applications for incremental variations to the Premises Licence to extend the hours for the sale of alcohol ‘off’ the Premises was having a detrimental effect on the area.
- The increase in intoxicated people seeking to purchase further alcohol after the pubs had closed would increase the noise nuisance in the area. The residents already suffered with late night noise nuisance and the increase in ‘off’ sales of alcohol would increase general rubbish in the area and impact on public safety with the likely effect of an increase in crime and disorder.
- The Premises was located within the Edgware Special Consideration Zone and therefore the applicant had to demonstrate exceptional circumstances to allow the Sub-Committee to depart from policy.

## **Policy Position**

The Premises is located within the Edgware Road, Special Consideration Zone and as such various policy points must be considered, namely HRS1, OS1(A) and SCZ1 under the City Council's Statement of Licensing Policy (SLP).

## **SUBMISSIONS AND REASONS**

Kevin Jackaman Presenting Officer summarised the application for the purposes of the Sub-Committee. He advised that this was an application for a variation of the Premises Licence to vary the terminal hour for the sale of alcohol for consumption 'off' the Premises to 00:00 Monday to Saturday until 22 September 2022 and to remove the Environmental Health works conditions: 12, 24 and 36. He confirmed that representations had been received and maintained by the Environmental Health Service, the Metropolitan Police Service, the Licensing Authority and Local Resident Associations. He further advised that additional submissions had been received from the Applicant which had been circulated to all the relevant parties prior the Sub-Committee hearing.

Mr Thomas O'Maoileoin, Solicitor representing the Applicant, addressed the Sub-Committee and introduced the application. He explained that Environmental Health had agreed that condition 12 could be removed but conditions 24 and 36 would remain on the Premises Licence as the works had yet to be completed. He referred to page 87 of the report which contained the Premises plans and confirmed that there had never been any 'on' Sales of Retail of Alcohol on the Premises. He emphasised that Late Night Refreshment was allowed from 23:00 to 05:00 and was limited to pastries which could be heated up in a microwave. He explained that most of the applications for variations to the Premises Licence had been to deal with updating the conditions on the licence, reheating certain foods and the outside area which had not substantially changed the original application. He advised that there was already a considerable number of conditions attached to the licence that promoted the four licensing objectives.

Mr O'Maoileoin advised that the Applicant now sought 'off' Sales by Retail of Alcohol for a time limited period until 30 September 2022 and this was just an extension to what had been previously granted by the Sub-Committee. He advised that once the time limited Premises Licence had lapsed the Premises had applied for and been granted Temporary Event Notices (TENS) for Friday and Saturdays without objection by the Environmental Health Service and the Police Service. He emphasised there had been no issues regarding the operation of these TENS.

In response to questions from the Sub-Committee, Mr O'Maoileoin advised the Applicant wished to keep the 'on' Sale of Retail of Alcohol on the Premises Licence but would be happy to have it conditioned that 'on' Sales would not take place until after 30 September 2022. Mr O'Maoileoin advised that the Premises had always operated the full 24 hours and the outside of the Premises was covered by CCTV.

Mr Ian Watson, representing the Environmental Health Service, confirmed that condition 12 could be removed from the Premises Licence and that the works for the kitchen and outside area had not been carried out. He advised that the Premises had been operating under TENS as the operation of the Premises had been deemed

'essential' under the Pandemic and Covid-19 Act. He advised that no formal complaints had been made regarding the operation of these Premises. He emphasised that the application was beyond the Council's Core Hours Policy and was located within a Special Consideration Zone.

PC Adam Deweltz, representing the Metropolitan Police Service, confirmed that their representation was maintained on policy grounds as the hours requested were in excess of the Council's Core Hours Policy. He advised that it was challenging to attribute noise nuisance and crime and disorder to this particular Premises, however, the Police were concerned about this application because: Off Licences had a much earlier terminal hour than midnight, people drinking in pubs were often monitored for excess consumption and the late hours requested for the Sale of Retail of Alcohol 'off' the Premises could potentially add to the crime and disorder in the area. PC Deweltz highlighted that people purchasing alcohol from the shop late at night could already be intoxicated and refusal to serve these people further alcohol, due to the Premises having a duty of care to their customers, could result in confrontation within the Premises. PC Deweltz advised that the increase in hours could also make the Premises a destination point which could cause further problems on the London transport network.

Richard Brown, from the Westminster CAB Licensing Project representing the Marylebone Association, referred to the detailed representation from the Marylebone Association attached at page 71 of the report. He explained that there had been 12 applications for minor variations to this Premises Licence and that numerous small variations to the original Premises Licence could eventually bring about significant change. He explained that this Premises was located in the Special Consideration Zone and therefore should operate within the Council's Core Hours Policy. He highlighted to the Sub-Committee the two statements from the Police Service which set out the potential effects of the sale of alcohol late at night in the area. He further highlighted that the area had been peaceful due to the pandemic however the country was now opening up and the area would now become increasingly busy. He advised that the area was highly residential and that a representation had been made by Cumberland Court Tenants Association.

Mr Guy Austin, representing the Marylebone Association, advised that a number of small incremental applications could easily lead to an undesirable outcome. He advised that the Premises had a good level of security and he had no reason to believe that the Premises was badly operated. He advised that their main concern was the amount of available alcohol in the area. He advised that Cumberland Court would be directly impacted if the application was granted as they already suffered with noise nuisance late at night. He emphasised that Westminster had a clear statement of licensing policies and considered that the Sub-Committee should not depart from policy on this occasion.

During the summing up, Mr O'Maoileoin advised that there was always three members of staff on duty and at least one member of staff was a Personal Licence Holder. He confirmed that none of the staff were currently SIA registered. He further advised that the Premises had been operating within these hours without complaint for the past 12 months and that the extra hours of operation would be very beneficial to the business model.

## **Conclusion**

The Sub-Committee realises that it has a duty to consider the application on its individual merits. In reaching their decision, the Sub-Committee carefully took into account all the committee papers, supplementary submissions made by the Applicant, Responsible Authorities together with the residential objections, amenity societies and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee did not doubt the Applicant to be a good operator that runs his premises well. However, this is not a reason alone for granting the application. The Sub-Committee expects the Premises to be managed well in accordance with the promotion of the licensing objectives and in full compliance with licence conditions.

Given the nature of the application, the Applicant had to demonstrate that the application would not adversely affect the local issues identified at Paragraph D51 on page 57 of the SLP for the Edgware Road Special Consideration Zone. The Sub-Committee considered and noted the detailed written submission provided by the Applicant, mitigation measures for the Special Consideration Zone, proposed conditions offered as well as the evidence presented by the Police in the form of a letter by the Police Sergeant of the Designing Out Crime Group and two Witness Statements at Appendix 3 of the report setting out the potential issues the Off sale of alcohol would have in the area late at night and the potential problems that could develop due to crime and disorder and public nuisance. The Sub-Committee concluded that the application would have a likely negative impact on those very factors identified by the Police and residents.

The Sub-Committee when considering this specific issue had to strike the right balance when assessing the commercial needs of the Applicants business and the many concerns expressed by residents when it came to the promotion of the licensing objectives in particular the crime and disorder licensing objective. In this connection the Sub-Committee when looking at later hours for the Off sale of alcohol had regard to Paragraph 2.1 on page 6 of the Revised Home Office Guidance which states: *“Licensing Authorities should look to the Police as the main source of advice on crime and disorder. They should also look to involve the Community Safety Partnership (CSP)”*.

The Sub-Committee had regard also to Paragraph 10.15 on page 79 of the Home Office Guidance (replicated as well under Paragraph F63 on page 87 of the SLP which states: *“Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. This is in the context of Paragraph 10.13 of Revised Guidance which states that Licensing Authorities are best placed to make decisions about appropriate hours in their areas based on local knowledge and in consultation with Responsible Authorities.*

The Sub-Committee concluded that, if granted, the application would negatively impact the Special Consideration Zone by the Off sales of alcohol well into late at night. Whilst the Sub-Committee had fully recognised that the Applicant had run Temporary Event Notices (TEN) successfully in the past this was not necessarily an

indicator that problems would not exist when looking at the global impact as the TEN regime is specifically designed for short defined periods and will only give a snap shot of a particular situation over any given period of time as oppose to granting a licence effectively in perpetuity which is wanted the Sub-Committee had to consider overall having regard to the policy implications of the Special Consideration Zone and the long term likely affect's on the area.

The Sub-Committee acknowledged and noted the point that public nuisance and crime and disorder associated with an 'off' licence Premises are not easily associated directly with that Premises, rather to the surrounding area. As evidenced in the two Witness Statements from the Police, 'off' licences throughout Westminster are routinely confined to the Council's Core Hours Policy and any extension to these hours may make the Premises a destination for those seeking alcohol after pubs and bars close. The Sub-Committee therefore are refusing this application within the Special Consideration Zone.

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. The Sub Committee when looking at the evidence had regard to the policy considerations arising under Polices OS1, PN1, CD1 and CH1 under the SLP.

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. Insofar as the licence conditions are concerned the Sub-Committee agreed that redundant condition 12 be removed from the Premises Licence as follows:-

*The minor variation application shall have no effect until the Premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority"*

The application was **REFUSED**

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

**The Licensing Sub-Committee  
23 September 2021**



**4. MUBAO BEAUTY, BASEMENT, 26 WARDOUR STREET, W1D 6QL**

**WCC LICENSING SUB-COMMITTEE NO. 6**

Thursday 23 September 2021

Membership: Councillor Jim Glen (Chair), Councillor Louise Hyams and Councillor Maggie Carman

Officer Support: Legal Advisor: Horatio Chance  
Policy Officer: Kerry Simpkin  
Committee Officer: Sarah Craddock  
Presenting Officer: Kevin Jackaman

**Application for a Renewal of a Special Treatment Premises Licence under Part 11 of the London Local Authorities Act 1991 21/06078/LIMSTR**

**Full Decision**

**Premises**

Mubao Beauty  
Basement  
26 Wardour Street  
London  
W1D 6QL

**Applicant**

Mubao Beauty  
Represented by Nigel Carter (Cater Consultancy)

**Ward**

St James's

**Summary of Application**

The Sub-Committee has determined an application for a Renewal of a Special Treatment Premises Licence under Part 2 of the London Local Authorities Act 1991 ("The Act") as follows:-

- To allow massages and facials to be provided at the Premises to men and women during separate sessions.
- To provide massage treatment from 11.00 until 00:00 on every day of the week (including Sundays).

## **Representations Received**

- Metropolitan Police Service (PC Adam Deweltz, PC Reaz Guerra, PC Jenny Fletcher and PC Jonathan Cheung)
- Licensing Authority (Steve Rowe and City Inspector Kay Cummings)

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

- The Metropolitan Police Service are concerned that the Premises have been or are being improperly conducted. Intelligence gathered shows the Premises may be involved in offering sexual services to its customers. There is also concern for the wellbeing of members of staff at the Premises.
- The Licensing Authority have the same concerns as the Police as well as the numerous alleged breaches of conditions on the current Premises Licence.

## **SUBMISSIONS AND REASONS**

Kevin Jackaman, Presenting Officer, summarised the application for the purposes of the Sub-Committee. He advised that this was an application for a Renewal of a Special Treatment Premises Licence under Part 11 of the London Local Authorities Act 1991. The Sub-Committee noted that representations had been received from the Metropolitan Police Service and the Licensing Authority. The Sub-Committee noted that the Premises are in the St James's Ward.

Mr Nigel Carter, representing the Applicant, addressed the Sub-Committee and introduced the application. He apologised for Ms Liang's absence due to her being in China and the covid restrictions on travelling. He further advised how shocked Ms Liang had been regarding the Police's allegations made against Mubao Beauty dating back to 2016 and the objection to the renewal of the licence. He confirmed that all the allegations were denied and that it was unacceptable that the Applicant was now only being made aware of these allegations some four years later. He added that if the allegations had been brought to the attention of the Applicant at the time, she would have been able to investigate, and take the appropriate action .

Mr Carter advised of the layout of the Basement as well as the whole building at 26 Wardour Street. He added that there had always been Chinese girls soliciting outside of the shop ever since it had opened. He added that no action had ever been taken by the Council or the Police. He explained that each therapist had gained a qualification to give massage and had signed an undertaken not to offer sexual services. He added there was also signage informing customers not to ask for sexual services.

Mr Carter referred to the witness statement made on 5 November 2019 contained at pages 157 to 158 of the report which set out that a man was offered a happy ending at the Premises. Mr Cater advised that this was pure speculation and one that the Applicant could not investigate as it occurred in 2019. He emphasised that the Police could not have considered the incident that serious as they had not objected to the renewal of the licence in 2020 or informed the Licensing Authority. He outlined that the statement could have also been made by a disgruntled customer, a competitor or a customer who had requested a sexual service and who had been turned down.

Mr Carter referred to the witness statement made on the 19 July contained at pages 159-160 of the report and advised that therapists were not allowed to approach people. He read out the last sentence of the statement ' I have always understood that this business is offering sexual services to men' and emphasised that the whole statement was pure speculation and should be disregarded by the Sub-Committee. Mr Carter then referred to the witness statement at page 147 of the report by PC Oduro-Adjwubi and advised that he was unclear why the Police had not followed the girls into the Premises and why no statement had been taken from the male that had informed the Police that he had been offered sexual services on the 12 May 2021. Mr Carter stated that the Police had failed to obtain any credible evidence but were instead relying on third hand hear say to object to the renewal of the licence.

Mr Carter referred to the Dissemination Report contained at pages 161 to 168 of the report which detailed the numerous visits to the Premises by the City Inspectors dating back to 2016 which alleged that the girls working at the Premises had been touting for customers or soliciting for sex. He advised that at no point had the Applicant or the Licensing Service been contacted to discuss these allegations and that no objection to the renewal of the Premises licence had been made on the three previous occasions. He added that this was very surprising as running a brothel and living off illegal earnings were serious matters. He highlighted that the evidence before the Sub-Committee was very weak and consisted of hearsay evidence only. He added that if the Police had been seriously concerned, they would have conducted a covert purchase operation to see if sexual services were being offered at the Premises. He advised that no such operation had taken place and there had been no complaints from the Public or Council officers which was very surprising as the alleged activities had been occurring over a four- and half-year period.

Mr Carter referred to pages 137 -140 of the report which contained PC Guerra's witness statement dated 21 July 2021 and refuted that the conditions attached to the licence had been breached as there were no statements that sexual services had been offered, money had changed hands and the unknown Chinese females referred to as loitering outside of the Premises had only been seen and not heard by officers. He highlighted that when the City Inspector had visited the Premises, they had been satisfied that the girls working there were trained therapists. He outlined the meeting that had taken place between the City Inspectors and Ms Liang in 2017 regarding the Chinese ladies standing outside of the Premises and emphasised that Ms Liang had considered that the matter had been quickly resolved.

Mr Carter concluded by advising that there was no evidence that the Premises was being used as a brothel as none of the alleged incidents had been fully investigated at the time. He added that there had also been no complaints from the public and therefore the Licensing Service nor the Police could demonstrate that nuisance was being caused or that the Applicant was not a fit and proper person. He further advised that this was a very serious matter and emphasised that Ms Liang had nothing to hide and had done nothing wrong. The Sub-Committee noted that Mr Carter had been instructed to attend the Sub-Committee alone.

PC Adam Deweltz, representing the Metropolitan Police Service, advised that the Police had maintained their representation as the Premises may be involved in offering sexual services to customers and there was concern for the wellbeing of

members of staff. The Police had been alerted by PC Cheung from the Modern Slavery Team that the Premises was being used as a brothel and that staff members were offering sexual services which were serious breaches to the Premises Licence. He then referred to the statement made on the 3 November stating that a man had been offered sexual services at the Premises. He added that in addition the Chinese Neighbourhood Team also had concerns about the treatment of the staff at the Premises as outlined in their statement on page 159 in the report. PC Deweltz advised that there had not been sufficient evidence between 2016- 2018 to object to the renewal applications for the Premises Licence and only in 2019 had more intelligence gathering taken place. He advised that when officers visited a venue the Police officer's written report would get disseminated to relevant parties; unfortunately, the report on these Premises had not been received by the Westminster Licensing Police.

PC Jonathan Cheung, representing the Modern Slavery Team, advised that his unit had only been informed at the beginning of this year to investigate the exploitation of labour workers and sex workers. He referred to the numerous intelligent statements in the report before the Sub-Committee and advised that his unit had discovered several reports that indicated that this venue had been offering sexual services since 2016. He further advised that a Ms Liang was also known on their system as running a former brothel. PC Jonathan Cheung stated that it was difficult to obtain witness statements for these types of sensitive issues as people were reluctant to come forward and talk to the Police.

PC Jenny Fletcher, Dedicated Ward Officer for West End and China Town, advised that on the 22 April she saw two females approaching males on Wardour Street who then took the men back to 26 Wardour Street where one female went upstairs with one male and the other female went downstairs with the other male. PC Fletcher stated that there had been no grounds for the Police to enter the Premises. PC Fletcher further advised that on the 11 June she had visited the Premises and was presented firstly with false documents from one worker and then, when the documents were queried, presented with their correct details and documents. PC Fletcher advised that because of a duty of care owed the names of the people would not be revealed to the Applicant.

PC Deweltz requested that the Sub Committee did not renew the Premises Licence as they had no confidence that the Premises were being correctly operated.

Steve Rowe, representing the Licensing Authority, advised that the Licensing Authority had maintained their representation on the grounds of alleged breaches of the conditions on the current licence and on the information from the City Inspectors. He introduced Kay Cummings, City Inspector, to the Sub-Committee in order that she could report her findings to the Sub-Committee.

Ms Kay Cummings referred and read out her Witness Statement contained at pages 169 to 178 of the report which had been gathered from Council's Inspection records. The Sub-Committee noted the following points:

- City Inspectors had last carried out a full inspection of the Premises in 2019 where several concerns as listed on pages 171 and 172 were raised with the duty manager at the Premises.

- On the 25 September 2019 City Inspectors and the Police visited the Premises regarding the upstairs flats, however, then decided to carry out a check of the licence Premises in the basement. They found that the CCTV was broken, that there was no recorded list of clients and there was confusion on which girls were therapists who worked at the Premises or just friends of the therapists.
- On the 24 June 2020 a visit was undertaken to the Premises however the Premises was found to be closed in accordance with Covid Regulations.

The Sub-Committee noted that there had been breaches of the conditions however there had been nothing noted about sexual services taking place on the Premises. Ms Cummings read out the Minutes from a meeting held between Mr Keegan and the Applicant. The Minutes stated that Mr Keegan had advised Ms Liang that if considerable improvements were not made to the operation of the Premises, he would oppose the renewal of her licence. The Minutes further stated that Mr Keegan had considered that any soliciting that was going on was being carried out in the upstairs flats and not linked to the licensed Premises in the basement of the Premises.

In response to questions from the Sub-Committee, Ms Cummings advised that there were no details in the Licensing system that indicated that the upstairs flats were linked to the licensed Premises in the basement. Ms Cummings advised that the City Inspectors did not know who owned the flats, however, the Sub-Committee noted that the flats had nothing to do with the hearing today.

In response to questions from the Legal Advisor to the Sub-Committee, Mr Carter advised that there were certainly concerns in 2019 regarding the operation of the Premise, however, he had not been informed of any other issues since then, and as far as he was concerned the Premises was operating within the conditions of the Premises Licence. He further advised that as the names of the ladies seen on the street were redacted in the statements, the Applicant was unable to confirm or deny that they worked for Mubao Beauty. Mr Carter emphasised that there was no evidence to suggest that Ms Liang was operating a brothel and no evidence to suggest either that the Chinese ladies observed soliciting on the streets had anything to do with the Premises. He requested that the Sub-Committee dismiss the case against Ms Liang based on the lack of evidence.

## **Conclusion**

The Sub-Committee in reviewing the evidence before it found that these serious allegations were not clearly shown to be associated with the Premises. The Sub-Committee noted that the Premises should remain under close inspection by the Police and the Licensing Authority as any allegations as serious as modern-day slavery must result in court proceedings to rescue the individuals concerned.

The Sub-Committee noted that the Licensing Renewal application process is not the correct forum for these matters to be resolved and urges the Police to continue with its ongoing investigations in order to get to the root cause of these allegations made against the Premises and where relevant the appropriate criminal charges are brought by the Police.

The Sub-Committee realises that its powers are limit to those contained with the Act where an application has been submitted for the renewal of a Special Treatments Premises Licence.

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

1. To grant permission for the renewal of the special treatment premises licence as applied for.
2. That the Licence is subject to a period of 12 months.
3. That the licence is subject to the usual standard conditions.
4. That the licence is subject to the additional special conditions as specified below.

**Special Conditions imposed by the Committee after a hearing:-**

5. Special treatments shall only be provided between 11:00 and 23:00
6. At all times of trading there shall be a duty manager within the venue who is authorised in writing for the purpose by the holder of the licence. The duty manager shall immediately make themselves known to the police officer or officer of the Fire Authority, or any authorised officer of the Council (whose written authority will be provided on request). The duty manager shall be a person who has a good command of the English Language, so that he/she can engage with visiting officers effectively and shall have been properly trained before being left in charge of the venue. The duty manager shall ensure that all conditions of the licence are complied with at all times of trading.

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

**The Licensing Sub-Committee  
23 September 2021**

The Meeting ended at 2.28 pm