



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 24th February, 2022**, via TEAMS due to COVID-19.

Members Present: Councillors Tim Mitchell (Chairman), Barbara Arzymanow and Maggie Carman

1. MEMBERSHIP

THERE WERE NO CHANGES TO THE MEMBERSHIP.

2. DECLARATIONS OF INTEREST

THERE WERE NO DECLARATIONS OF INTEREST.

1. BISCUITEER, 14-15 ECCLESTON YARD, SW1W 9AZ

WCC LICENSING SUB-COMMITTEE NO. 2 ("The Committee")

Thursday 24 February 2022

Membership: Councillor Tim Mitchell (Chairman) Councillor Barbara Arzymanow and Councillor Maggie Carman

Officer Support Legal Advisor: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Sarah Craddock
Presenting Officer: Karyn Abbott

Application for a New Premises Licence in respect of Biscuiteer 14 - 15 Eccleston Yard London SW1W 9AZ 21/11166/LIPN

Full Decision

Premises

Biscuiteer
14 - 15 Eccleston Yard
LONDON
SW1W 9AZ

Applicant

Biscuiteer Baking Company Ltd

Activities and Hours applied for

Retail Sale of Alcohol (On and Off Sales)

Monday to Sunday 10:00 to 18:00

Seasonal Variation: None

Hours Premises are Open to the Public

Monday to Sunday 10:00 to 18:00

Seasonal Variation: None

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises will be a Biscuit Boutique & Icing Café, retail shop and cafe and event space for the sale and consumption of luxury baked goods. The Cumulative Impact and Special Consideration Zones do not apply. The Premises comes within Warwick Ward. During consultation the Applicant has reduced the hours applied for from 10:00 to 23:00 Monday to Sunday to 10:00 to 18:00 and removed recorded music from the application.

The Premises have had the benefit of a premises licence since July 2018. The existing premises licence (licence number 18/06841/LIPN) is attached at Appendix 1 of the Committee Report. A full licence history for the Premises appears at Appendix 3 of the Report. The existing premises licence does not form part of this application. There is a resident count of 146.

Representations Received

- The Metropolitan Police Service – **(Withdrawn)**.
- Environmental Health Service – Maxwell Koduah.
- Trustee of the Belgravia Society.

- 11 local resident objections 3 of which were withdrawn.

Summary of Representations

- I would like to object to this application on the basis that the property is immediately behind my flat. I have a young family and my children's bedroom is incredibly close to the subject premises at the rear of our house. Our home would be affected by continuous noise every day of the week until late at night. It is simply not acceptable.
- I am writing on behalf of the committee of the Belgravia Residents Association. The premises for which the license is sought are located adjacent to an established residential area . It has always been understood that the yards will be a mixed- use area predominantly for wellness , offices and shops . This application is effectively a license for music till 11pm which will cause serious noise pollution. This is contrary to the ethos of the yards and will have a negative impact on the nearby residents. All the adjacent properties have a very long history of residential use and mostly occupied by families or older residents. Music till 11pm will be very damaging and detrimental to their local amenity considering most of them would be needing to sleep before then! Previously the premises were used as a retail unit.
- The premises are located adjacent to an established residential area and is the immediate neighbour of 119, 121, 123, 125, 127 Ebury street . All these properties have long established residential use and present a mixture of flats and family homes that have been part of the residential neighbourhood for many years well before the Yard was developed relatively recently.
- The premises currently considered was used for retail previously , any music emanating from the unit can reach unhindered the adjoining residential properties , this will have a negative impact for the residents and occupiers in their own houses and will affect further negatively the amenities spaces adjoining the premises considered . We strongly object to the proposed music licence.
- Our house is an extension of 117 Ebury street which means that Biscuiteer Baking Company Ltd will be set up closer to our home than the main buildings on our street. We are already struggling with material noise levels from Eccleston Yards and music playing from 10am in the morning until 11pm at night will impact our daily lives and ability to work from home which we are dependent on being able to do in peace and quiet. The request to play music for 13 hours a day every day feels extreme when requested so close to people's homes. I do hope that our concerns will be acknowledged and respected.

Policy Considerations

Policies HRS1 and RTN1 apply under the City Council's Statement of Licensing Policy ("SLP"). There are no CIA implications to consider. Applications outside the West End Cumulative Impact Zone will generally be granted subject to the application meeting the requirements of policies CD1, PS1, PN1 and CH1.

SUBMISSIONS AND REASONS

The Presenting Officer Ms Abbott outlined the nature of the application to the Sub-Committee. She confirmed that this was an application for a new premises licence for Biscuiteer, brought by Biscuiteer Baking Company Limited in respect of the Premises at 14-15 Eccleston Yard, SW1W 9AZ. Mark Chester of the Applicant company is present at today's hearing. The Applicant seeks the retail sale of alcohol both On and Off the Premises Monday to Sunday 10:00 to 18:00. Originally the terminal hour applied for was 23:00 hours but the Applicant amended the application after positive dialogue with residents. Representations have been received by the Environmental Health Service (Mr Maxwell Koduah), and 12 interested parties 3 of which withdrew their objections along with the Metropolitan Police who also objected originally to the application after agreeing conditions. The Premises is situated within the Warwick Ward and does not fall within any area of cumulative impact.

Mark Chester appearing on behalf of the Applicant Company advised that the original submission was made based on asking for more than in reality we ever sought which we feel caused resident concern. He stated that the resident objectors were written to at the start of December to apologise and explain what the business is all about and its vision for the Premises. Mr Chester confirmed the following:-

- We have since agreed conditions that more accurately reflect our business.
- We make iced biscuits and have a very substantial online business.
- We serve afternoon tea, and the sale of alcohol should be ancillary to our business as a Cafe.

At this point the Chairman remarked that 3 residents had withdrawn their objection. The LSC Members asked questions of Mr Chester and it was confirmed that this Premises would be the third branch as part of the Applicants property portfolio. The existing branches have been running for a period of between 3-4 years. Mr Chester stated that there has been demand across the business as a whole. The Online arm of the business was doing very well, and this proved successful during lockdown and the café are a successful part of the business. Mr Chester confirmed that the Premises will close at 18:00 hours.

Mr Koduah appearing on behalf of the Environmental Health Service addressed the Sub-Committee. Mr Koduah advised that extensive discussions had taken place with the Applicant and that a site visit had been undertaken. Mr Koduah said that he was very confident with any concerns around public nuisance and that any noise will be kept to a minimum. There are about 8 residents that still have concerns about the application, and it was on this basis why EH had maintained its objection as well as to assist the Sub-Committee with any of the concerns that had been raised.

Mr Koduah said that there was a current licensing issue at the Premises in that the licence is held by a company that is still trading. He said that the Sub-Committee will need to explore the relationship between the Applicant and the current licence holder and whether this can be surrendered.

In answer thereto Mr Chester advised that he only became aware of this specific issue last week and said that the annual licence fee to his knowledge had not been paid.

At this point the Legal Advisor to the Sub-Committee gave his legal advice to the Sub-Committee. He advised that the Act does stipulate that an annual fee is required. Further information is required to establish what investigations the Licensing Authority have taken to see recover of the fee. It was acknowledged that the Licensing Authority had not objected to the application. It was possible for a premise to have one or more licences running at the same time, but it depended upon which of those licences were being implemented for the purposes of licensable activities. The question was posed to Mr Chester as to whether he was prepared to accept a surrender condition. However, the Chairman stated that he doubted very much that the Applicant would be able to give that undertaking if he does not have a relationship with the licence holder.

Mr Jackaman on behalf of the Licensing Authority offered some assistance to the Sub-Committee and stated that he was the officer that prepared the committee report . He said that he had checked the licensing records and it showed that the fee had not been paid for some 2 years therefore the licence will be terminated for non-payment. He advised also that enquiries will be made of the old operator if they wished to surrender the licence as they are not currently trading at the Premises.

The Chairman sought clarification from Mr Jackaman as to what stage does the licence becomes suspended for non-payment. Mr Jackaman stated that it should be suspended immediately however he will now be putting this forward for suspension.

The Legal Advisor requested an adjournment in order that further legal advice could be given to the Sub-Committee. After a short adjournment the Sub-Committee resumed proceedings. The legal advice was that you could have two licences running concurrently. However, the fact that the current licence is to be suspended means that no licensable activities are permitted to take place and to do so would mean a breach of sections 136 and 137 of the Act where offences are committed should unauthorised activities takes place without the relevant authorisation.

The Legal Advisor stated that given the circumstances it would be wholly unreasonable and disproportionate for the Applicant to accept the surrender condition that was mooted earlier. The Sub-Committee concluded that the risk was low given that the licence was to be suspended and if this application was granted there would in any event only be one licence in operation because of the functioning of sections 136 and 137 of the Act.

Mr Chester confirmed that he was agreeable to Model Condition 24 being imposed on the Premises Licence which requires a telephone number at the Premises being made available at all times the Premises is open.

Conclusion

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

The Sub-Committee welcomed the fact that the Applicant had worked with local residents by engaging and listening to their views by reducing the hours of the application as well as removing regulated entertainment from the application. The Sub-Committee appreciated that the original terminal hour of 23:00 hours was

somewhat ambitious, and this caused concern to local residents when it came to the issue of public nuisance and the likely impact this could have on the local area and for residents. The fact that some of the residents had withdrawn their objections signified that those residents were now content with the application.

The Sub-Committee accepted that the suspension of the existing licence would not have an impact for the sale of alcohol that had been applied for and a surrender condition would be unacceptable in accordance with the legal advice given.

In terms of the conditions that were offered by the Applicant and agreed with the Responsible Authorities the Sub-Committee concluded that these would promote the licensing objectives and allay the fears of residents. The many concerns residents had raised with regard to the selling of alcohol at a later terminal hour had now been addressed by the conditions in that the sale of alcohol was to be by waiter/waitress service, off sales would be in sealed containers and the personal condition offered by the Applicant meaning that the Premises would first and foremost remain as a food led Café with alcohol being sold as ancillary.

The Sub-Committee welcomed the Applicant's assurance and commitment to work with in partnership with local residents going forward when it came to the day to day running of the Premises to ensure the promotion of the licensing objectives. Condition 21 was to be amended so that the hours were changed to read 18:00 as oppose to 23:00.

The Sub-Committee noted that the Environmental Health Service were satisfied with the application and really had only maintained their objection given the initial concerns raised by local residents which were now addressed. The Metropolitan Police representation had been withdrawn and so conditions relating to till prompts, Challenge 25, CCTV, super strength beers etc would all have the desired effect of promoting the crime and disorder licensing objective.

The Sub-Committee considers that the conditions it has imposed on the Premises Licence will mitigate the concerns of those who had objected. The Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives. Having carefully considered the Sub-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 application and the promotion of the four licensing objectives:

1. **To grant permission for the Sale of Alcohol (On and Off)** Monday to Sunday 10:00 to 18:00 Hours. There are no seasonal variations.
2. **To grant permission for the Opening Hours the Premises are Open to the Public** Monday to Sunday 10:00 to 18:00 Hours. There are no seasonal variations.
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 Sub-Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a licensing hearing

6. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a Biscuit Boutique & Icing Cafe
7. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
8. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises
9. Food and non-intoxicating beverages shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
10. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
11. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
12. 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.
13. No deliveries to the premises shall take place between 20.00 and 08.00 hours on the following day.
14. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business
15. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed 30 persons
16. (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.
17. 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.
18. There shall be no sales of alcohol for consumption off the premises after 23:00 hours.
19. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
20. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles and cans.
21. The supply of alcohol shall be by waiter or waitress service only.
22. Alcohol sold for consumption on the premises shall only be sold to those seated at tables and ancillary to afternoon tea and to those attending pre-booked master classes.
23. 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.
24. 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
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
25. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a boutique cake and biscuit shop.

26. A register of persons attending the pre-booked classes shall be kept for a minimum period of 31 days at the premises and made available for immediate inspection by police or an authorised officer of the Council throughout the entire 31-day period.
27. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

If problems are experienced then a Review of the Licence can be made.

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

**The Licensing Sub-Committee
24 February 2022**

2. GEORGE, 87-88 MOUNT STREET, W1K 2SR

WCC LICENSING SUB-COMMITTEE NO. 2 ("The Committee")

Thursday 24 February 2022

Membership: Councillor Tim Mitchell (Chairman) Councillor Barbara Arzymanow and Councillor Maggie Carman

Officer Support Legal Advisor: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Sarah Craddock
Presenting Officer: Karyn Abbott

Application for a Variation of Premises Licence in respect of George 87 - 88 Mount Street London W1K 2SR 21/11827/LIPV

Full Decision

Premises

George
87 - 88 Mount Street
LONDON
W1K 2SR

Applicant

George (Mount Street) Limited

Activities and Hours

As per the Premises Licence

Summary of Application

The Licensing Sub-Committee has determined an application for a Variation of Premises Licence under the Licensing Act 2003 ("The Act"). The Premises currently operates as a private members club with restaurant and bar and is located within the West End Cumulative Impact Zone and West End Ward. There is a resident count of 148.

The Premises has had the benefit of a premises licence since at least September 2005. The current premises licence (15/09813/LIPDPS) can be seen at Appendix 3 of the Committee Report. The Applicant has provided submissions in the form of menus and a drinks list, an acoustic report and correspondence with interested parties requesting meetings. This can be found at Appendix 2 of the Report. The Applicant also applied for pre application advice prior to submitting this application and that particular report can also be found in Appendix 2.

This variation application seeks to permit the following:

- To vary the layout of the premises in accordance with licensing layout drawings, 4322/498/502/F (Ground Floor) and 4322/498/501/D (Basement).
- To remove outdated conditions on the premises licence and replace these with a new set of updated conditions in line with Westminster's model conditions.

The applicant has purchased the premises next door to the George. This is 89 Mount Street. Due to this the size of the Premises has increased by less than 50% to compromise of the following works:-

- The kitchen has been relocated to the basement. Part of the kitchen was previously on the ground floor.
- Addition of a bar servery on the ground floor with fixed seating.
- Removal and reconfiguration of fixed furniture on the ground floor.
- Addition of a disabled WC on the ground floor.
- 2 additional female WC in the basement.
- 1 additional male WC and 2 urinals in the basement.
- Relocation of the WC's in the basement.
- Additional back of house facilities in the basement.
- Removal and reconfiguration of fixed furniture in the basement.

All licensable activities and hours will remain the same.

Representations Received

- Environmental Health Service – Ian Watson
- Mr Jonathan Glanz (Local Ward Councillor).
- 6 Local Resident Objectors.

Summary of Representations

- The variation of the layout will likely impact on Public Safety. The change of conditions hours will have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the area.
- Any extension of opening hours would cause further disturbance to the mainly residential neighbourhood of George Club. Even if the terrace and windows are closed, guests come to smoke outside, because there is no place to smoke inside the premise, drivers wait with running motors and guests wait for their cars outside (whether or not permitted by the licence). A night club with late hours is not suitable at the location.
- I am a resident of north Mayfair and as such I am affected by noise from vehicles servicing and delivering to premises, as they drive through the streets. The numbers of delivery & servicing vehicles disturbing residents in Mayfair during late evenings and night-time are again increasing. Residents living near the premises will be disturbed by any late evening and night-times deliveries or servicing noise, such as the usual banging, crashing of boxes and doors, and associated noise such as the bottles cascades and noise of

waste/recycling being put outside. Conditions should be included that ensure that residents are not disturbed by deliveries and servicing vehicles between 9pm and 8am, excepting WCC waste and recycling collections, and essential early morning perishable food deliveries, and are not disturbed by movement of goods or waste/recycling outside the premises between those hours

- This proposal should be rejected! Expanding the size and capacity of the club is a disaster! Mount Street is on the verge of collapse! The licensing team really needs to reject this application as we have seen some awful examples of tawdry commercialism taking over adjacent streets (Berkeley St comes to mind as one particular egregious case). In addition, there will be two large scale hospitality venues opening up soon in Mount St (in the Audley pub and of the Porche Showroom). These two new venues, coupled with expanding the size of George Club, will destroy the residential nature of Mount Street. I plan to speak in the hearing as one of the residents of Mount Street. In addition, I plan to speak on behalf of many other residents who gave me permission to do so. We heard George Club is planning to have a nightclub in the future. So we need protection and guarantees that this club will never become a nightclub in the future. We need assurances that there won't be any future licensing applications requesting music and dancing! Let me highlight that Mount Street needs serious protection from the council to protect its residential character. As residents, rather than living in peace and enjoying our neighbourhood, we have to continue fighting the greed exhibited by outside parties that are only out to maximize their profits. Residents are paying the cost of their grabbing hands. Enough is enough!
- My reading of the position is that quite a significant increase in capacity is proposed. There have been objections from local residents on grounds of potential for increased nuisance. Mayfair Residents Group would like to support those objections.
- As a resident of Mount Street I am concerned that the street is reaching saturation point as regards licensed premises. Whilst the smaller George is a well-run club a much larger premises poses an obvious threat to the residential nature of this historic street which is characterised by four floors of flats with small boutiques beneath. There are residents immediately above George and opposite on all sides. As I know from experience these 19th century buildings are extremely difficult to soundproof and vibrations as sound travel to neighbouring premises. I see that music is planned and at private events as little regulation is proposed. The question arises why is this select club being expanded and will future applications request longer hours and nightclub designation? Club membership is easy to obtain and only 48 hours is required between application and acceptance. Surely that is not enough time to do due diligence as to the suitability of potential members. I feel the membership requirements should be tightened up and the area of the premises given over to music severely restricted with no facility for dancing. Hours should not be extended in the future and off sales prohibited. George is a select dining club and it should remain that way in a residential street. Please confirm this objection will be registered. I may wish to speak at any future hearing.

Policy Considerations

HRS1

- 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 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.

COMB1

- Applications inside the West End Cumulative Impact Zones 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 premises use being within the council's Core Hours Policy HRS1. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1. The applicant demonstrating that they will not add to cumulative impact within the Cumulative Impact Zone. When considering what weight is to be given to the relevant uses and policies the Licensing Authority will take into account:
 1. Whether it will undermine the licensing objectives.
 2. The current and proposed use of the premises.
 3. When those uses will take place.
 4. What the primary use of the premises is or the uses that will take place in different parts of that premises.
 5. Whether there would normally be a presumption to refuse an application for that use if it was operating as that premises type and not a combined use premises.

SUBMISSIONS AND REASONS

The Presenting Officer Ms Abbott outlined the nature of the application to the Sub-Committee. She advised this was an application to vary a premises licence for 87 - 88 Mount Street, London W1K 2SR. This application has been brought by George (Mount Street) Limited (represented by Kerry McGowan of Poppleston Allen and Counsel Stephen Walsh QC of 3 Raymond Buildings. The Applicant seeks to vary the layout of the Premises in accordance with the submitted plans, remove and update conditions on the Premises Licence to bring them in line with Westminster's Model Conditions. Full details can be found at page 40 of the Committee report. Representations have been received by the Environmental Health Service (Mr Watson), 7 representations by interested parties (Mike Dunn of the Mayfair Resident Group, T Ahmed represented by Richard Brown of Westminster Citizens Advice

Bureau. The Premises are situated within the West End Ward and do not fall within the Westminster Cumulative Impact Zone.

Mr Walsh appearing on behalf of the Applicant addressed the Sub-Committee. He advised the Premises operates as a Private Members Club and was founded more than 20 years ago without any complaint. The application seeks a long overdue refurbishment and upgrade of the club's premises and facilities. The application does not seek to change the longstanding nature, style and operation of the club which will remain first and foremost as a contemporary private members club with restaurant and bar. The application seeks only to authorise the change in layout at ground and basement levels and upgrade of some conditions and remove outdated conditions. He said the Applicant is not seeking to extend the hours or any additional licensable activity nor is there an increase in trading capacity. Mr Walsh confirmed the following matters:-

The refurbishment

- There will be kitchen and back house facilities to provide more room for staff.
- There are to be additional toilets in the basement
- The kitchen area is a key part. This will be moved entirely in the basement of 89 Mount Street.
- In respect of the licensed area there will be an additional bar serving with fixed seating, relocation of seating on ground floor and similar amendments in the basement
- There will be a new entrance created which will have a lobby.

Benefits

- There will be Improved circulation of space.
- Narrow connecting stairs are to be replaced with sweeping stairwell that will take up a lot of the licensed area.
- New exit created to the rear of the Premises to improve overall safety of the Premises
- The current licence restricts capacity to 150. There will be a capacity of 100 on the ground floor and 50 in the basement. Whilst the reconfiguration has the effect of increasing the capacity the Applicant is happy to leave the capacity as it is.

Mr Walsh added that the Applicant has made it clear the proposals reflect the current operation. There has been no other representation from other responsible authorities. The residents' who made a representation were contacted and we asked to meet them. A further remote meeting was arranged last week which was attended by Mr Dunn. The Applicant says the concerns that have been expressed have been met. The Applicant undertook an acoustic report (page 67 of the Report) and the conclusion was that the variation proposed will not have any negative impacts on amenity and the environment. Therefore, taking all of these issues into account the public nuisance licensing objective is not undermined.

Mr Walsh advised that the mechanical equipment is not increasing in size and will remain in the same location as it has done for the last 20 years.

At this point the Sub-Committee asked questions of the Applicant and sought clarification of certain issues. The Applicant confirmed that the Premises is not a smoking establishment used by staff or its Members. Members are located to sit down and smoke on the outside terrace. Staff cannot smoke during service hours and on their breaks, they will be directed away from the Premises in the nearby Garden. Smoking is not permitted outside the Premises.

Confirmation was then sought as to the procedure for obtaining a club membership. Mr Jones of the Applicant addressed the Sub-Committee and confirmed that any new prospective member must complete a written application form which is then considered by a Committee which meets on a quarterly basis annually. However, this can be done more frequently if need be. The Committee will consider each application on an individual basis and if the application is approved a subscription fee is paid and you become a member immediately.

The Chairman asked whether the physical changes focused on the kitchen and backhouse arrangements will have limited impact on the surrounding streets. Mr Walsh stated that when a variation application is made, there is understandable concerns by residents. The application merely seeks to improve the club for members and staff and nothing else. There is a small area of licensed area that is increasing however it is not anticipated we have greater usage of the Premises as the capacity will remain unchanged.

Mr Watson appearing on behalf of the Environmental Health Service addressed the Sub-Committee. He confirmed that he and the District Surveyor got involved in this Premises back in 2021 when they were invited to discuss the alterations.

Mr Watson summarised the following matters:-

- If we look at the old layout of the ground floor – the arrangement had a single entrance at the bottom left, you were then met with reception and there was a bar area. The staircase then led to the basement area. If you wanted to dine in the restaurant, you had to walk past the kitchen area.
- The Sub-Committee attention is drawn to the new plan on pages 53/54) – this entails a new accommodation staircase. On the ground floor there will be a new disabled toilet, escape corridor created and new service lift.
- We met with the development manager to discuss the public safety arrangements; we also have a works condition to be signed off once the works have finished.
- The condition reflects the old magistrates' conditions. As part of our pre-application advice, we have proposed new conditions to update the licence. We also proposed a capacity works condition. The capacity condition proposed by the Fire officer during the then hearing when the licence was initially issued has no effect in statute, and the EHS cannot enforce it but the Applicant is willing to accept the maximum capacity will be 150 and the works condition can be modified accordingly.
- There have been no complaints about the operation of the Premises and no complaints either from Council's City Inspectors.

The Applicant was asked by the Sub-Committee what the footfall was like at any one time and, what specific days are likely to attract maximum capacity.

In reply Mr George Jones Director of the Applicant stated that the way the restaurant is run, you take bookings over a pro-longed period of time so you will never get 150 people entering the building at one time. Over a lunch service, you take bookings from 12-2pm and spread them apart to ensure a comfortable dining experience. On the busiest days we have committed to retaining the current capacity and we have had 150 people in there at any one time without any issue.

Mr Brown appearing on behalf of local residents addressed the Sub-Committee. He stated that regarding the proposed change of layout – Mount Street is described as a “shopping Street with Gardens”. The resident’s concerns are that Mount Street is taking on a more “entertainment street” rather than shopping. Mr Brown stated that the residents are not opposing the refurbishment but instead to stop the licensing permitting a louder and more of a nightclub operation.

Mr Brown requested that the Sub-Committee take the following matters into account:-

- The movement of the entrance much closer to residents on Mount Street could have an adverse impact upon dispersal which could not go ignored. Residents feel that it is already quite congested on that part with taxis so this will only be increased. The current entrance is much better for dispersal.
- Outside tables and chairs – our concern is that there will be more tables and chairs outside now. There is no condition that they will be rendered unusable or removed at a certain time.
- The changes to the conditions do cause us some difficulties (page 138 of the report refers).
- Condition 14 is to be amended.
- Condition 20 – proposed to be amended after 23:00. We are not sure about the purpose of this. It would be easier for patrons to wait inside the lobby
- Condition 21 – reflects the change in terminology brought in by the Live Music Act. We would hope there would not be music outside.
- Condition 15 to be deleted – this hasn’t attracted a great deal of comments so far. This does fundamentally change the way in which the Premises could operate. I am not clear why this should be removed if there’s no change in operation.
- In the pre-app advice – there is a condition by which substantial food will have to be provided after 23:00. I don’t think this has been replicated in the application. This is still a significant watering down of condition 15.
- Conditions 22 and 23 are proposed to be removed and we are not clear why this is.

Mr Ahmed as local resident stated that the concerns of residents is the change in conditions such as condition 15. In his view he felt that this will gradually move towards the Premises being a relaxed nightclub vibe. He wanted to bring to the Sub-Committee’s attention the location of the entrance which was very important. He said that Mount Street is very congested with a lot of traffic. Relocating the entrance will be a serious disaster and therefore wanted the Sub-Committee to consider this

application of the variation when looking at the proposed layout changes for the Premises.

Mr Dunn on behalf of the Mayfair Residents Group stated that he would like to clarify that he is not a nearby neighbour. However, the reason for his submission was to support residents' objections. Mr Dunn said that his focus was on capacity, and was pleased to say we are 90% of the way with the Applicants thinking. He said that the figures of 150 for the ground and basement are noted but in addition to that there is likely to be some extra numbers for the outside tables and chairs. These are essentially the smoking tables for the Premises. He estimated these are additional to that capacity so it may be useful to have the security that they also have a maximum restriction.

The Sub-Committee sought clarification from Mr Brown as to whether the resident's concerns regarding the repositioning of the new entrance on to Mount Street had been put directly to the Applicant and whether any flexibility could be given. Mr Brown responded by saying that the Applicant had not been approached in that respect by the residents.

Mr Jones clarified to the Sub-Committee that Mr Watson asked for a lobby to be installed and this location suited the scheme overall and was the best solution.

At this point the Legal Advisor to the Sub-Committee discussed the proposed conditions. He requested Mr Walsh to confirm the position regarding the following:-

- Whether Condition 15 can remain on the licence.
- His specific views on Condition 12.
- Whether the outside tables and chairs being made rendered unusable (MC19 and 20) in view of the comments made by Mr Dunn.
- Whether MC24 dealing with a direct telephone number for the Manager to be made publicly available was agreed.
- Mr Brown's comment to the proposed relocation of the entrance lobby and whether the Applicant is prepared to devise and produce a dispersal policy to be provided to the responsible authorities?

Mr Walsh confirmed the following:-

- Condition 20 – this has now been changed to 23:00 hours. We take Mr Brown's point and am happy for this to remain as it was.
- Condition 15 – cannot stay on the licence as it refers to the old laws which is why we had no objection from the licensing authority. Mr Walsh referred the Sub-Committee to the case of Manchester City Council case – unless it is within the terms of the licensing application – This case effectively stated that the Sub-Committee does not have broad discretion like it does in a review scenario. The Premises has operated in this same way for the last 20 years without any concern.

Mr Jones reaffirmed the position regarding the above and stated that the Club is run successfully, and we are proud of our representation.

Mr Walsh stated that he had no objection in principle to a dispersal policy as that was appropriate and a relevant factor within the ambit of the Sub-Committee to consider when looking at the promotion of the public nuisance licensing objective and compliance of conditions. The capacity is within the internal area only which can accommodate up to 150 plus 35 covers outside. This has always been the case.

Mr Watson provided further assistance to the Sub-Committee in relation to the new entrance. He stated that there had been discussion surrounding the new entrance as part of the pre-application advice which covered the following matters:-

- Directly above the Premises is residential units so you will always have residents above no matter where the entrance is however there is now the added protection of a lobby.
- We have agreed the capacity will not change.
- The external dining will only be on one side of the Premises as we now have a lift in place.
- No noise condition accepted by the applicant. There has been no historic complaints and the noise report submitted supports this.
- New addition of plant to support the kitchen will be of modern standards and will be lower than existing noise levels.
- Smoking – staff will go to Mount Street Gardens. This is very close to the Premises.

Mr Dunn said that he noted that there is currently 35 outside covers and that the Applicant has no intention to increase the numbers. He said that we would have to simply rely on their integrity that this is the situation. He said that he did not live on Mount Street, but uses the street often. The problem with the street is that the layout has completely changed with parking put on both sides of the road, so it is now very narrow with heavy traffic.

Mr Walsh said that it was of material importance that Condition 15 was properly addressed and understood so that the Sub-Committee knew precisely why the Applicant was seeking removal of this specific condition from the licence. Mr Walsh said that the condition as drafted is unenforceable and that is why we seek to remove it. Moreover, this condition is not used and is not in keeping with the style of how the premises operates. He said the aim of the Applicant was to seek its removal and to make sure the licence is up to date. The Premises do not trade just as a restaurant, but also as a private members club and have traded in this particular way for the last 20 years. Mr Walsh said that the Applicant is happy to accept a condition to say substantial refreshment is available throughout the Premises. The entire motive behind this application is to improve the facilities within the Premises for the staff and its members and to ensure the Premises can operate more efficiently. Mr Walsh said for the reasons he has explained to the Sub-Committee the application should be granted accordingly.

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 welcomed the fact

that the Applicant had engaged with residents prior to the hearing and was prepared to work with them and the Responsible Authorities by agreeing conditions.

The Sub-Committee noted also that the Applicant had obtained pre-application advice and had also commissioned a Noise Experts Report by ACA Acoustics in September 2021 to determine whether noise emissions from the proposed restaurant extension would have any adverse impact on residents in terms of nuisance.

The Reports conclusion at Paragraph 6 stated that *“ACA Acoustics have undertaken an assessment of operational noise from the proposed restaurant and conclude that allowing for sound insulation performance of the existing structure and anticipated worse-case source levels based on measurements taken at other premises operated by the client, noise levels transmitted to adjoining residential premises will be low and complies with criteria of Westminster City Council”*.

Based on the evidence before it the Sub-Committee agreed with the report’s findings in so far as potential nuisance caused to residents and took the view that the noise conditions imposed on the licence should mitigate the concerns raised by residents.

The Sub-Committee noted that the style, nature and character of the Premises will remain as a Private Members Club and that the hours of operation will remain unaltered. The only changes which are subject to this variation are to the Premises layout to both the ground and basement and this is to refurbish and upgrade facilities within the Premises for the benefit of staff and those Members who frequent the Premises.

The Sub-Committee considered the request to remove certain conditions from the Premises Licence and update existing conditions with new Model Conditions. The Sub-Committee concluded that this would have the desired effect of updating the conditions in line with the Applicants day to day operation of the Premises which has been running successfully for many years without complaint. The Sub-Committee noted the concerns expressed by Mr Brown and Mr Ahmed surrounding the contentious issue of Condition 15. However, the Sub-Committee also noted the very well-made arguments advanced by Mr Walsh in his submissions as to why the condition was outdated and should no longer appear on the Premises Licence. The Sub-Committee accepted Mr Walsh’s comments and concluded that the Condition should be removed in its entirety.

The Sub-Committee was given comfort by the fact that the Applicant undertook that 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 and the premises licence has been conditioned in this respect to prevent the Premises morphing into a night club venue as might have been feared by residents.

The Sub-Committee was persuaded by the various undertakings and guarantees given by the Applicant, including the commitment to work with residents when it came to the day management of the Premises and the promotion of the licensing objectives.

The Sub-Committee considered the potential for public nuisance in relation to the repositioning of the entrance lobby onto Mount Street but took the view that the measures the Applicant was to put in place regarding a dispersal policy of its customers will help safeguard the public nuisance licensing objective and that a telephone number for the Manager at the premises will be made available to residents. These requirements are now conditioned on the Premises Licence. The Sub-Committee considers that the conditions it has imposed on the Premises Licence will mitigate the concerns of those who had objected. The Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would promote the licensing objectives.

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

1. **To grant permission** to vary the layout of the premises in accordance with licensing layout drawings, 4322/498/502/F (Ground Floor) and 4322/498/501/D (Basement).
2. **That Conditions 9, 12, 13, 14, 20, 21, 26 and 27 are now varied** and superseded with the conditions specified below and remain in full force and effect on the Premises Licence.
3. **That Conditions 10, 15, 16, 18, 22, 23 and 25 are now deleted** from the Premises Licence and cease to have any effect.
4. To add conditions in the terms specified below.
5. That the varied licence is subject to any relevant mandatory conditions.
6. That the existing conditions on the licence shall apply in all respects except in so far as they are varied by this Decision.
7. That the varied licence is subject to the following additional conditions imposed by the Sub-Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a licensing hearing

8. 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.
9. Intoxicating liquor will not be sold or supplied to persons admitted to the premises, other than to a) Members of the club and their bona fide guests meeting at the premises for consumption by those members and their bona fide guests a list of whom will be held at reception for inspection by the relevant authorities. No person shall be admitted to the membership of the said club without an interval of at least 48 hours between nomination or application for membership and admission. b) Artistes or persons employed

on the premises. c) Any person attending a private function at the premises, a list of whom will be held at reception for inspection by any of the relevant statutory authorities.

10. A copy of the club rules will be available at the premises for inspection by the Police or authorised officer of the council.
11. 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 and will include the external area immediately outside the premises entrance. 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 authorised officer throughout the preceding 31 day period.
12. 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 authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
13. 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 but in any event this shall be limited to no more than 150.
14. After 23.00 hours departing patrons waiting for a taxi shall remain inside the premises.
15. No regulated entertainment shall be provided to the external terrace.
16. Between the hours of 08:00 and 10:00 Monday to Saturday and 08:00 and 12 noon on Sunday the supply of alcohol shall be ancillary to the provision of substantial food.
17. All windows and external doors shall be kept closed after 21.00 hours, or at any time when regulated entertainment takes place on the ground floor, except for the immediate access and egress of persons.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. Regulated entertainment can commence from 08:00 on New Year's Eve and carry on through to the beginning of trading hours on New Year's Day.

20. There shall be no sales of hot food or hot drink for consumption 'Off' the premises after 23:00 hours.
21. All sales of alcohol for consumption 'Off' the premises shall be in sealed containers only and shall not be consumed on the premises.
22. A Challenge 21 or Challenge 25 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, military ID card, passport or proof of age card with the PASS Hologram.
23. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received regarding crime and disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service
24. 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.
25. 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.
26. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
27. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
28. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
29. 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.
30. Loudspeakers shall not be located in the entrance lobby of the premises or outside the building.
31. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times

32. 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.
33. 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.
34. No licensable activities shall take place 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.
35. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
36. A direct telephone number for the manager at the premise 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.
37. The Premises Licence Holder shall devise and produce a dispersal plan to cover dispersal arrangements from the new lobby entrance onto Mount Street. A copy of the policy and any updated versions shall be sent to the Responsible Authorities upon request.

If problems are experienced then a Review of the Licence can be made.

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

**The Licensing Sub-Committee
24 February 2022**

3. TAMARIND RESTAURANT, 21 QUEEN STREET, W1J 5PR

This application was adjourned by the Applicant.

4. TERMINATION OF MEETING

4.1 The Meeting ended at 1.45 pm