



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Friday 22nd April, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Karen Scarborough (Chairman), Jim Glen and Aicha Less

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. MA DAMES, 58 PORCHESTER ROAD, W2 6ET

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.4 **("The Committee")**

Full Review Decision **Friday 22 April 2022**

Membership: Councillor Karen Scarborough (Chairman) Councillor
Jim Glen and Councillor Aicha Less

Officer Support: Legal Advisor – Horatio Chance
Committee Officer - Georgina Wills
Presenting Officer - Kevin Jackaman

Application for a Review of Premises Licence in respect of Ma Dames 58 **Porchester Road London W2 6ET – 22/01181/LIREVP**

Persons attending the hearing:

Premises Licence Holder

The Premises Licence Holder (PLH) is Son Des Guitares Limited, whose sole Director and the Designated Premises Supervisor (DPS) is Mrs Jennifer Cassandri

Counsel: Ms Harriet Dixon, Ervaid Law

Metropolitan Police Service

PC Brian Hunter

Counsel: Mr Michael Rice

Environmental Health Service

Ian Watson

Objectors

Erika Pilkington

Charlie Avis

Alex Greenway

Shamir Dawood

Councillor Maggie Carman

Councillor Emily Payne

John Zamit (The South East Bayswater Residents' Association) (SEBRA)

Richard Brown (Westminster's Citizens Advice, representing John Zamit (SEBRA))

W Hibbs

The Licensing Authority ("The Applicant")

Alex Juon. Head of Service South and West PPL

Counsel: Mr David Matthias QC (Francis Taylor Buildings)

Solicitor: Lindsey Le Masurier (RBKC/WCC Shared Legal Service)

Cumulative Impact Area

Not applicable

Ward

Bayswater

Summary of Application

This is an application by the Licensing Authority for a Review of a Premise Licence known as Ma Dames 58 Porchester Road London W2 6ET ("The Premises") under section 52 of the Licensing Act 2003 ("The Act"). The Review has been made on the grounds of the Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance. The Premises operate as a night club and are located within the Bayswater Ward but not in the *West End Cumulative Impact Zone*. There is a resident count of 167 within the vicinity. The Premises has had the benefit of a Premise Licence since 2005 and updated in 2016 (16/06783/LIPDPS). The Designated Premises Supervisor is Mrs Jennifer Cassandri.

On submission of this application, the Applicant provided an in-depth description of the issues relating to the Premises which stated the following:

Westminster City Council (“The Council”) have had City Inspectors officers deployed to this premises since August 2021 to witness the dispersal procedure, and to monitor for incidents of noise and other anti-social behaviour. There have been at least 19 visits made to the Premises between August 2021 and February 2022. Most of these visits have found no issues of concern at the time of visit; although the visit made on the 3 October 2021 at 02.30 found a group of customers gathered outside and the officers feared a disturbance would take place. The officers did engage with the DPS who was present at the time. Since the Premises reopened following the pandemic there has been a significant increase in complaints from residents of the local area, in particular Westbourne Park Road and Celbridge Mews, regarding noise, anti-social behaviour, litter, urination, and human excrement, and use of nitrous oxide cannisters.

The original premises licence was issued in 2012 to a restaurant/entertainment venue. The use of the Premises has changed over the years and the licence has remained the same. The Premises with its current use is no longer suitable for the location it is a private event nightclub in a quiet residential area. The Council has recorded cases of noise on its Uniform secure data system as well as deploying resources to the area every weekend when a Temporary Event Notice has been in place. This deployment to reduce public nuisance, and the investigation of numerous complaints from local residents, impacts on the Council’s ability to task resources elsewhere within the Council.

The local Metropolitan Police Service (MPS) dedicated ward officers have partnered with Council officers to assist in the reduction of crime and disorder as well as public nuisance. The local officer has submitted evidence to this review through a disclosure request to share intelligence. He has also commented on the use of resources and in particular the time of the officers dedicated to preventing and investigating complaints from residents.

Additional submissions received from the Applicant can be found at Annex 2 of the Agenda Report. These are in the form of updated review submissions, a review summary, submissions from a premises visit dated 5-6 March 2022, and additional photos. The Applicant also submitted video evidence which was shown at the Sub-Committee hearing and circulated to all parties prior to the hearing.

Representations

The application received a representation in support of the review from the Environmental Health Service on the 7 March 2022 on the grounds of Prevention of Crime and Disorder, Public Safety and Prevention of Public Nuisance and can be found in Annex 3 of the Agenda Report.

The application received a representation in support of the review from the Metropolitan Police Service on the 2 March 2022 on the grounds of Prevention of Crime and Disorder, Public Safety and Prevention of Public Nuisance and can be found in Annex 4 of the Agenda Report.

The application received representations in support of the review from interested parties on the grounds of crime and disorder, public nuisance and public safety and can be found in Annex 5 of the Agenda Report.

The application has also received representations in support of the Premises from an interested party and the Licence Holder and can be found in Annex 6 of the Agenda Report.

Activities and Hours

The Premises operates as a private nightclub and currently benefits from the following:-

Performance of Dance

Monday to Wednesday: 09:00 to 23:30
Thursday to Saturday: 09:00 to 01:30
Sunday: 09:00 to 22:30

Provision of facilities for Dancing

Monday to Wednesday: 09:00 to 23:30
Thursday to Saturday: 09:00 to 01:30
Sunday: 09:00 to 22:30

Provision of facilities for making Music

Monday to Wednesday: 09:00 to 23:30
Thursday to Saturday: 09:00 to 01:30
Sunday: 09:00 to 22:30

Performance of Live Music

Monday to Wednesday: 09:00 to 23:30
Thursday to Saturday: 09:00 to 01:30
Sunday: 09:00 to 22:30

Playing of Recorded Music

Monday to Wednesday: 09:00 to 23:30
Thursday to Saturday: 09:00 to 01:30
Sunday: 09:00 to 22:30

Provision of facilities for entertainment of a similar description to making music or dancing

Monday to Wednesday: 09:00 to 23:30
Thursday to Saturday: 09:00 to 01:30
Sunday: 09:00 to 22:30

Anything of a similar description to Live Music, Recorded Music or Performance of Dance

Monday to Wednesday: 09:00 to 23:30
Thursday to Saturday: 09:00 to 01:30
Sunday: 09:00 to 22:30

Late Night Refreshment

Monday to Wednesday: 23:00 to 23:30
Thursday to Saturday: 23:00 to 02:00

Sale by Retail of Alcohol

Monday to Wednesday: 10:00 to 23:30
Thursday to Saturday: 10:00 to 01:30
Sunday: 12:00 to 22:30

Hearing:

1. The Chairman introduced the Members of the Sub-Committee and outlined the procedure to the Parties in attendance. Councillors Jim Glen and Aicha Less declared that they had sat on a previous Licensing Sub-Committee which had considered an application for a Temporary Event Notice by the Applicant on 27 January 22 but this did not affect their decision making and were able to consider the application with an open mind.
2. The Chairman advised that the submissions from all Parties had been thoroughly read by the Sub-Committee and that no time limits would be imposed on individuals when addressing the Sub-Committee during the hearing. The Chairman commented that the Review was considered as a serious matter and that the Sub-Committee would be required to balance the needs of residents against the commercial needs of the Premises having regard to the requirements of the City Council's Statement of Licensing Policy, Home Office Guidance issued under section 182 of the Act and the promotion of the licensing objectives.
3. Mr Jackaman, Presenting Officer, outlined the application to the Sub-Committee. He advised that this was an application for a review of an existing Premises Licence which had been submitted by the Licensing Authority on the grounds of the Prevention of Crime and Disorder, Public Safety, and the Prevention of Public Nuisance. He advised that representation had been received from the Environmental Health Service and the Metropolitan Police Service. There were also 24 representations received and these included those from Richard Brown, Westminster's Citizens Advice, John Zamit Chairman from SEBRA, local residents, Ms Erika Pilkington, Mr Chris Avis, Mr Shamir Dawood and Local Ward Councillors Emily Payne and Maggie Carman.
4. The Premises are situated in the Bayswater Ward but not located in the West End Cumulative Impact Zone. There were additional representations submitted

by the PLH (Witness Statement and detailed written Submission) and Metropolitan Police and these were circulated to all parties and considered by the Sub-Committee.

5. The Sub-Committee during the first part of the hearing viewed the relevant CCTV footage submitted by Local Residents supporting their claims that nuisance and anti-social behaviour took place outside of the Premises by its patrons.

Submissions by the Licensing Authority

6. David Matthias QC reminded the Sub-Committee that an application for a review of the Premises Licence had been made on the grounds of Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance and advised that the Licensing Authority was seeking the revocation of the Licence. Mr Matthias highlighted that there were a number of roads and Premises which were affected by the Premises and these were listed in Annex 10 of the Agenda Report. He advised that the Premises was situated in a dense residential area and roads affected by the Premises included Westbourne Park Road, Westbourne Park Road Villas, Dorchester Road and Celbridge Mews. The Premises is adjacent to Celbridge Mews and this location also has numerous residential properties. The nearest licence premises is located 75 meters from the Premises and operates as a restaurant. There are no other late-night venues.
7. Mr Matthias outlined the history of the Premises and said that it previously operated as a nightclub under the name 'Cherry Jam'. He advised that a Review of the Premises was considered on 18 November 2012 and these were on the same grounds of this Application and this was detailed in Annex 8 of the Agenda Report. He advised that the Decision of the Sub-Committee at that time was to reduce the hours of Cherry Jam. There was a change of management and that the new Designated Premises Supervisor appealed the decisions and had made concessions and assurances that no nuisance would emanate from the Premises.
8. Mr Matthias contended that the Premises location was unsuitable, and this had been recognised by the Judge presiding over the Appeal in 2013 and really wanted to emphasise this specific point to the Sub-Committee. He advised that the Premises operated until 02:00 and had made numerous uses of Temporary Event Notices which extended their operational hours until 03:00. Mr Matthias advised that this resulted in patrons leaving the Premises between 03:00-04:00 and them filing out to the pavements and surrounding roads causing nuisance to nearby residents. He said that nuisance would still emanate from the Premises even if the establishment was well managed. Mr Matthias commented that the Premises was mismanaged and that the DPS had failed to accept concerns regarding the Premises. He commented that the DPS had past criminal convictions and that residents had been adversely affected by the Premises for prolonged periods and that the Licence should be revoked.

9. Mr Matthias called Alex Juon, Head of Service South and West PPL as his Witness. Mr Alex Juon advised that he became aware of the Premises on 25 August 2021, and this was due to residents' complaints. Mr Juon advised that his predecessor had initially dealt with the Premises and that he had taken over the case. The Sub-Committee were informed that Mr Juon had submitted further submissions which corrected errors in the reports, and these would be addressed first. Mr Juon advised that a Freedom of Information Act request had been made by My London, local newspaper, and that the other Premises cited was Waitrose Store on 38 Porchester Road Bayswater. He advised that over 9000 noise complaints were made and the majority of these were anonymous and that the Planning Noise Enforcement Team were to investigate.
10. The Sub-Committee noted that there were 53 noise complaints received during the period between 15 December 2015 to 28 November 2021 regarding the Premises, however, these were concentrated in 2019/2020 pre pandemic where there were 26 noise complaints (the vast majority were between July 2019 and February 2020) and 2021 for a significant period in 2020 and 2021 (post re-opening of night clubs) when there were 25 noise complaints between August and December 2021. Due to the Coronavirus Regulations the Premises was not permitted to open in 2020 so unsurprisingly there were no complaints during this period. A list of complaints can be seen on Page 100 of the Agenda Report. The latest complaint was lodged in February 2022 where on the 27 February a private event had been held at the Premises. Officers visited the Premises but at the time of inspection the event had drawn to a close.
11. In response to questions from Mr Matthias, Mr Juon advised that residents were supportive and assisted with the gathering of evidence regarding noise emanating from the Premises. Environmental Health had still not been given access to the Premises to check the sound limiter despite requests being made in December 2021 with a further request on 5 January 2022. The Premises has not operated since the Licensing Authority submitted its Application for Review. Mr Juon advised that the PLH was in breach of Condition 13 on the Premises Licence which prohibited any noise emanating from the Premises. A visit had been undertaken in a residents' home which was in Celbridge Mews in November 2017 and that low level bass was audible in the dwelling. The Sub-Committee was informed by a resident that their property did not share a party wall with the Premises.
12. The Sub-Committee were advised that the pictures listed on Pages 77-87 of the Agenda Report were taken at Celbridge Mews and surrounding areas. These images showed individuals using the area as a public convenience, littering, nitro oxide empty canisters on pavements, human waste, empty bottles and individuals loitering in the vicinity. There were also further images provided of anti-social behaviour in the vicinity which had been taken whilst the TENs were in operation.
13. The Sub-Committee also viewed video footages which recorded individuals committing anti-social behaviour. The images and recording were provided by residents and taken after the Premises closed and the following mornings. These footages were taken during the latter part of 2021.

14. Mr Juon confirmed that a meeting had been held with the DPS and Licensing Service and that it was agreed that a Dispersal Plan be submitted by the Premises and this had yet to be actioned. Mr Juon advised that witness statements had been sought from residents and that the latter had requested for their names not to be anonymised. Mr Juon confirmed that the DPS had failed to disclose a criminal conviction when making her application and this was in breach of section 132 of the Act. It was noted by the Sub-Committee that there were concerns that the DPS may have links to organised crime.
15. Mr Juon said that the Premises was situated in the wrong location and that consultation with residents indicated that their ability to live normal lives had been severely impeded by the nuisance emanating from the Premises. The Sub-Committee were advised that a resident had to regularly move out of their property in order to obtain a good night's sleep and this was unreasonable. Mr Juon commented that anti-social behaviour at the Premises also caused nuisance on the days in which the Premises were open. He said that images and video footage viewed were indicative of the nuisance experienced by residents.
16. In response to the Sub-Committee, Mr Juon advised that the Premises had traded twice since January 2022, and this included a teenage birthday party. There was no alcohol sold during the event. The breaches of licence conditions would have been raised with the Premises and that the mitigating actions put forward by the DPS were insufficient and failed to fully address those concerns. Mr Juon stated that ongoing concerns from residents regarding noise nuisance and anti-social behaviour indicated that existing Conditions were not being adhered to. Mr Juon said that in his view any additional Conditions that were likely to be imposed would not be effective in addressing these immediate concerns and this was due to both the style of management adopted by the PLH and the Premise location. The Sub-Committee noted that there was no evidence that SIA Conditions had been breached.
17. In summing up Mr Matthias advised that the Premises was in a highly sensitive location and had caused nuisance to residents. He advised that management was ineffective and noted that the DPS had a meeting with City Inspectorate on 3 December 2019 to discuss concerns. Mr Matthias stated that the DPS had confirmed that changes were made to the Premises dispersal policy following this meeting. He referred to Page 40 of the Agenda Report and said that there was a series of complaints lodged after the meeting on 3 December from residents. These complaints related to noise nuisance and anti-social behaviour during the late evenings and early morning. Mr Matthias stated that the DPS had assured Council Officers that no nuisance would emanate from the Premises. He advised that the Covid-19 Pandemic had given residents some respite and possibly delayed the Review of the Licence.
18. Mr Matthias advised that another meeting was held with the DPS on 19 October 2021 with City Inspectorate regarding breaches of Conditions. He advised that the DPS had been requested to submit a Dispersal Policy at the meeting and had still not provided the document. Mr Matthias referred to Page 120 of the Agenda Report and said that complaints had been lodged on 19 October 2021 and 28 November 2021 in relation to nuisance experienced by

residents. He advised that there was no assurance that the DPS would adhere to Licence Conditions and successfully manage a Premises which was in a sensitive and highly residential area. Mr Matthias advised that the DPS could also apply for TENs.

Submissions by the Resident – Charlie Avis

19. Mr Matthias called Charlie Avis, local resident as his witness. Mr Avis confirmed that he had made a witness statement on 5 November 2021 and had made an additional representation on 7 March 2022. He confirmed that his statement alongside his wife were correct. Mr Avis advised that he supported the Review and had attended the Sub-Committee in his capacity as Chair of the Westbourne Park Residents Association. Mr Avis advised that he was representing owners of 55 residential properties and 150 individuals.
20. Mr Avis said that the Premises was the biggest concern of the Residents Association and that some of its members had felt intimidated by the DPS and its patrons. Mr Avis advised that patrons congregated outside residential properties and were aggressive when approached by residents. He advised that he had been threatened and attacked by a patron whilst recording anti-social behaviour and illicit transactions in the vicinity. Mr Avis commented that residents had 'loss trust' with the Local Authority and felt it necessary to capture and gather their own evidence. Mr Avis advised that there was a reluctance of the DPS to adhere to licence Conditions and that the whole process for ensuring a Review took place had been long and protracted.
21. Mr Avis commented that video footage and images produced was a small fraction of the nuisance experienced by residents and did not provide a full picture of the various incidents which had happened over time. He advised that other Premises which were in the vicinity did not cause nuisance. Mr Avis said that reducing the hours of the Premises would not mitigate concerns and that consideration to alter a condition which prohibited RnB and Hip-Hop genre of music being played be amended as it was associated with a racial subgroup was irrelevant. Mr Avis said that the discrimination was not a factor and advised that it was documented that the Premises patrons were attracted to this genre of music. He stated that this genre glorified misogynist behaviour and illicit drug consumption and this was reflected in the behaviour of patrons attending the Premises. Mr Avis advised that past promotions of the Premises included reference to this genre of music, and this was another indication that Conditions were not being adhered to. Mr Avis advised that the appropriateness of the DPS to hold the Licence and her conduct and failure to promote the licensing objectives should be the focus of the Sub-Committee.
22. In response to questions from Mr Matthias, Mr Avis advised that the Premises was unsuitable for the location and that the majority of nuisance was experienced during events where RnB and Hip-Hop music genre were promoted. He said that the DPS had previously communicated that the Premises attracted 'a bad crowd'.
23. The Sub-Committee were advised that it was not normal practice for the Licensing Service to alert Premises owners of visits prior to them being

undertaken by City Inspectors. There were concerns this had taken place during the monitoring of the Premises as provided for in the evidence.

24. In summing up Mr Avis advised that the DPS should be assisted in finding an alternative site in a suitable area and stated that there were numerous vacant premises in Soho, Central London. He stated that the DPS had been ineffective with complying with the many Licence Conditions. Mr Avis said that it had been expressed that PLH had 'strived' to comply with Conditions which were 'workable'. He advised that Conditions had been breached for prolonged periods and there was no confidence in the DPS to run the Premises that would lead to the promotion of the licensing objectives.

Submissions by the Resident – Erika Pilkington

25. Mr Matthias called Erika Pilkington, local resident as his witness. Ms Pilkington advised that she had lived in her property for some 25 years and during the past 6 years would leave her accommodation during the weekend due to noise emanating from the Premises. She advised that TENS which were in operation at the Premises during the weekend disturbed her sleep on a frequent basis. Ms Pilkington said that she worked long hours and the Covid-19 Pandemic lockdown restrictions had given some respite from nuisance experienced from the Premises. The Sub-Committee was advised that music was audible in her property via a shared party wall. Two other residential properties shared a party wall with the Premises.
26. Ms Pilkington advised that at the residential meeting on 5 November it was offered, for an Acoustic Engineer be commissioned to visit the Premises and for the costs to be shared with the DPS and residents. She advised that a visit was cancelled and that no communications had been received about organising a new date. Ms Pilkington advised that it had been communicated that the Acoustic Engineer could only visit whilst the Premises was in operation. Ms Pilkington said that the DPS father had been taken ill during one period and that no offer for a representative to liaise with residents had been made. Ms Pilkington also advised that the Licensing Service offer to review the noise limiter in the Premises had not been taken up. She said that a sound engineer had been sourced by the residents during this period as the DPS was unable to appoint one. Ms Pilkington advised that she was a part qualified Surveyor, and in her opinion, it was unlikely that the Premises Party Wall was insulated. The Sub-Committee noted that there were open vents, and this allowed for noise to be transmitted.
27. Ms Pilkington advised that nuisance was experienced whilst the Premises operated as Cherry Jam. She confirmed that the current nuisance experienced had worsened and occurred until the early morning and the following day. The layout of the Premiss, the speakers being mounted onto the walls and genre of music played during events were all contributing factors to the noise nuisance experienced. The building was not suited for the Premises and that remedial work would be limited. In response to questions from the Sub-Committee, Ms Pilkington advised that additional Conditions would not mitigate the concerns of residents and she had no confidence whatsoever that the DPS would adhere to them. The Sub-Committee were reminded that the DPS did not have any

enforcements notice lodged against her and had made numerous assurances that concerns would be addressed, but this had not materialised.

28. Ms Pilkington advised that there was anti-social behaviour from patrons and these individuals caused noise nuisance. She advised that SIA were rarely present and commented that there were prior notifications given to the Premises when visits are undertaken by the Council's Enforcement Team. She advised that evidence provided on Pages 349-351 of the Agenda Report were taken when the Premises was in operation. Ms Pilkington said that there was a pattern of anti-social behaviour and illicit trading of prohibited substances. Celbridge Mews was a quiet location when the Premises was not in operation and that families with young children lived in this vicinity. Ms Pilkington said that during a period of several weeks, she was only able to obtain 2.5 hours of sleep during the night.
29. In response to questions from the Sub-Committee Ms Pilkington advised that previously a noise monitor had been installed in one of the homes of the residents' and this was undertaken whilst the Premises operated as Cherry Jam. Mr Juon advised that an apology had been given to residents for the lack of work undertaken in their dwellings. The Sub-Committee were reminded that residents had not refused noise monitors and had offered access to their homes. Ms Pilkington commented that there was sufficient evidence that noise nuisance from the Premises was above statutory nuisance levels and direct visits should have been made to the Premises. Mr Juon commented that officers would be recommended to make weekly visits to homes and reminded that the Premises had not been in operation.
30. In response to questions from the Sub-Committee, Ms Pilkington advised that events advertised by the Premises was used to determine whether anti-social behaviour or nuisance would occur and that residents had set up a WhatsApp group to discuss these dates. She commented that events such as comedy nights and private events were not advertised and that during periods between October 2021 to December 2021 the Premises was in operation every week. She said the Premises operational style was difficult to predict.
31. In summing up Ms Pilkington said that in her view the Premise Licence should be revoked and the DPS removed. She advised that the DPS was ineffective and could apply for further TENs.

Submissions by the Resident – Alex Greenway

32. Mr Matthias called Alex Greenway, local resident as his witness. Mr Greenway advised that his submissions and representations were correct. He advised that the Premises was not 'fit for purpose' and commented that the previous licence granted was for a restaurant and that the Premises had 'morphed' into a night club. He commented that these series of actions needed to be reviewed. Mr Greenway advised that it would be difficult to control a large crowd dispersing from the Premises and said that a dispersal plan had still not been submitted. Mr Juon acknowledged that there had been a lack of checks

and balances regarding the Premises and reiterated that the site was unsuitable and that an application had been made to address this.

33. In response to questions from the Sub-Committee, Mr Greenway advised that he had resided in the area for several decades and confirmed that whilst the Premises was in operation anti-social behaviour and nuisance increased. He advised that there had been nuisance experienced from the Premises for prolonged periods and this included when the establishment operated as Cherry Jam.
34. In summing up Mr Greenway advised that the nuisance experienced by residents had been over several years.

Submissions by the Resident – Shamir Dawood

35. Mr Matthias called Shamir Dawood, local resident as his witness. Mr Dawood confirmed that nuisance experienced from the Premises was one of the contributing factors for his family to move out of their home. He advised that noise nuisance occurred during 04:00 and that Environmental Health responses were not effective. Mr Dawood advised that numerous complaints had been lodged against the Premises and individual recordings of sound within his property had measured over 60 decibels. Mr Dawood commented that his former dwellings had double glazing and that regulations required for noise not to be over 45 decibels. In response to questions from the Sub-Committee, Mr Dawood advised that there was a pattern with nuisance experienced and this heightened whilst the Premises was in operation. Individuals would loiter in the vicinity and cause anti-social behaviour and nuisance. Mr Dawood confirmed that the area was quiet when the Premises was closed.

Councillor Maggie Carman, Local Councillor Bayswater Ward, on behalf of Ms Julie Knight, Local Resident / Simon Plummer, General Manager Porchester Hall

36. Councillor Maggie Carman advised that she was representing a local resident and addressing the Sub-Committee on behalf of Julie Knight. Councillor Carman read Ms Knight's statement. The Sub-Committee was informed that Ms Knight was a 75-year-old retired resident. The statement provided details of the anti-social behaviour of patrons, illicit trading and consumption of prohibited substances and noise nuisance experienced by Ms Knight during the early morning. Patrons would park at Celbridge Mews and block entrances to residents' garages. Ms Knight was forced to leave her property during the weekends due to noise nuisance and anti-social behaviour being intolerable. Ms Knight would permanently leave her property if the Premises remained open.
37. Councillor Carman also read a statement from Simon Plummer, General Manager at Porchester Hall and commented that there were concerns that some of the anti-social behaviour experienced emanated from this venue. The Sub-Committee was informed that Porchester Hall operated until 23.30 weekdays and closed at 00.30 weekends. The Premises has held two events

which finished after 02.00 and this was on 11 February 2022 and 19 March 2022 respectively. The premises had 'tight security' at their entrance and that there was no re-entry after 23.30. Mr Plummer had commented that it was unlikely for the regular nuisance and anti-social behaviour violations experienced emanated from Porchester Hall and had observed that better crowd management of patrons frequenting the Premises was required.

38. Councillor Carman advised that a similar statement could have been obtained from other Premises located in the vicinity and this included the Porchester News, Tedzukuri Restaurant and Bengal Indian Restaurant. Councillor Carman said that there was strong evidence that the Premises was in breach of the licensing objectives. She advised that the DPS concerns regarding nearby Premises were unfounded and raised concerns that the Review had been viewed as being racially motivated.

Councillor Emily Payne, Local Councillor Bayswater Ward, on behalf of SEBRA

39. Councillor Payne advised that she was representing SEBRA. She advised that residents from the surrounding four streets had been impacted by the Premises and this included threatening behaviour from patrons, illicit trading and consumption of prohibited substances and noise nuisance. Residents were constantly being disturbed during the early hours of the morning, and this impacted their sleep.
40. Councillor Payne advised that the Premises site was unsuited and was situated in a largely residential area and that nuisance experienced was further exacerbated when TENs were in operation. Councillor Payne advised that the DPS had failed to address the key concerns of residents and the Licensing Service. She advised that PC Andrew Sargent of the Metropolitan Police who had previous involvement with the Premises was critical of the lack of engagement by the DPS. Councillor Payne said that the Licence should be revoked, and that additional Conditions would not mitigate concerns raised and would only prolong the distress experienced by residents and these included families with young children.

Richard Brown, Westminster's Citizens Advice representing John Zamit (SEBRA)

41. Richard Brown, Westminster's Citizens Advice representing John Zamit of SEBRA advised that the Resident's Association became aware of the Premises following concerns raised by their members over the anti-social behaviour and complaints. Mr Brown advised that the Premises is in the Queensway/Bayswater Special Consideration Zone and was the only establishment that operated until later hours. Mr Brown advised that concerns raised were like those which were made under a former Review. He advised that the Premises was situated in the wrong location and that the licensing objectives could not be promoted.

42. Mr Brown advised that there was a correlation between nuisance experienced by residents and the Premises operational hours. The Sub-Committee was advised that there were 53 recorded complaints received regarding the site since 2015 and that the vast majority was lodged between the period 2019-21. This indicated that nuisance from the Premises had increased and was only reduced following the Covid-19 Pandemic lockdown. Mr Brown said that there had been several recent complaints, and these were detailed on Pages 119-121 of the Agenda Report. He advised that complaints were reduced whilst the Premises was not in operation and that there was a pattern. Mr Brown commented that residents could lodge complaints regarding nuisance at any period and that the evidence provided supported reports of disturbances which had been made over several dates and timeframes.
43. In summing up Mr Brown advised that there was a correlation between nuisance experienced and the Premises operational hours. He advised that the Premises was in operation on 2021 August 2021 and this was listed in on Page 97 of the Additional Agenda and commented that that a complaint had been made on 22 August. He advised that the totality of the evidence demonstrated that there was a correlation and that SEBRA supported the Licensing Authorities application to revoke the Premises Licence.

John Zamit (SEBRA)

44. John Zamit, Chair of SEBRA confirmed that residents had met with Councillor Payne and that Celbridge Mews was a 'quiet area' during the day and had numerous residential properties. He advised that several residents who lived in the locality were members of SEBRA. Mr Zamit advised that an article had been featured on SEBRA News about the nuisance experienced in the locality and commented that members and residents were mal impacted by the Premises. He advised that occupiers included long term residents. Mr Zamit advised that Queensway/Bayswater Special Consideration Zone had been enlarged. He advised that neighbouring establishments which included numerous restaurants and Porchester Hall did not cause any concerns.
45. Mr Zamit advised that a meeting was held with the former premises licence holder and that it had been assured that nuisance would not emanate from the Premises and commented that this had not occurred. He advised that a meeting had also been held with the current DPS when the Premises opened, and was advised that the Premises would operate as a comedy club and restaurant and these operations would be very similar to an establishment which her husband operated in Marseille France. The Sub-Committee was informed that the relationship between the DPS and residents had deteriorated. He stressed that residents accounts and submissions were truthful and should be taken into consideration by the Sub Committee.

Submissions by the Police

46. Michael Rice, Counsel for the Metropolitan Police, advised the Sub-Committee that PC Burgin had written the Police statement and was unable to attend the hearing. However, in his absence he would be calling PC Brian Hunter as his witness.

47. Mr Rice advised that the Metropolitan Police supported the Review and advised that there had been several criminal incidents which was associated with the Premises and this was of concern. He said that the Police would work with the DPS and that their focus was to manage crime prevention and this was based on the evidence which had been gathered. Mr Rice commented that the Police also proposed that Conditions be modified to meet these objectives and in conjunction would also support for the Licence to be revoked if considered appropriate by the Sub-Committee.
48. The Sub-Committee noted that the Metropolitan Police submission by PC Burgin had highlighted that the Premises was situated in the wrong location and that the Licence should be revoked. The Sub-Committee noted also that the viewpoint of the Police had altered, and modifications of the Licence Conditions were now being sought.
49. Mr Rice advised that proposed Conditions by the Metropolitan Police had been agreed by the DPS apart from the reduction of the Premises hours to core hours. Mr Rice advised that Condition 51 which restricts the marketing of RNB and Rap music should be removed. The Condition had been suggested by the previous licence holder and was viewed to be discriminatory and difficult to enforce. The Sub-Committee agreed that this should be removed and commented that the Condition was not appropriate.
50. Mr Rice advised that a number of criminal incidents had occurred which were linked to the Premises and needed to be brought to the attention of the Sub-Committee. He advised on 28 July 2021 an individual had been assaulted whilst recording anti-social behaviour of patrons leaving the Premises at 01.00 hours. Mr Rice advised that there was no additional lines of enquiries, independent witnesses or CCTV footage and that bouncers were not aware of the incident. A Condition in relation to CCTV had been recommended following this incident.
51. Mr Rice advised that there were two incidents which had occurred on 12 December 2021. He confirmed that a Premises security guard had threatened an individual and taken pictures of the person. This had occurred whilst the individual was taken pictures of the anti-social behaviour which was being undertaken in the vicinity. Mr Rice advised that the Police was called at 02.00 following the incidents and these incidents compromised their ability to response to other crimes elsewhere. He advised on the same date the DPS had contacted the Police regarding disturbances from patrons loitering near the Premises.
52. Mr Rice advised that there was a police officer call out on 13 November 2021 by staff Members from the Premises at 02.17 requesting assistance from the Police to disperse patrons loitering outside the Premises. Mr Rice said that there were examples of incidents which are not managed and required police intervention. Mr Rice commented that there were three incidents which were directly linked to the Premises and that it would be appropriate to reduce the operational hours to core hours. He advised that anti-social behaviour and criminal activities took place during the latter hours. The Sub-Committee was

advised that patrons could be better managed during the core hours, and this would help reduce the number of policer responses to 'call outs'.

53. In response to questions from the Sub-Committee, PC Brian Hunter advised that all Conditions proposed would apply to any TENs which are applied by the PLH and that additional undertakings could be requested by the Police such as last entry or additional security. The Sub-Committee was advised that the PLH would be required to successfully demonstrate how they would prevent Crime and Disorder and what mitigating factors would be implemented. PC Hunter advised that any TENs applied for by the DPS would be considered by the Police in the same manner as explained.
54. In response to questions from the Sub-Committee, PC Hunter commented that PC Burgin was the dedicated Ward Officer and his recommendations to revoke the Premise Licence was based on local knowledge and experience of the area. PC Hunter advised that the Metropolitan Police Licensing would consider a Review if there had been several reported criminal incidents. PC Hunter commented that there was a small number of reported criminal incidents regarding the Premises, however, these criminal investigations were closed as there was no independent witnesses, that suspects could not be identified and there was no CCTV footage. PC Hunter advised that all TENs were assessed against reported criminal activities which had been reported in relation to a Premises, He advised that the Licensing Service were expected to take the lead regarding anti-social behaviour from establishments when considering such applications.
55. PC Hunter advised that Conditions had been proposed to help mitigate concerns if the Licence was not revoked. He said that there was a direct correlation between prolonged drinking and anti-social behaviour during the latter hours of the day. It was noted by the Sub-Committee that the Premises was situated in the Queensway/Bayswater Special Consideration Zone and that there may be a low level of cumulative impact within the vicinity.
56. In response to questions from the residents, PC Hunter advised that the new proposed CCTV Model Conditions would require for external and immediate areas outside the Premises to be captured by CCTV. The Sub-Committee was advised by Mr Avis that the Premises internal CCTV recording was requested following his assault and that it had been communicated that the footage was unavailable. There were concerns raised on whether the DPS would adhere to the amended CCTV Condition. The Sub-Committee commented that the CCTV may not deter any anti-social behaviour.
57. In response to questions from the Sub-Committee, Mr Rice advised that the Police would be satisfied that the crime and disorder licensing objective would be met if the Conditions recommended are imposed and commented that this had to be considered in conjunction with the other licensing objectives. The Sub-Committee noted that residents had raised concerns regarding anti-social behaviour to the Council on numerous occasions and this evidence would not have been captured by the Police and should be taken into consideration. Mr Matthias advised that PC Burgin had advised during the TENS Application

which was considered on 27 January 22 that the Premises was situated in an unsuitable location and there were ongoing concerns regarding the DPS's ability to adhere to the licence conditions. Mr Matthias stated that PC Burgin would be familiar of the locality and had 'first-hand knowledge'.

58. In summing up Mr Rice advised that the Police were satisfied that crime had been linked to the Premises and confirmed that there had been incidents on 12 November 2021, and 13 December 2021. He stated that there was a further incident on 1 November 2021 in which an individual was threatened, and this was contained on Page 221 of the Agenda Report. Mr Rice commented that incidents were not spread out and those referred were the most recent. Mr Rice advised that the Conditions proposed by the Police were 'a package' and could not be separated. He advised that the reduction of the Premises operational hours was a fundamental part of the Police requirement. Mr Rice advised that the licensing objections in relation to the prevent of crime and disorder would not be promoted if the Premises operational hours remained and that the Police would support the revocation of the Licence. Mr Rice advised that TENs were not in operation on 12 November 2021 and 13 December 2021 and highlighted that the DPS had requested for Police assistance on these dates.

Ian Watson – Environmental Health.

59. Mr Ian Watson advised that he was familiar with the Premises and commented that it previously operated as a restaurant which had ancillary entertainment. Mr Watson advised that the Premises Licence was 'transferred into Cherry Jam and a full refurbishment was undertaken. He advised that the Premise had morphed' into an entertainment led' venue ancillary to food. Mr Watson advised that numerous complaints had been received since its operation. The complaints lodged included noise transferring into residents' dwellings. He advised that a visit had been conducted following concerns and it was recommended that a false wall be installed to provide noise annotations between Cherry Jam and the residents dwellings. He confirmed that a noise limiter was installed and set by the Environmental Health and that the previous Licence Holder was instructed not to affix speakers or any noise annotations equipment onto the false wall.
60. Mr Watson stated that noise complaints continued to be received following the transfer of the Licence to the DPS. He advised that a complaint was logged on 4 November 2017 and a visit to a resident's home was made and it was recorded that the noise in the dwelling was not at a nuisance level. The noise limiter at the Premises was adjusted. Mr Watson advised that the noise limiter installed in the Premises would have been a 'top end limiter' and would not control low frequency levels and that technology had since improved. He advised that there were historical records about the noise levels being set and that Environmental Health Science Team would be able to assess the sound systems of the Premises. Mr Watson advised that there was uncertainty if the music system installed was fixed and if additional equipment brought by DJs bypassed the noise limiter. He said that Environmental Health could monitor sound levels from party walls which were shared with the Premises. He

further confirmed that Environmental Health were able to monitor all frequency and had technology which could to correct the sound limiter.

61. Mr Watson stated that Pages 119-131 of the Agenda Report sets out all visits and actions which had been undertaken following noise complaints received regarding the Premises and this was over a 5-year period. He advised that there had been 21 TENs in operation from February 2019 and 12 had not raised any concerns. Mr Watson advised that concerns regarding the Premises was in relation to the overall operation and not just during the TENs. He commented that impact noises would disturb residents whilst patrons left the Premises, and that a good dispersal plan would be required to mitigate these concerns.
62. In response to questions from the Sub-Committee, Mr Watson confirmed that a Pro- Active visit was undertaken by City Inspectorate on 4 August 2019 and it was observed that the SIA had experienced difficulties in controlling patrons whilst they left the Premises following a private event at 01.20 hours. Mr Watson advised that this event was considered as a 'good night' and that there were concerns on how the SIA would manage and engage large number of patrons that congregate in the locality following promoted events. Mr Watson said that the location of the Premises made it a destination venue and that it attracted patrons who had no interests in the local area and these individuals would be difficult to monitor and also be hard to control noise levels. He advised that there were concerns regarding club promoters and that these individuals frequented numerous venues and did not have long tenancy at Premises, and this was due to the anti-social behaviour of the revellers they attracted.
63. In response to the Sub-Committee, Mr Watson advised that concerns regarding late night venues were largely in relation to dispersal of patrons and use of the external areas. He reminded that the Premises was situated in a largely residential area and that the DPS had operated on occasions and no complaints had been received during these instances. Mr Watson acknowledged that there was a history of complaints and residents had left their dwellings following nuisance experienced. Mr Juon commented that noise complaints were being reviewed and would be considered as part of a case management system which would be similar to how anti-social behaviour was being monitored.
64. In response to questions from the Sub-Committee, Mr Watson advised that Environmental Health would review the Dispersal Policy and commented that all concerns would not be mitigated and said that noise levels from patrons were usually high when they left entertainment led venues. Following further questioning from the Sub-Committee Mr Watson advised that visits to the Premises were undertaken by City Inspectors and these Officers did not have the technical ability to monitor the sound limiter. He advised that referrals to the Environmental Health Science Team would solely focus on the setting up of a noise limiter and that the Team would not be assessing whether the device was being bypassed. Mr Juon advised that colleagues had been instructed to liaise with the Environmental Health Science Team. Mr Matthias commented that there had been several attempts to access the Premises by

the Acoustic Engineers and other parties, and these had been rebutted by the DPS. Mr Watson commented that the DPS had failed to adhere to Conditions which prohibited the transfer of noise into residential dwellings and those required in relation to the sound limiter.

65. Mr Watson confirmed that two complaints had been received regarding Porchester Hall during the usage of TENs and that the Premises had been liaised with and asked to undertake remedial actions.
66. In summing up Mr Watson reminded that Environmental Health had provided a report which detailed the nuisance recorded in relation to the Premises and visits undertaken by City Inspectorate. He commented that a dispersal plan had not been submitted by the DPS despite being promised. Mr Watson advised that the dispersal plan contained in the Premises Risk Assessment did not include patrons using their own vehicles and advised that this could affect parking in neighbouring streets and cause a nuisance. The Sub-Committee were advised that any future application for TENs submitted by the Premises would likely be referred to a Licensing Sub-Committee and consideration would be given on how the Premises had operated and the type of event which was scheduled. Mr Watson advised that the fake wall had not been removed and that no base bins should be placed near them. He confirmed that the sound limiter could be checked, and this was a straightforward process. The Sub-Committee were informed that no gates could be installed at Celbridge Mews due to it being listed under the Planning regime and that an SIA could be stationed at the entrance of the Mews.

The Sub-Committee adjourned at 13.10 and resumed at 14.48

Submission by the Premises Licence Holder

67. Ms Harriet Dixon, Counsel for the PLH and DPS advised that witness statements, representation and supporting information had been provided by the DPS. Ms Dixon advised that the PLH had submitted information on what steps were being taken to address the concerns raised. Ms Dixon advised that revoking the Premises was disproportionate and advised that the PLH was doing 'her best' to further the Licensing Objectives by complying with set Conditions and had agreed to additional conditions in previous years. Ms Dixon advised that a Dispersal Policy would be submitted, and that the PLH acknowledged the seriousness of the concerns raised by Interested Parties. Ms Dixon commented that there were underlying concerns regarding noise nuisance and anti-social behaviour in the locality and these disturbances could not be solely attributed to the Premises. She commented that reports of anti-social behaviour had been made whilst the Premises was not in operation.
68. Ms Dixon advised that the PLH would accept all the modifications of the Condition proposed by the Metropolitan Police apart from the reduction in the Premises operational hours and commented that this proposal was not viable. Ms Dixon noted that concerns had been raised by the Licensing Authority and Environmental Health were primarily related to poor engagement between the PLH and residents, party wall, anti-social behaviour, noise nuisance, littering,

breaches of the licensing conditions and the appropriateness of the Premises site. Ms Dixon advised that the PLH had actively engaged with the Licensing Service from the outset and should not be blamed for Council Officers inactivity regarding complaints. Ms Dixon commented that the PLH had consistently put in measures following meetings with interested parties. Ms Dixon advised that the PLH had altered how patrons were dispersed following a meeting with Council Officers on 3 December 2019. She commented that DJs were instructed to announce when patrons should book their taxis, that the bar was closed an hour before closing time and that individuals were requested to leave the Premises in small groups to aid dispersal. Ms Dixon advised that these steps were effective and had a positive impact.

69. The Sub-Committee highlighted that the meeting with the DPS and Council Officer took place in 2019 and commented that there had been subsequent complaints made by residents regarding anti-social behaviour and noise nuisance from the Premises. At this point the Sub-Committee commented that premise licence holders in Westminster were expected to be aware of their licence conditions and be compliant with those obligations. Ms Dixon advised that the PLH had met with Council Officers on 19 October 2021 and following recommendations had appointed a number of industry security licensed officers to preside over large events in order to meet concerns regarding dispersals. Ms Dixon apologised that a Dispersal Plan had not been submitted and commented that it was contained in the Risk Assessment on Page 121 of the Agenda Report. She advised that the PLH was willing to expand the Dispersal Policy to address concerns.
70. Ms Dixon advised that the PLH had met with parties on 5 November 2021 and following meetings had undertaken to employ 5 SIA rather than 4 which was required by the Licence. She said that a SIA was now stationed at the entrance of Celbridge Mews and would ensure that patrons do not use this pathway and disturb residents in this vicinity. The PLH had taken active steps to directly address concerns of residents and ensure the public nuisance licensing objective was promoted. Ms Dixon advised that there were a number of occasions which noise complaints had been lodged whilst the Premises was not in operation, and these were set out on Page 28 of the Additional Agenda. She commented that this was indicative that there was noise pollution in the area and all complaints could not be attributed to the Premises. Similarly, the images of anti-social behaviour provided by residents which had been presented were taken on occasions when the Premises was not in operation. These dates included 12 July 2021 and 22 August 2021.
71. Ms Dixon stated that patrons could not purchase bottled drinks and food wrapped in packages from the Premises. She said that the PLH would ensure that litter and other waste are cleared from pavements from a reasonable distance from the Premises and this was to ensure resident concerns are addressed and the vicinity is kept clean. Ms Dixon said that a strict Drug Policy was implemented and that patrons were prohibited from using illegal substances in the Premises. She advised that metal detectors were used at the door entrance of the Premises. Ms Dixon said that selling of prohibited substance in the locality and nitro oxide canisters being left on pavements could not solely be attributed to the Premises and that these anti-social

behaviour and littering were reported when the Premises had not been in operation.

72. Ms Dixon stated that the PLH had always engaged regarding the 'Party Wall' and commented that this issue was currently being dealt with and this was detailed on Page 15 of the Additional Agenda. She advised that the PLH had always engaged regarding the noise monitor and any concerns regarding noise nuisance transmitted through party walls. The Sub-Committee was advised that concerns regarding noise transmission had been raised in 2017 and were acted upon. Ms Dixon advised that the PLH had ensured that noise limiters were set at an appropriate level and had installed base dampers to reduce vibrations transmissions.
73. The PLH had also agreed to share the cost of an Acoustic Engineer with a local resident after the same concerns regarding vibrations transmission were raised in 2021. Ms Dixon advised that the PLH had also held discussions with Council Officers regarding the noise limiter. Ms Dixon confirmed that no further actions had been undertaken by the PLH and this was due to her father being taken ill whilst abroad coupled with their being financial constraints for the business. Ms Dixon stated that the PLH had reimbursed a resident following a cancelled appointment and had resumed discussions. She advised that the PLH would implement recommendations regarding the sound limiter and purchase additional equipment. Ms Dixon advised that the PLH would ensure that interested parties are given access to the Premises.
74. Ms Dixon advised that the PLH had always strived to comply with the Licence Conditions, and these were not routinely breached as stated in earlier submissions. She said that 4 SIAs were always present at the Premises, and this was observed following a Pro-Active Visit by the Council. Ms Dixon stated that the Premises did not operate outside their licensed hours and that Conditions regarding parking were enforced and this was evidence on Pages 120-121 of the Additional Agenda which contained an email to a patron about parking restrictions and dispersals requirements.
75. Ms Dixon stated that PC Burgin had commented that anti-social behaviour would be prevented in the surrounding areas if the Premises Conditions were followed, and this was disclosed during a TENs Application that was considered on 27 January 2022 and this was detailed on Page 96 of the Agenda Report. Ms Dixon advised that it was recognised that the Premises was in a highly residential area and said that there were a number of establishments within the vicinity and the locality had a busy 'night life'. The Sub-Committee were informed that the capacity for Porchester Hall was 600 and that the PLH would seek advice from the venue on how to improve the Dispersal Policy.
76. Ms Dixon stated that the Premises had operated as a night club since 2005 as Cherry Jam and highlighted that the Premises Licence was retained following Reviews in 2012 to 2013. The Premises was similar in operation to Cherry Jam. Ms Dixon highlighted that only three Police incidents had been reported since 2015 and this indicated that that were no major concerns regarding crime and anti-social behaviour. Ms Dixon said that the Police incidents were

regrettable and advised that their numbers were relatively small in comparison to other similar establishments. The Sub-Committee was advised that PC Burgin had advised that the anti-social behaviour which occurred in the vicinity of the Premises were largely associated with the type of establishments and this was detailed on Page 319 of the Agenda Report. It was noted and recognised by the Sub-Committee that a staff Member had contacted the Police on 12 November 2021.

77. Ms Dixon advised that the PLH could not agree the Conditions which required for the Premises hours to be reduced to core hours. She said that the Condition was not economically viable and would prevent the Premises from being able to compete with similar establishments. Ms Dixon advised the Premises bars were closed an hour before the end of operations and reductions in hours would have a mal impact on busy trading days which tended to be during the latter part of the week. Ms Dixon reminded the Sub-Committee that the Premises had been affected by the Covid-19 Pandemic lockdowns.
78. Ms Dixon said that the PLH had proposed additional measures which included street cleaning of immediate areas which were of a reasonable distance from the Premises, pay the costs for the installation of gates or temporary barriers at Celbridge Mews whilst the Premises was in operation and that a fifth security enforcement officer had been stationed at Celbridge Mews. The PLH would continue to work with the Council and residents regarding the Party Wall and was apologetic for the delay in resolving these concerns. Ms Dixon advised that the PLH was committed to engage with the community and had offered use of the Premises for charitable events.
79. Ms Dixon confirmed that the PLH had a criminal conviction in France and this was related to acts committed by a third party in relation to a French Company. She acknowledged that the PLH had not declared her criminal conviction and advised that Lambeth Council had now been informed. Ms Dixon advised that the PLH's Personal Licence had not been revoked and also had a valid DPS. Ms Dixon reminded the Sub-Committee that the focus of the Review should be on the Premises Licence and not the Personal Licence. Ms Dixon also confirmed that the Premises operated by the PLH's UK business holdings.
80. Ms Dixon said that the video footage viewed only captured nights where there was heightened anti-social behaviour and did not reflect the numerous other evenings when no complaints had been lodged. Ms Dixon confirmed that CCTV was in operation at the Premises when the incident occurred with a local resident. She advised that the Premises did not have any external CCTV and a Condition to rectify this had been proposed by the Police. There have been no objections raised in respect of the 12 TENs that had been applied for by the PLH and this indicated that Environmental Health and the Police were assured that the DPS could comply with Conditions. Ms Dixon advised that the PLH had contacted the Council on March 2022 regarding the sound limiter and confirmed that she would cooperate in ensuring access is given to the device. The Sub-Committee was advised that the false wall was still in place and no alterations had been made.

81. Ms Dixon advised that it was acknowledged and accepted that there were concerns regarding noise nuisance from the Premises. She commented that these concerns were blown out of proportion and highlighted complaints regarding noise nuisance which had been lodged on dates which the Premises was not in operation. Ms Dixon advised that the PLH was 'doing her best' to further the Licensing objectives and accommodate concerns. She advised that the PLH had taken additional steps following meetings with Council Officers and this included offering to clear litter in the vicinity. Ms Dixon said that revocation of the Premises Licence would be disproportionate considering the circumstances.
82. The Sub-Committee again commented that premises licence holders were expected to adhere fully to their licence Conditions and should always strive to do this as well as the expectation that Licensed Premises are to be well managed. The Sub-Committee noted that there were a small number of Licence reviews for night club premises and this was indicative that these licensed premises could be well managed even in a densely populated residential area.
83. In response to questions from the Sub-Committee, the PLH advised that she moved into the area in 2015 and confirmed that the Premises was previously called Cherry Jam. The PLH advised that she had contacted SEBRA merely to introduce herself and the Premises to local residents. The Sub-Committee was advised that an advert had been placed in SEBRA's advertising literature inviting residents to meet the PLH. This was undertaken as there were concerns regarding Cherry Jam. The PLH advised that she had changed the business model that was operated for Cherry Jam and decided to use Promoters. She acknowledged that Promoters did not have any regard for the local surrounding of venues. To address these concerns a decision was made to work with regular promoters and to focus on private events. The PLH confirmed that these private events are largely birthday functions, and most TENs were for these gathering. The Sub-Committee were advised that pictures of photo IDs are taken and background checks are made. In response to questions from the Sub-Committee, the PLH advised that young people attended events with families. The PLH confirmed that on 5 March 2022 there was a private event for a school and a large gathering of people observed by Council Officers on this date would have been parents. The PLH confirmed that clickers are used as a measure of crowd control
84. In response to questions from the Sub-Committee, Ms Dodi commented that the PLH had implemented several measures to address ongoing issues and that it was acknowledged that these had not fully been adequate and should have been undertaken earlier. The PLH advised that the first complaint received in 2016 contact had been made to the Council, however, the Premises had not been in operation during the concerned period. The PLH advised that CCTV footage was offered to the City Inspectorate and measures were always put in place when concerns were raised. This included placing SIA at Celbridge Mews and not using Promoters. The PLH advised that advice was sought from the Council in 2017 about a sound limiter and the device was purchased at a cost £1,300 following concerns regarding a party

wall. There were also changes made to speakers and this included repositioning them. The PLH said that she was active in addressing concerns raised by residents and would accept any further recommendations. She commented that it was acknowledged that residents had experienced difficulties.

85. The PLH advised that patrons were deterred from parking near the Premises and apologised that the meeting that had been arranged with residents had been cancelled and not rescheduled. The Sub-Committee were advised that Promoters had used external sites to advertise events at the Premises and these included promotional nights for RnB and Hip-Hop music. The Sub-Committee also noted that Condition 51 on the Premises Licence prohibited this genre of music being promoted at the Premises. The PLH advised that Promoters were requested to remove such adverts. The PLH confirmed that 4 SIA were always present at the Premises. In response to questions from the Sub-Committee the PLH advised that her criminal convictions were obtained after acquiring the Premise Licence.
86. It was noted by the Sub-Committee that at the Licensing Sub-Committee on 27 January 22 which considered an application for a TENs by the PLH it had been communicated that the event was for a 40th Birthday Party when in fact in the evidence provided by the PLH for this event it was described as an "18th Birthday Party and this was detailed on Page 120 of the Agenda Report with the TENs being refused. The PLH advised that she was unable to immediately confirm whether an event had taken place and advised that IDs of patrons were kept so would need to check her records to confirm the true position.
87. In response to questions from the Sub-Committee, the PLH advised that most of the nuisance described in the evidence took place outside the Premises and commented that pavements were patrolled. The PLH said that the Police had advised that they should be contacted when difficulties are experienced when dispersing patrons. The Sub-Committee emphasised again that licensed premises were expected to manage their patrons and noted that the Police had been called out by the Premises on three occasions since November 2021. The Sub-Committee commented that this would impact Police resources and time. The Sub-Committee noted that the bar closed an hour before closing time and commented this may encourage patrons to increase their consumption of beverages during a short timeframe. The PLH advised that the bar is closed earlier if crowds are large, and that music is stopped at 01.30.
88. In response to the Legal Advisor to the Sub-Committee the PLH advised that one aspect of the Premises Dispersal Plan was to ensure that patrons are kept inside the Premises when it closes. It was confirmed that patrons are requested to call for private hire vehicles inside the Premises and that the bar closes an hour before the Premises shuts. The PLH confirmed that the music volume is also decreased before 01.30 and turned off after. The Premises lights are also undimmed, and SIA are placed in the street. Measures are put in place to ensure patrons leaving the Premises are staggered. The PLH

confirmed for the avoidance of doubt that there were always 4 SIA present at the Premises and that she employed three other staff members.

89. Ms Pilkington advised the Sub-Committee that video footage provided showed unlicensed Door Supervisors and that the DPS had previously communicated that she could not afford further SIA. Ms Pilkington advised that there were not four SIA present on all occasions and that some staff members patrolling the vicinity were not displaying ID Badges. Mr Avis advised that there were occasions where no staff member was at the Premises door entrance or stationed at Celbridge Mews. Ms Dixon commented that Pro-Active visits by City Inspectorate had reported that all requisite staff members were present at the Premises during inspection, and this could be found on Page 11 of the Additional Agenda. The PLH advised that door staff supervisors were used to manage entry into the Premises.
90. It was noted by the Sub-Committee that the PLH assisted personally with the dispersal of patrons, and this indicated that there were concerns regarding patrons leaving the vicinity. The Sub-Committee further noted that PC Burgin had advised that the Premises was in the wrong site and that there had been breaches of its Conditions and commented that it was in a Special Consideration Zone. Similarly, that Mr Rice had advised that concerns regarding crime and disorder could be alleviated if the Premises operations were within core hours, Ms Dixon reminded the Sub-Committee that the Premises vicinity had other licensed premises and reports of anti-social behaviour had been reported whilst the Premises was closed. She advised that reducing the operational hours of the Premises would not be economically viable. The Sub-Committee commented that the DPS being unable to reduce the Premises operational hours supported the view that the Premises was situated in the wrong location. The Sub-Committee also noted that residents had experienced nuisance for prolonged periods and had to leave their homes due to sleep deprivation.
91. In response to questions from the Sub-Committee, Ms Dixon advised that the Licensing Objectives would be promoted with the additional Conditions proposed by Police and advised that the PLH had put in place several measures to enable this which included ensuring patrons leaving the Premises are staggered. The PLH advised that there had only been one physical altercation at the Premises over a period of seven years and no consumption of illicit substances took place at the Premises. The PLH then went on to explain that it was not anticipated that further applications for TENs would be made. She advised that some residents were in support of the Premises and these had been given voluntarily.
92. The PLH advised that the Premises had been closed since February 2022 and this was due to a personal bereavement. However, the Premises have accepted bookings for April. In response to questions from the Sub-Committee, the PLH advised that she wished to retain the current operational hours of the Premises and that events held would be comedy nights and private events because any changes in the operational hours would have a negative effect on the commercial value of the Premises. She advised that a large personal investment had been placed into the Premises and the proposed

business model was viable. The PLH advised that the Premises played live music and was not a comedy club and that SEBRA and residents had been informed of this. Mr Zamit commented that this had not been properly communicated to residents and was under the distinct impression when it opened that the Premises would operate as a comedy club and not a night club.

93. Mr Matthias informed the Sub-Committee that a meeting had been held with the DPS and City Inspectorate on 19 October 2021 to discuss the Premise Licence Conditions and one of the issues raised was noise nuisance entering a resident home and this was detailed on Page 44-45 of the Agenda Report. He advised that this was in Breach of Condition 13 which prohibited noise nuisance in neighbouring properties. Mr Matthias highlighted the City Inspectorate had offered for the Premises sound limiter to be checked to ensure that it was set at a right level. He said that the PLH had still not given City Inspectorate access to the Premise to undertake this work.
94. In response to questions from the Sub-Committee the PLH advised that the number of speakers in the Premises had been reduced due to concerns regarding the transfer of noise and that these devices were all connected. The PLH advised that substantial food was offered and there was a kitchen at the Premises. The PLH confirmed that the Premises would focus on private events and that a Condition which prohibited the use of external promoters at the Premises would be accepted. Patrons at private events could bring their own DJ and that no external sound system were used at the Premises.
95. The Sub-Committee referred to Paragraph 131 on Page 27 of the Additional Agenda and raised questions regarding dates which were disputed in relation to complaints being lodged against the Premises. The Sub-Committee commented that complaints lodged may not necessarily have been on the same day which nuisance had occurred. It was noted by the Sub-Committee that the Premises had been in operation on previous days before the complaints were lodged. The PLH advised that she was confident that complaints referred to were not related to the Premises and advised that one of her patrons had been attacked by a resident and this had been captured on camera.
96. The Sub-Committee noted that the PLH had listed dates when the Premises was open and highlighted that some of them were during the Covid-19 Pandemic restrictions. The PLH confirmed that the Premises did not operate during these periods and advised that these listed dates were wrong. The Sub-Committee commented about the validity of the evidence which had been submitted and raised concerns as to whether the PLH would adhere to Conditions. The Legal Advisor to the Sub-Committee confirmed that Licence Holders were required under the Act required to 'promote' the licensing objectives when it came to the management of the Premises and compliance with licensing conditions.
97. In summing up Ms Dixon advised that the PLH's focus was operating a viable night club in the location whilst promoting the public nuisance and crime and

disorder licensing objectives. She advised that the PLH had engaged with the Council and had put in additional measures following meetings with all relevant parties. Ms Dixon advised that the PLH had accepted additional Conditions which prohibited the use of external promoters. She commented that this Condition would reduce concerns regarding public nuisances. Ms Dixon advised that the Premises only hosting private event would assist in ensuring the licensing objective on the prevention of crime and disorder is met. The Sub-Committee were advised that alcohol consumption at comedy nights was low. Ms Dixon informed that the PLH adhered to all Conditions and strived to work with those which were 'workable'. She commented that these Conditions referred as being 'workable' were in reference to those which were now outdated. The Sub-Committee were advised that Conditions 30 and 31 required for the Premises to work with designated mini cab companies and informed that individuals used Ubers.

98. The Sub-Committee noted the submissions from the Licensing Authority, the Metropolitan Police Service, Environmental Health Service, Local Ward Councillors, SEBRA, Local Residents and adjourned the hearing to make its determination and resumed the hearing to announce its Decision and to summarise its reasons which are more fully set out below.

The Sub-Committee's Decision and Reasons

Review Decision

99. Being mindful of the Home Office Guidance, the Act and having carefully considered the review application, the evidence and the representations made by all the parties, both orally and in writing, the Sub-Committee decided that it was, appropriate and proportionate in order to promote the licensing objectives, in particular the prevention of public nuisance and prevention of crime and disorder licensing objectives, to take the following step: -

- To **Revoke** the Premises Licence of the above Premises.

Reasons

100. The Sub-Committee recognised that the proceedings set out in the Act for reviewing Premises Licences represent a key protection for the community when problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. The Act provides the Licensing Authority with a range of powers on determining a review that it may exercise where it considers them appropriate for the promotion of the licensing objectives. In deciding which of these powers to invoke, the Licensing Authority should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response. Each case has to be determined on its own merits, on the balance of probabilities.

101. The Sub-Committee was mindful that the Licensing Authority had reasonable and sufficient grounds for seeking this review.
102. The Sub-Committee in its determination of the matter had regard to Paragraphs 11.1-11.28 on pages 89 to 94 of the Home Office Guidance when considering the review application as well as paragraphs 2.15 to 2.21 on pages 9 and 10 when it came to the issue of the Prevention of Public Nuisance licensing objective and Paragraphs 2.1-2.6 on pages 6 and 7 when it came to the issue of the Prevention of Crime and Disorder licensing objective. Consideration was also given to Appendix 4 on Pages 138 and 139 of the City Council's Statement of Licensing Policy on Reviews for licensed premises.
103. Due Regard was also given to the Council's Section 149 Public Sector Equality Duty when considering the matter along with Article 1 of the First Protocol (Protection of Property) and Article 8 (Right to respect for family and private life) under the Human Rights Act 1998.
103. The purpose of today's hearing is to establish what appropriate steps should be taken for the promotion of the licensing objectives.
104. Having carefully considered the evidence, the Sub-Committee decided that it had lost trust and confidence in the PLH's ability to manage the Premises effectively which would lead to the promotion of the Licensing Objectives.
105. The Sub-Committee noted that despite being called in by the Licensing Authority on several occasions to promote the licensing objectives the measures the PLH tried to implement had failed to prevent public nuisance and crime and disorder. The proposed Conditions by the Police were accepted but the proposal to reduce the operational hours to core hours were not accepted by the PLH. This is something that should have been seriously considered for the survival of the business rather than be dismissed outright by the PLH along with any other concessions.
106. The evidence provided by Environmental Health in relation to a sound limiter was not actioned by the PLH and no Dispersal Policy had been submitted despite being requested on 19 October 2021. These were matters of importance and should have been done by the PLH but have been ignored.
107. The Sub Committee noted that residents had been suffering for seven years and two residents had to leave their Premises during the weekends due to sleep deprivation and that one resident had moved out of the locality and this was partially due to the Premises.
108. The Sub-Committee deemed this unacceptable and not the actions of a responsible operator that would take the running of the Premises seriously by adhering to conditions and promoting the licensing objectives. Moreover, the PLH had been operating for a few years and by that time should have made more of an effort to foster good relations and engage positively with residents so that when issues arose, they were settled quickly and did not escalate.

This is borne out by the number of recorded complaints towards the Premises as per Appendix 2 of the Agenda Report.

109. The Sub-Committee acknowledged that the PLH had experienced problems in her personal life and sympathised greatly but nevertheless she still had a professional duty to ensure that the Premises were managed efficiently and effectively to ensure the promotion of the licensing objectives.
110. The Sub-Committee took the view that if the PLH was struggling she should have obtained the appropriate help rather than bury her head in the sand and neglect her duties which explains the 53 recorded complaints by residents which ultimately led to the review application by the Licensing Authority.
111. The Sub-Committee did not have any confidence that the comedy nights and private parties proposed by the PLH would help resolve the situation because the issues affected what happens outside the Premises giving rise to complaint after complaint in respect of nuisance and this was exacerbated by the applying of TENs until 03:00.
112. It was on this basis the Sub-Committee concluded that the licensing objectives would not be promoted because the PLH was not a responsible operator that complied with its conditions and promoted the licensing objectives. Changing the business model and sticking to the same operational hours would not help the PLH as the problems experienced over the years were indicative of the poor management style of the Premises and it was this failure and lack of engagement with residents that contributed towards the review of the premises licence.
113. The Sub-Committee also accepted the evidence of the Police and was satisfied that there were three incidents of anti-social behaviour linked to the Premises which took place outside of the Premises on the 28 January 2019, 13 November 2021 and 12 December 2021 which all undermined the crime and disorder licensing objective.
114. It was the Sub-Committee's considered view that the PLH had not gone far enough to ensure that the Premises were not causing nuisance to nearby properties and local residents by effective patrols of the area by SIA staff and having a dispersal policy that worked fully in practice to overcome the issues complained of.
115. The Sub-Committee was disappointed with the PLH that there were so many breaches of the licence despite it having a comprehensive list of conditions. The total number of complaints built up over time were unacceptable and indicated that the PLH was not a responsible operator when it came to the control and dispersal of its patrons at the terminal hour and the promotion of the licensing objectives. These were not merely one-off incidents of nuisance but a repeated pattern of behaviour that had emerged over several years without any proper action or resolution on the part of the PLH.
116. The Sub-Committee, therefore, having carefully considered the application for the full review and the evidence presented by the Licensing Authority, the

Police, Local Ward Councillors, Amenity Societies and Local Residents both verbally and in writing, the Sub-Committee concluded Licensing Objectives namely Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance and the Protection of Children from Harm the Sub-Committee were not promoted and that it would be appropriate and proportionate to revoke the Licence, remove the designated Premises Supervisor and the sale of alcohol with immediate effect to promote the licensing objectives.

117. The Sub-Committee considered each action available to them under its statutory powers:

- a) It was not appropriate to take no action as the Sub-Committee notes that it must carry out its duties with a view to promoting the licensing objectives, which includes the prevention of public nuisance and crime and disorder.
- b) The Sub-Committee did reserve the right to impose Conditions on the Premises Licence, however, the Premises Licence already has a list of comprehensive conditions attached to it which were not being complied with by the PLH. The Sub-Committee had lost complete faith and confidence in the PLH's ability to manage the Premises that would lead to the promotion of the licensing objectives. Furthermore, the licence conditions had been breached time and time again and there was no guarantee that this would not happen again. It was the Sub-Committee's considered view that imposing conditions would be an inappropriate measure to apply in this case having regard to the weight of evidence given by all the parties that had contributed towards the evidence in supporting the review.
- c) A reduction of the operational hours to core hours would have little or no effect as the root cause of the problem has shown to be the poor management of the Premises and the PLH has shown this to be the case over the last 7 years without any proper remedial action of such matters. In this respect the Sub-Committee concluded that matters had got worse which prompted the review application in the first place by the Licensing Authority supported by all relevant parties.
- d) The PLH has had ample opportunity to remedy matters but has failed to do so. In light of the evidence before it, the Sub-Committee were not satisfied that a three-month suspension would resolve the issues raised at this hearing.

118. In all the circumstances of the case and having carefully considered the application for the full review and the evidence presented by all the parties, both verbally and in writing, the Sub-Committee concluded as a last resort it was appropriate and proportionate to **Revoke** the Licence, to promote the licensing objectives.

The determination of the revocation does not have effect until the end of the period given for appealing against the reasoned decision, or if the decision is appealed against, until the appeal is concluded.

The Applicant for the Review, the Premises Licence Holder and any Party who has made a relevant representation to the review application may appeal against this Decision to Westminster Magistrates Court, 181 Marylebone Road, London, NW1 5BR, within 21 days of receiving this Decision.

The Licensing Sub-Committee
22 April 2022

The Meeting ended at 4.30 pm