



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (1)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Wednesday 15th June, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Aziz Toki (Chair), Tim Mitchell and Judith Southern

#### 1. MEMBERSHIP

1.1 There were no changes to the membership.

#### 2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

#### 1. DOUGLAS HOUSE, 131 -151 GREAT TITCHFIELD STREET, W1W 5BB

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

Wednesday 15<sup>th</sup> June 2022

Membership: Councillor Aziz Toki (Chairman) and Councillor Judith Southern and Councillor Tim Mitchell.

Officer Support      Legal Advisor:      Steve Burnett  
Policy Officer:      Aaron Hardy  
Committee Officer: Jack Robinson  
Presenting Officer: Jessica Donovan

Others present: Craig Bayliss (Solicitor, Kingsely Napley LLP), Tali Meyerowitz, Building Manager, Tog Uk Properties Limited, Dave Nevitt (Environmental Health Service), Richard Brown (Solicitor, Westminster's Citizens Advice) representing Yoram Blumann (Fitzrovia Neighbourhood Association).

**Application for a New Premises Licence – Douglas House, 131-151 Great Titchfield Street, London W1W 5BB – 22/02079/LIPN**

**FULL DECISION**

**Premises**

Douglas House,  
131-151 Great Titchfield Street,  
London W1W 5BB

**Applicant**

Tog Uk Properties Limited

**Ward**

Marylebone High Street

**Cumulative Impact**

N/A

**Special Consideration Zone**

N/A

**Activities and Hours applied for**

**Sale by retail of alcohol [on sales]**

Monday to Friday 12.00 to 22:00

**Opening Hours (Premises is not open to the Public)**

Monday to Sunday 00:01 to 00:00

**Summary of Application**

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises operates as an office space and the proposed sale of alcohol will be to workers employed at the premises or those attending meetings or pre-booked functions or events.

The public will have no access generally to the Premises.

The application for the sale of alcohol was originally for Westminster's Core Hours but this was subsequently reduced.

## **Representations Received**

- Dave Nevitt - Environmental Health Service
- Fitzrovia Neighbourhood Association (opposing)
- 6 Local Residents (2 have withdrawn their representations)

## **Summary of Representations**

- The Environmental Health Service have made a representation that the application may have the likely effect of causing an increase in Public Nuisance and may impact Public Safety within the area.
- The Fitzrovia Neighbourhood Association have made representations that the area is highly residential, and the grant of the application is likely to cause public nuisance from noisy and frequent events, inadequate noise insulation, traffic and taxi noise, and as a result of the unlimited capacity of the premises.
- Other residential concerns are that the Premises will cause disturbance from deliveries, interfere with resident's rest, encourage anti-social behaviour, pest and environmental issues and additional traffic noise.

## **Policy Position**

### **HRS1**

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

### **PB1**

- Applications outside the West End Cumulative Zone will generally be granted subject to:
  1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
  2. The hours for licensable activities being within the council's Core Hours Policy HRS1.

## **SUBMISSIONS AND REASONS**

1. The Presenting Officer, Ms Jessica Donovan introduced the application and advised that the application was for a New Premises Licence for certain areas of an office block.
2. Mr Craig Baylis, solicitor appearing on behalf of the Applicant, addressed the Committee and advised that the Applicant operate office buildings around

London, which they then lease to tenants. He confirmed that at this site, there are approximately 500 occupants and they have been there for 3 to 4 years.

3. Mr Baylis advised that Applicant have utilised Temporary Event Notices to sell alcohol at the Premises. There have been no reported problems and they seek to continue to sell alcohol as a service to the tenants.
4. The Committee were informed that the terrace consists of an internal and external area. The external will close at 18.00 but they would like a restriction of 20.00 to the internal area to provide some flexibility.
5. In response to questions from the Committee, Mr Baylis advised that the Applicant requires the licence to cover 3 specific areas namely the basement with a capacity of 100, the lower ground floor with a capacity of 75 and the roof terrace above the 5th floor with a capacity of 50 to 60 people. This would be for the sale and consumption of alcohol. The Applicant retains security on site and anticipate that these areas will be vacated by 2200 hours.
6. The Committee was further informed that the Applicant anticipates that the frequency of events at the premises will be approximately 5 times per week. There will be no ticket system and all persons attending will have to pass security at the reception.
7. Deliveries will take place between 07:00 and 22:00 hours. Currently deliveries consist of office supplies, but the applicant is happy to have a condition restricting the time of deliveries if the premises licence is granted.
8. Mr Nevitt, representing the Environmental Health Service, advised that he had maintained his representation to assist the Committee. He had met with the Applicant on site and noted that there was a controlled reception area. The premises is clearly workspace and laid out as such. The hours for sale of alcohol means that the Premises could not operate as a bar or club.
9. The Committee were advised that the Applicant is happy to close the outside terrace area at 1800 hours. Mr Nevitt advised that a condition restricting capacities in the relevant areas would be helpful.
10. Mr Brown, Solicitor from the Citizens Advice Bureau and representing the Fitzrovia Neighbourhood Association, informed the Committee that there is a large residential area at Holcroft Court and those residents are concerned about the proposed hours of trade. There have been discussions with the Applicant about the scope of the application and as a result, the hours of trade had been reduced.
11. Mr. Brown requested that an existing premises licence is surrendered and that the terminal hour for use of the outside terraced area is permitted until 18:00.
12. Mr Bayliss requested a terminal hour for use of the internal terrace of 22.00 hours, but Mr Brown requested 20.00. Both parties agreed to split the difference to allow the area to trade until 21.00 hours.

13. Mr Bayliss agreed to Mr Brown's suggested conditions requiring doors and windows to be kept closed and a restriction on externally promoted events being attached as conditions in the Premises Licence if granted.
14. Mr Burnett, Legal Adviser clarified with the Applicant that sale and consumption of alcohol will only be permitted in the area marked red on the proposed plans.
15. Mr Yoram Blumann, representing the Fitzrovia Neighbourhood Association, advised of the issues that residents faced especially 60 units which are facing the premises. there is a residential home for the elderly, and they have expressed concerns. They are worried about the noise from people entering and leaving the premises, music and the hours of trade.

### **Decision**

16. The Committee has determined an application for a grant of a **NEW** Premises Licence under the Licensing Act 2003. The Committee realises that it has a duty to consider each application on its individual merits. There is no policy presumption to refuse the application that is not within the Cumulative Impact Area provided the licensing objectives are not undermined.
17. The Committee was satisfied that, in accordance with the Licensing Act 2003, Home Office Guidance and on the evidence before it, it was appropriate and proportionate, in all the circumstances, to **GRANT** the application.
18. The Committee noted that the Applicant had applied for limited hours for the sale of alcohol for consumption on the premises, restricted to specified areas and that the application only related to Mondays to Fridays.
19. The Committee welcomed the fact that the Applicant had been proactive in working with the Responsible Authorities and that an agreement had been reached on many of the proposed conditions. The Committee was reassured that the sale of alcohol would be to tenants of the premises permitted on the premises through a secure reception area. The Committee were also persuaded by the Applicant that they would be a responsible operator by having the necessary measures and safeguards in place that would help mitigate the concerns of those objecting and promote the licensing objectives.
20. The Committee, in its determination of the matter, concluded that the conditions it imposed on the licence were appropriate and proportionate and would promote the licencing objectives.
21. Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, **the Committee has decided**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives: -

1. To grant permission for the Sale of Alcohol for consumption off the premises from 12.00 to 21:00 Mondays to Fridays
2. To grant permission for the premises to open from 00:01 to 00:00 Mondays to Sundays
3. The new premises licence will be subject to any relevant mandatory conditions.
4. The new premises licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

### **Conditions agreed at the Hearing**

9. 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.
10. 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.
11. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
12. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
13. No deliveries to the premises shall take place between 22.00 and 07.00 hours on the following day.
14. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
15. 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.

16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. Occupiers 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.
18. The supply of alcohol shall only be to employees at the premises, their bona fide guests, or persons attending a private pre booked function.
19. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as offices.
20. 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) any complaints received concerning crime and disorder
  - (c) any incidents of disorder
  - (d) any faults in the CCTV system or searching equipment or scanning equipment
  - (e) any refusal of the sale of alcohol
  - (f) any visit by a relevant authority or emergency service.
21. The outside terrace area on the 6<sup>th</sup> floor shall be vacated by 18:00.
22. The inside terrace area on the 6<sup>th</sup> floor shall be vacated by 20.00.
23. No externally promoted events shall be permitted at the premises.
24. The sale and consumption of alcohol shall be restricted to the three areas hatched on the approved plans, on the lower ground, the ground floor and the terraced areas on the 6<sup>th</sup> floor.
25. The total capacity, (including staff) of the:
  - a) Ground floor hatched area shall be 100
  - b) Lower Ground floor hatched area shall be 75
  - c) Internal roof terrace on the 6<sup>th</sup> floor, hatched area shall be 50
  - d) External roof terrace hatched area on the 6<sup>th</sup> floor shall be 60
26. No licensable activities shall take place at the premises until premises licence number 19/05684/LIPT, or such other number subsequently issued for the premises, has been surrendered and is incapable of resurrection.

### **Informative**

The Applicant's legal representative, Mr Bayliss confirmed and undertook that the supporting licence plans shown on pages 12, 18 and 19 of the Committee papers for the hearing on the 15<sup>th</sup> June 2022, shall be amended to show the areas currently

edged red, as hatched areas **and** the hatched areas identified on the plans as areas to be used for the sale and consumption of alcohol.

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

**The Licensing Sub-Committee  
15 June 2022**

**2. AMK FOOD AND WINE, 35B QUEENSWAY, W2 4QJ**

**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.1  
("Committee")**

**Full Review Decision**

Wednesday 15<sup>th</sup> June 2022

Membership: Councillor Aziz Toki (Chairman) and Councillor Judith Southern and Councillor Tim Mitchell.

**AMK Food and Wine, 35B Queensway, London W2 4QJ ("Premises")  
22/02885/LIREVP**

The Metropolitan Police Service (Police) made an application on the 16<sup>th</sup> March 2022 to review the above Premises Licence pursuant to Section 52 of the Licensing Act 2003 (the "Act") as the Police considered the Premises was associated with the sale of alcohol to a person or persons under the age of 18 and therefore failed to promote the licensing objectives and which includes, the protection of children from harm.

The Premises Licence Holder (PLH) is AMK Innovation Limited, whose sole director and the Designated Premises Supervisor (DPS) is Mr Mustafa Alkfiray.

**Officers present:**

Steve Burnett - **The Legal Advisor**  
Jessica Donovan - **The Presenting Officer**  
Jack Robinson - **The Committee Officer**

**Persons attending the hearing:**

For the Police (the Applicant):

Michael Rhimes, - **Counsel for the Applicant**  
PC Adam Deweltz  
PC Reaz Guerra

Other Parties:

Karyn Abbott – **Licensing Authority**  
David Nevitt – **Environmental Health**



Chelsea Coleman – **Neighbourhood Coordinator**  
Richard Brown – **Westminster’s Citizens Advice on behalf of South East Bayswater Residents Association (SEBRA)**  
John Zamit -**SEBRA**  
Councillor Laila Dupuy – **Resident and Ward Councillor**  
Margot Bright – **Interested party**

### The PLH

Mr Baleegh Jbara – **Legal Consultant**  
Mr Mustafa Alkhiray – **DPS and PLH**

### **Activities and Hours**

The Premises operates as an off-licence store and is permitted the sale by retail of alcohol for consumption off the premises for the following hours: -

Monday to Saturday 08:00 to 23:00  
Sundays 10.00 to 22.30

### Opening Hours

Monday to Saturday 08:00 to 23:00  
Sundays 10.00 to 22.30

### **Preliminary Matters:**

The PLH made a request for video footage he had collated, to be presented and used as evidence in support of his case. This evidence had not been previously disclosed to the parties, or to the Committee.

Mr Burnett, Legal Adviser to the Committee referred all parties to the provisions of regulation 18 of The Licensing Act 2003 (Hearings) Regulations 2005 which states:

#### ***“Representations and supporting information***

*18. In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.”*

The Applicant and all other parties did not consent to the PLH using the CCTV footage as evidence.

The Committee, on advice from Mr Burnett, suggested that the Applicant and parties viewed the CCTV footage, to decide whether it was reasonable to withhold their consent, and that the PLH consider whether details of the CCTV footage could be given orally.

After a short adjournment, all parties confirmed their consent and agreed to the CCTV footage being shown and used as evidence by the PLH.

### Hearing

1. The Chairman introduced the Members of the Committee and outlined the procedure to the parties in attendance. The Members confirmed that they had no declarations of interest to make.
2. The Chairman noted that the Committee agenda consisted of the application for full review, the existing Premises Licence, the supporting evidence and statements from the Police, representations supporting the Police application, representations from the PLH and his legal representative and additional photographic evidence which had been circulated prior to the hearing to all parties.
3. The Committee viewed the relevant CCTV footage submitted by the PLH.
4. Jessica Donovan, Licensing Officer, outlined the application to the Committee.

### Submissions by the Police

5. Mr Rhimes, Counsel appearing on behalf of the Police, requested that the Committee revoke the Premises Licence as it was the Police's belief that the Premises was associated with selling alcohol to children and not promoting the Licensing Objectives in particular, the protection of children from harm. He advised the Committee that the PL H had repeatedly sold alcohol to young children resulting in one 13 year old child being hospitalised.
6. The PLH, the DPS, the director of the company and sole employee at the Premises is Mr Alkifiray.
7. The Committee were informed that Mr Alkifiray had failed to work with the Police since April 2021 to address the issues relating to underage sale. Until March 2022, the CCTV system at the Premises deleted footage after 3 days. The Police have been unable to rely on CCTV evidence to prove or disprove Mr Alkifiray's involvement in sales to underage children.
8. The Police therefore have no confidence in the ability of Mr Alkifiray to promote the licencing objectives.
9. The Police say it is appropriate to revoke the Premises Licence because Mr Alkifiray repeatedly sold alcohol to children, does not cooperate with the Police, nor is he suitable person to operate under a Premises Licence.
10. Counsel referred the Committee to the email chain at pages 90 to 93 of the Committee papers detailing numerous reports of underage sales reported to the Police. A witness statement at page 100 gives evidence of a child who bought vodka from the Premises and as a result, was rendered unconscious and hospitalised.

11. A second parent produced a witness statement at page 115 which details that her child had been purchasing alcohol for a long period of time. The parent then provided proof of purchase at page 156 detailing an £8.00 purchase on the 15th of February 2021, which is alleged to have been alcohol.
12. Counsel informed the Committee That PC Boon, provides 5 separate, unrelated reports of the sale of alcohol to children. The Police state that the children were reluctant to give written statements.
13. The Police submitted that the CCTV footage shown by the PLH at the hearing is irrelevant. The application for the review was submitted on the 16th of March 2022 and the CCTV footage is dated the 17th and 18th of April in 2022 after the application had been bought. This is of limited value.
14. Counsel directed the Committee to paragraphs 2.23 and 2.29 of the Guidance issued under section 182 of the Licensing Act 2003 (the Guidance)
15. The Police stated that the PLH does not engage with them. The original CCTV system only stored recordings for three days, which is inappropriate, as the norm is for footage to be stored covering the preceding 31 days. At page 97, the Police identify their concerns about underage sales in March 2021 and inform the PLH that additional conditions should be added to his licence requiring him to have an adequate CCTV system.
16. The Police received no response, save for the PLH informing them that he had limited funds to upgrade his CCTV. The conditions were not added to the Premises Licence by the PLH until over a year later on the 11th of April 2022.
17. The Police have no confidence in the PLH as they have given his ample opportunity to rectify the issues and they have found it difficult to get him to cooperate. The Police felt that the PLH failed to realise the seriousness of the issues.
18. The Police also informed the Committee that the layout of the Premises is not consistent with the approved plans, and that the parents reporting the illegal sales, do not know each other.
19. The Police refer the Committee to page 66 where, after being approached at a tube station, a child informed the Police that they knew the shop was "selling bad things."
20. In response to the Committee, the Police confirm that they did not obtain evidence of other transactions at the Premises but if CCTV footage was available, they could have cross referenced the alleged incident of unlawful sales.
21. Counsel advised the Committee that the Police have responded reasonably by taking a stepped approach and reiterated that the PLH should promote the

licensing objective of the protection of children from harm, but this had not been done.

#### Submission from Councillor Dupuy

22. Councillor Dupuy confirmed to the Committee that she is a resident in the Queensway area and having heard the Applicant's submissions, she fears for the safety of children in the area who are purchasing alcohol from AMK Food and Wine.
23. The Committee were informed that the Councillor had spoken to teenagers who confirm that underage children travel from all over London to purchase alcohol from this Premises. She had also spoken direct to parents, whose children have been placed at risk of death, as a result of purchases and consumption of alcohol from this shop.
24. Everyone in the area is concerned about the operation of this Premises which is located about two minutes' walk from Hyde Park.
25. Mr Burnett referred the Councillor to her representation on page 210 to 211 of the Committee papers.
26. Councillor Dupuy confirmed that she personally had seen underage teenagers congregating outside the Premises after school and at the weekends. She had also witnessed children going to Hyde Park and drinking dangerous levels of alcohol purchased from the Premises.

#### Submission from Environmental Health

27. Mr Nevitt advised the Committee that although the Applicant has requested revocation of the Premises Licence, if the Committee were minded to take another course of action, he requests that the conditions detailed on pages 206 and 207 of the Committee papers are added to the licence.
28. Mr Nevitt confirmed to the Committee that there are no records of complaints or issues at the Premises. He had visited the shop but the Premises was been closed. However, he has noted that the layout is not consistent with the current approved plans. Therefore, an application to change of plans may be required.

#### Submission from the Licensing Authority

29. Ms Karyn Abbott advised that the Licensing Authority made a representation in support of the Police's review as the PLH had not upheld the promotion of the four licensing objectives. Ms Abbott referred the Committee to her witness statement at page 208 of the report.
30. The Licensing Authority have concerns about the allegations of sale of alcohol to children.

31. The Committee were directed to Policy number C26 of Westminster's current Statement of Licensing Policy.
32. The Committee were advised that the PLH is also the DPS and therefore has responsibility for the day to day running of the Premises. The DPS would have had training to obtain his personal licence. This training includes the restriction of sales of alcohol to children. Ms Abbott informed the Committee that there were no excuses for the PLH selling alcohol to children.
33. Ms Abbott, in response to the Committee, confirmed that there have been no complaints drawn to the Licensing authority's attention in relation to the Premises.

#### Submission from the Neighbourhood Coordinator

34. Ms Coleman informed the Committee that Queensway has been a problematic area for a number of years, and she had seen an increase in youth anti-social behaviour which involves alcohol consumption. Ms Colman has no evidence to directly direct attribute intoxicated youths with the sale of alcohol from the Premises.
35. Ms Coleman had been made aware by the Police of allegations of alcohol being decanted into bottles for sale to children and she had attended visits to the Premises with the Police. However, she had not had complaints direct from children or parents.

#### Submission from Richard Brown – Westminster's Citizens Advice on behalf of John Zamit of SEBRA

36. Mr Brown informed the Committee that SEBRA made the representation to balance the rights of businesses with the rights of the community and that the sale of alcohol to children is a serious issue.
37. SEBRA have read the Committee papers and noted the repeated allegations of underage sales reported to the Police. They have also noted the Police visit to the Premises showing breaches of conditions and that the conditions relating to CCTV were up to April 2022 still being breached.
38. Mr Brown confirmed that they have no direct evidence of what had taken place in the Premises but they do support the Police application for review and request for revocation of the Premises Licence.
39. Mr Zamit informed the Committee that he had seen youths drinking in the area and seen children drunk on the pavement.
40. Mr Zamit commented that he was astounded at how long it took the PLH to apply CCTV conditions to the Premises Licence. He also stated that the footage shown at the hearing was obtained after the issuing of the review by the Police. So had limited evidential value.

41. SEBRA believes the Applicant is right to review the Premises Licence and having listened to the Police evidence, he is of the view, subject to the PLH submissions, that the licence should be revoked.
42. Following questions from the Committee, Mr Zamit confirmed that he had no firsthand involvement in the complaints made to the Police.

#### Submission from Mr Baleegh Jbara on behalf of the PLH

43. Mr Jbara, explained to the Committee that it is accepted that the sale of alcohol to children is a serious matter, and his client knows this. Mr Alkfiray had training, and he know that such sales would be a criminal offence.

However, his client denies all the allegations of selling alcohol to children.

44. He had not sold alcohol to underage girls. His shop is a convenience store which sells snacks and sweets. Alcohol is sold to customers who are eligible.
45. The PLH also denied being uncooperative with the Police. The delays in relation to installing adequate CCTV equipment was as a result of being closed during the pandemic and a lack of funds. However, this has now been rectified.
46. It was submitted to the Committee that there was no direct evidence from the underage children who had allegedly been sold alcohol by the PLH. The statements are from parents. Mr Alkfiray had never received any complaints, nor does he know any of the parents mentioned in the Committee papers.
47. The Police have also been given links and video footage when requested and prior to the review being issued. In fact, the Police have today returned a SD card given previously to the Applicant.
48. The Police confirmed that they had been given a link to video footage and the SD card. However, both were blank. Since originally requesting video footage in 2021, today is the first time that any footage had been seen by the Police.
49. Mr Alkfiray submitted to the Committee that he had cooperated with the Police, and this was confirmed in the statement of PC Boon. Furthermore, the footage shown during the hearing and the comments made about the footage at page 162 of the Committee papers reinforced that Mr Alkfiray was challenging underage customers and not selling alcohol to children.
50. The Committee were informed by Mr Jbara that it was accepted that some cameras at the Premises were not working and that he had been to the shop and the layout looks correct. He felt that Mr Nevitt had offered conditions and confirmed that the PLH is willing to work with the authorities. He requested that Mr Alkfiray should be given a chance and that the request to revoke the Premises Licence, should be refused.
51. Mr Alkfiray informed the Committee that he had made mistakes, but he has struggled with a medical condition which means that he is only at the shop 1 to

2 hours per day and open 2 to 3 days per week. When he is not at his business, the Premises has to close. He stated that he had tried to help the Police, but they are against him.

52. Mr Alkfiray denied selling alcohol to children but there may be instances where a child had produced false identification which can be purchased online for £50. He had informed the Police about this. He confirmed that he understands the law in relation to underage sales and he would not tolerate alcohol being sold to children.
53. Mr Alkfiray stated that children purchase alcohol from other shops in the area but the Police finds the most inexperienced and weakest operator and then targets them. He is the only person who works at the shop, and the sale of alcohol is minimal. He only sells beers and Magners cider.
54. In response to questions from the Committee, the PLH stated that he did not have enough money to pay full a new CCTV system. He stated that the CCTV system has now been working since March 2022. The system now records for 31 days and should the Police request footage then this would be available to them immediately. Mr Alkfiray confirmed that the Police had visited him on the 15th of April 2020. The cameras were checked, and the Police provided some advice. The Police then requested footage which had not received to date.
55. Mr Alkfiray admitted to the Committee that there was a delay in adding the requested conditions to the Premises Licence. The 'Lockdown' period and having to pay rent resulted in him not having the funds to pay for a new CCTV system. He also accepted that he had not recorded the refused sales in April 2022 and shown on the video footage, in the refusal log as required under the condition on his Premises Licence.
56. The PLH was asked whether any parents had complained to him about selling alcohol to children. Mr Alkfiray stated that no one apart from the Police had raised this issue.
57. Again, in response to the Committee, Mr Alkfiray stated that he sells accessories for phones, snacks, and items typically sold in an off-licence store. He commented that the allegations in relation to selling Vape were false because he only started selling this item, three weeks ago.
58. Mr Alkfiray informed the Committee that his Premise Licence is now displayed at the Premises.
59. With specific reference to the allegation of selling alcohol to a young person and the bank report confirming a purchase of £8.00 from the Premises, Mr Alkfiray with asked what items they have at the shop which cost exactly £8.00. Mr Alkfiray stated that there were a number of items which when added together could result in an £8.00 sale. However due to the age of this allegation, he could not state exactly what this child had purchased.

### **The Parties Summary.**

60. Mr Nevitt stated in summary that his recommendations to add conditions to the Premises Licence was valid in the event that the PLH was able to retain his Premises Licence. Mr Zamit stated that he had not heard anything from the PLH which would change his request that the Premises Licence be revoked.
61. Mr Rhimes informed the Committee that this case is about multiple incidents of selling alcohol to children, with no satisfactory explanation from the PLH. The PLH had shown an indifference to adding a CCTV condition to the Premises Licence and providing the Police with CCTV footage.
62. Mr Rhimes submitted that the video shown at the hearing was of little or no evidential value as it was obtained well after the review process had been commenced.
63. The PLH was asked about his refusal logs but the incidents shown on the video footage dated 17 and 18<sup>th</sup> April 2022 had not been recorded. Furthermore, when the Police visited the Premises to check the CCTV system and to obtain footage during April 2022, they were unable to view footage or obtain a copy. The CCTV was not operating in accordance with the condition, which had been added to the Premises Licence over a year after first requested by the police.
64. The Applicant reminded the Committee that the Applicant had taken a stepped approach and had given the PLH a number of chances. The Police have no issue with the shop being open, they were concerned purely about alcohol being sold to children.
65. As the percentage sale of alcohol at the premises was small, if the licence is revoked, it would not cause the business to close. The Applicant maintains their position that the Premises Licence should be revoked.

**The Committee 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.**

### **Committee's Decision and Reasons**

#### **Review Decision**

66. Being mindful of the 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 Committee decided that it was, appropriate in order to promote the licensing objectives, which includes the protection of children from harm objective, to take the following step: -
  - To **revoke** the Premises Licence of the above Premises.



## Reasons

67. The 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.
68. The Committee was mindful that the Police had reasonable and sufficient grounds for seeking this review. The Committee noted from the Police evidence that they had received information that Mr Alkifray had been selling alcohol to children from the Premises which was supported by two witness statements from parents, Police evidence and evidence from Cllr Dupuy. Anonymous reports were made to the Police from as far back as February 2021 of the PLH selling alcohol to children, including a report on the 29<sup>th</sup> March of an underage sale at the Premises, resulting in a 13 year old being hospitalised. The Committee noted that the informants and parents are independent and Cllr Dupuy's written and verbal evidence of seeing children congregating with alcohol at the Premises, children walking to Hyde Park and seeing children drinking that alcohol.
69. As part of the Police enquires, they had also requested CCTV footage on numerous occasions which was not forthcoming. They also requested that the PLH added conditions to his Premises Licence to promote the licensing objectives. There was a substantial delay of over one year. The conditions were subsequently added but only after the Police had issued a review and even after this, the PLH continued to breach his Premises Licence conditions.
70. The Committee noted that the PLH's had successfully passed 'Test Purchases' conducted by the Police and that the PLH did not engage with the Police to promote the Licensing Objectives. This raised concerns with regard to the potential safeguarding of children and the promotion of the protection of children from harm licensing objective.
71. The Committee were mindful of the PLH denial that he had sold alcohol to children and that the delays relating to providing the police with footage and adding conditions to his Premises Licence was as a result of lack of funds. The PLH had admitted breaches of his licence conditions and that the sale of alcohol at his premises was minimal.
72. The Committee recognised that paragraph 11.27 of the Guidance advises that:-  
  
*'there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of*

*the licensed premises for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people”*

Paragraph 11.29 of the Guidance continues: -

***Review of a premises licence following persistent sales of alcohol to children***

*“The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store’s age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.”*

The Committee also had regard to paragraphs 2.23 and 2.29 of the Guidance.

73. The purpose of today’s hearing is to establish what appropriate steps should be taken for the promotion of the licensing objectives.
74. Having carefully considered the evidence, the Committee decided that it had lost confidence in the PLH’s ability to manage the Premises effectively which would lead to the promotion of the Licensing Objectives.
75. The Committee also accepted the evidence of the Police and parents of children who had been sold alcohol. It was noted that there were inspections of the Premises where breaches of licensing conditions were found to have taken place.
76. The Committee was very disappointed with the PLH delay in providing footage to the Police, adding conditions to the Premises Licence and that there had been breaches of the licence conditions despite warnings. There were further breaches after the review application had been lodged and after the conditions had been added to the premises licence in March 2022.
77. Mr Alkhiray had not made any attempt to promote the licensing objectives which includes the protection of children, by installing adequate CCTV system or recording refusals of sale of alcohol. He had not assisted the Police by providing CCTV footage in a timely manner.

78. The Committee considered each action available to them under its statutory powers:

- a) It was not appropriate to take no action as the Committee notes that it must carry out its duties with a view to promoting the licensing objectives, which includes the protection of children from harm.
- b) Conditions had recently been added (March 2022) and the PLH still failed to comply with them in breach of his Premises Licence. The amendment or addition of conditions is therefore not appropriate.
- c) A reduction of hours for or removal of licensable activities would have little effect as the issue is not the times that illegal purchases had taken place and the removal of the sale of alcohol, the only licensable activity permitted under the licence, would in effect be a revocation of the Premises Licence.
- d) The removal of the DPS would have little effect as this person is also the PLH who is responsible for management of the premises.
- e) The PLH had over a year to remedy the issues. In light of the evidence before it, the Committee were not satisfied that a 3 month suspension would resolve the issues raised at this hearing.

79. 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 Committee concluded it was necessary 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**

**15 June 2022**

The Meeting ended at 4.15 pm