



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 28th July, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Maggie Carman (Chair), Iman Less and Jacqui Wilkinson

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. THE PLUMBER'S ARMS PUBLIC HOUSE, 14 LOWER BELGRAVE STREET, SW1W 0LN

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

Thursday 28 July 2022

Membership: Councillor Maggie Carman (Chair) Councillor Iman Less and Councillor Jacqui Wilkinson

Officer Support: Presenting Officer: Roxsana Haq
Legal Advisor: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Jack Robinson-Young

Application for a Variation of Premises Licence - The Plumbers Arms Public House 14 Lower Belgrave Street London SW1W 0LN 22/05341/LIPV

Full Decision

Other parties Present: Piers Warne (TLT Solicitors) acting on behalf of the Premises Licence Holder Spirit Pub Company (Services) Limited, Philip Lee Ashby (General Manager) Ashley Coombs (Area Manager) Environmental Health Service (Dave Nevitt) Richard Brown (Westminster Licensing Project) Lydia Del Maestro (Local Resident) and Robert Del Maestro

Premises

14 Lower Belgrave Street
LONDON
SW1W OLN

Premises Licence Holder

Spirit Pub Company (Services) Limited

Activities and Hours

As per the premises licence save for the variations applied for.

Case Summary

The Sub-Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises are a Public House situate within the Knightsbridge and Belgravia Ward. Neither the West End Cumulative Impact Zone nor Special Consideration Zone apply. Since publication of the report the Premises Licence Holder ("PLH") Spirit Pub Company (Services) Limited has produced a front area outside management plan which was considered by the Sub-Committee. There is no policy presumption to refuse the application, so the application will be considered on its individual merits and the promotion of the licensing objectives. The Premises have been licensed since 2005 and are currently under licence reference 19/07039/LIPDPS.

The PLH wishes to vary the licence as follows: -

To remove the following conditions:

Condition 16

"After 21:00 hours, patrons permitted to temporarily leave and then re-enter the premises e.g., to smoke, shall not be permitted to take drinks or glass containers with them."

Condition 17

"An SIA licensed door supervisor, wearing a high visibility jacket or vest, shall be on duty at the premises after 17:00 hours on Thursday and Friday evenings, and at other times on a risked assessed basis when customers are drinking outside. The door supervisors' duties shall include monitoring the behaviour of customers outside the premises and ensuring that the pavement remains clear for pedestrians."

To be amended to:

“After 22:00 hours, patrons permitted to temporarily leave and then re-enter the premises e.g., to smoke, shall not be permitted to take drinks or glass containers with them.”

“A risk assessment will be undertaken when customers are drinking outside. If identified via the risk assessment a licensed door supervisor will be on duty on Thursday and Friday evenings, door supervisor’s duties shall include monitoring the behaviour of customers outside the premises and ensuring that the pavement remains clear for pedestrians.”

There is a resident count of 84.

Representations Received

- Environmental Health Service (Dave Nevitt)
- Lydia Del Masetro 18 Lower Belgrave Street SW1W OLN
- Christina Brendle 31 Lower Belgrave Street SW1W OLS
- Mrs Roberta Drummond 33 Lower Belgrave Street SW1W, OLS
- Mrs Mitra Soroush 1 Belgrave Yard London SW1

Summary of representations

- EHS state representation is made in relation to the application, as the proposals are likely to increase the risk of Public Nuisance.
- I am writing as Lydia Del Maestro, freehold owner of 18 Lower Belgrave Street, SW1W0LN. I have fought hard to have a restriction with the pub's customers to drink outside only until 9PM. Unfortunately, I have been told just now 162 that the pub has applied for an extension for drinks to be extended outside till 10pm. I have not been told beforehand so wish you will consider my plea in time to oppose this application. One must not forget that there are families with young children living in the street and not to forget elderly people who wish to have a peaceful early sleep.
- Lower Belgrave street is mostly a residential area. Therefore, by early evening the loud noise emanating from the pub's patrons outside are invasive and disturb the privacy of the local residents. Even though there is a guard to monitor the patrons outside, he or she can do little to moderate their noise levels. Extending the outside drinking to 10pm will exacerbate this situation and result in public nuisance.
- I am an elderly lady living next door to the pub and the loud noise from the pub's patrons (laughter, shouting) after 9pm will affect me adversely and disturb my sleep. And also, when I have my grandchildren staying overnight the noise levels will disturb them equally. The likely effect of this would be an increase in noise from i) customers drinking outside later in the evening; and ii) customers drinking in greater numbers and in a less controlled manner due to the deletion of the SIA requirement. The ensuing noise would cause a nuisance.

- I understand the pub has its own commercial objectives, however, they need to balance this with respect for the mental well-being of residents living in proximity to their business. And I fear that an extension to 10pm will result in the public nuisance I experienced in the past, returning.
- We would like to object to the proposed amendment. We are residents living in the street, and we have children sleeping at the front of the house, so the delay to 22.00 is unacceptable. Furthermore, the Policeman in high visibility jacket has been very effective in limiting the noise to the residents, and we wish him to continue his duties. Before the policeman was installed, pub customers were too noisy, and invading the pavement and the surrounding areas.
- The main entrance to my property, 1 Belgrave Yard, is right beside the pub where the punters stand and drink and smoke and leave plastic cups and cigarette butts behind! Even with the current security on patrol, some drinkers loiter outside the only access way to my property and block my entrance. On occasions that I have had to ask them to move out of my access, they have reacted unpleasantly. I fear without the patrol, the situation would be even worse. I do not wish to have interaction with drinkers who shall we say may be 'jolly'. It is also unpleasant to have to move through their cigarette smoke. At least the patrol can keep them clear of my access. And I would only need to interact with the patrol as opposed with the punters.

Policy Considerations

HRS1

- A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.
- B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:
 1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.

PB1 (A)

- A. 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. 3. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1. 4. The applicant has taken account of the Special Consideration Zones policy SCZ1 if the premises are located within a designated zone. 5. The application

and operation of the venue meet the definition of a Public House or Bar in Clause D.

- D. For the purposes of this policy a Public House or Bar is defined as a premises, or part of a premises that's primary use is the sale or supply of alcohol for consumption on those premises and/or for consumption off the premises for consumption outside the venue.

SUBMISSIONS AND REASONS

Ms Roxana Haq the Presenting Officer outlined the application to the Sub Committee. She advised that this was an application for a variation of a Premises licence in respect of The Plumber's Arms Public House, 14 Lower Belgrave Street, London SW1W 0LN. The application has been made by The Spirit Pub Company Limited (represented by Piers Warne of TLT Solicitors). The PLH has applied to remove and replace conditions 16 and 17 of the current premises licence as per pages 2-6 of the report bundle. Representations have been received by the Environmental Health Service (Mr Dave Nevitt) and four representations received by interested parties, in attendance today are Lydia Del Maestro and Robert Del Maestro who are represented by Mr Richard Brown of Westminster's licensing project. The Premises is situated within the Knightsbridge and Belgravia Ward and does not fall within any area of cumulative impact area.

Mr Warne appearing on behalf of the PLH addressed the Sub-Committee. He advised that the two conditions relate to the use of the external area: Condition 16 relates to Customers going outside cannot take their drinks with them after 21:00 and the PLH would like this to be extended for an hour until 22:00. Condition 17 requires there to be door staff on the premises from 17:00 every Thursday and Friday and the PLH would like Mr Philip Ashley, the General Manager to be able to risk assess whether door staff are necessary.

Mr Warne advised that conditions were added following a review of the Premises in 2013. They were appropriate and proportionate at the time, however, the management was very different back then. He advised that the premises licence is still in the name of Spirit but is owned by Greene King. Mr Warne said that the company has very robust headquarters and good management practices which is seen reflected on page 9 of the Agenda Report. He said that Mr Ashley has been at the Premises since 2019.

Mr Warne stated that pre Covid on Thursday and Friday nights were very busy and usually had a doorman on duty these nights. However, Post Covid numbers are down and much lower. Mr Warne said that currently the business is paying in excess of £9,000 for SIA door licensed staff and that person in reality has very little to do. He advised that this specific role can be done and managed just as easy with a member of staff from the Premises.

Mr Warne said that in so far as the Representations were concerned a draft management plan has been provided in respect of the outside area which sets out the processes discussed to manage the Premises.

It will include the following:-

- Plastic cups and cigarettes are not used by the Premises.
- The PLH has a licence with the management company that manage the court to allow our customers to use the area down the side of the Premises.
- Regarding the additional hour customer numbers drop off at 21:00 hours so we are only looking at a small increase.
- The premises next door which operates as a Restaurant has an outside area that closes later.
- There have been no complaints of noise from local residents.

In answer to questions from the Sub-Committee Mr Warne advised that the current managements arrangements have been in place since 2016. Mr Ashby has been in post since 2019 but the Premises closed in March 2020 due to Covid. Mr Warne confirmed that Mr Ashby was at the Premises for the first summer so he knew when the busy nights were. There have been no recorded complaints and tables are not placed on the outside area. However, there are barriers where customers can stand. He advised that tables and chairs are only put out on a Monday and Tuesdays as these are quiet nights for the business.

In answer to questions from the Sub-Committee Mr Warne confirmed further that there has been a continuation of management since 2016 and that the majority of time Mr Ashby was at the Premises until June 2019 when the Premises closed in March 2020.

Mr Warne stated that in terms of tables and chairs and the management of vertical drinking especially as the Premises wants to stay open later it was confirmed that there are regular collection of glasses by staff (as required by the management plan) and customers are managed to ensure they are kept within the roped area and encouraged to keep noise levels down so as not to cause a nuisance to local residents.

The Sub-Committee sought confirmation that if it were minded granting the application what bedded management practices would be in place if Mr Ashby were to leave the PLH's employ. Mr Coombs confirmed that he was the area manager of the Area, If Mr Ashby were to leave, we effectively would oversee the area. If anyone is on holiday, we know what conditions are on the licence. We then make sure everyone is up to speed with what needs to be done.

Mr Warne advised that Greene King has a significant number of pubs in Westminster. If the General Manager called in sick and was away then someone can be called in to cover very quickly so we have the necessary back up arrangements in place. He advised that the point of the risk assessment is a way to reacting quickly to situations.

The-Sub-Committee sought confirmation as to what was is involved in the risk assessment? Mr Warne advised that to risk assess door staff numbers a risk criteria is adopted. This includes whether it's a busy night, there's an event going on and weather conditions for example if its sunny etc it's about looking at the number of staff required. In terms of an SIA being able to turn up at short notice Mr Warne

advised that the management have a dedicated National door staff company that it uses that can be provided on a certain day by a simple telephone call. If for example there were to be a protest march in the area they can be called straight away.

Mr Warne confirmed that the outside area is swept both in the mornings and evenings once the Premise closes where cigarette butts are collected as well as plastic cups.

The Sub-Committee queried if business goes what will happen to the Premises. In reply, Mr Warne said that 2013 is a good example of what happened. Effectively if things go wrong, a review can be brought. The conditions were added as the management of the Premises become poor. He commented that the situation has now changed, and the management is different. If circumstances change, there will be a steady increase.

The Sub-Committee noted that Mondays are extremely quiet for the Premises with Thursday being a busy period. Mr Warne advised that in relation to alcohol sales he said that on Thursday of last week between 17:00-20:00 69 drinks were sold which was 26% down compared to 2019. He advised For the Friday 224 drinks were sold and that was a 70% reduction.

Mr Warne said in conclusion that there are many pubs in the area that provide a more lively environment. He said that the PLH had listened very carefully to the concerns raised and wanted to add that the Premises now operated differently to what it was before, Wednesdays are now one of its busiest nights and that there have been no complaints.

Mr Dave Nevitt appearing on behalf of EHS addressed the Sub-Committee. He said that there is no surprise that this Premises was reviewed 10 years ago as the pictures show patrons congregating on the street causing noise. Mr Nevitt said that the concern would be what will stop it going back to what it was. He said that often certain types of drink led premises become popular and that brings with it problems.

He advised that the area is a very narrow strip of frontage where barriers fence in customers and there should be no problem with knowing where the demise is between Council highway and their area. Patrons can put drinks on the shelves attached to the exterior wall which reduces the likelihood of putting drinks on the floor.

Mr Nevitt said that the Premises was a traditional pub and does not operate as a sports and football bar. There have been no problems in recent years. He stated that former operators had operated the Premises in a different way which led to problems in terms of noise and nuisance. In terms of the premises plans there is nothing on the plans to show the demarked area. In terms of risk assessing, he said that the Environmental Health Service are happy for the PLH to do this. Mr Nevitt confirmed at this stage he did not think SIA door staff is necessary.

Mr Brown appearing on behalf of residents addressed the Sub-Committee. Mr Brown stated that Ms Del Maestro lives 2 doors down and has lived there for 60 years. The bedroom and living room overlook the outside area of the pub. Ms Del Maestro had to put up with the nuisance prior to the review for many years. There was a lot of

mediation with the Council prior to the review. Conditions 16 and 17 are the key conditions working in tandem which are why matters have improved. We say 20 people outside the pub without those conditions will cause a nuisance. We say the situation has improved due to these conditions.

Mr Brown said regarding the management plan submitted he is of the opinion that it does not really take the matter further other than setting out what the conditions are and what the approach is at the moment. He said the residents do not agree with the risk assessment

Ms Del Maestro addressed the Sub-Committee. She said that the evenings were very noisy and that she fought hard back in 2013 at the time of the review to get the hours reduced to 21:00 and it worked, now taking it back to 22:00 will cause the same problems. The external barrier helps as otherwise it causes congestion on the pavement. Ms Del Maestro said that she had nothing against pubs, it is just the way they conduct themselves and are managed.

In response to the questions from the Sub-Committee Mr Brown confirmed that in relation to a condition regarding door staff and a terminal hour of 21:00 he felt that both conditions work together as a pair. The hour of 21:00 and the busy day's work in tandem.

Mr Brown said in terms of the numbers outside 20 people in the front is cosy however, problems can still arise with a further 20 people to the side of the Premises which could prove difficult.

Mr Warne said that in his view restricting the outside area to specific numbers can cause problems unless the exact numbers of people were counted.

Mr Horatio Chance the Legal Advisor to the Sub-Committee suggested a condition regarding the outside management plan with the total number of people not exceeding 40 permitted and that the Premises plan was to be either hatched/coloured which was confirmed to be acceptable by Mr Warne. However, in terms of numbers, Mr Warne said that it was not that easy to deal with these numbers with a small pub. He went further onto say that the Premises would need some flexibility for people coming in and out.

Mr Brown said that the Management plan condition is not sufficient enough to mitigate the risks nor is the condition restricting numbers in the outside areas of the Premises as this is still too many people.

Conclusion

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining this application. There is no policy presumption to refuse the application. The Sub-Committee noted that this was a variation of a premises licence to vary two conditions namely Conditions 16 and 17 relating to the relaxation of operating hours by adding an additional hour and the requirement for SIA door staff to be risk assessed.

The Sub-Committee having carefully considered the evidence decided to grant the variation in part. Based on the evidence, the Sub-Committee decided to retain condition 16 as the extra hour will likely have a detrimental effect on public nuisance so that part of the variation application was refused. In relation to condition, 17 the Sub-committee concluded that the PLH was to be a responsible operator when it came to patrons drinking outside and any problems associated with public nuisance. The Sub-Committee considered it appropriate and proportionate to modify the condition in accordance with the suggested wording of the PLH.

The Sub-Committee took comfort from the fact that the PLH has the necessary safeguards and processes in place to comply with this condition and that no complaints had been made. The Sub-Committee noted the concerns of the residents relating to the outside space and on that basis decided to limit the number of patrons using that space to a maximum of 30 at any one time. The Sub-Committee welcomed the outside area management plan and has decided to impose a management plan condition on the licence.

In terms of the conditions retained on the Premises Licence condition 16 is retained as drafted. Condition 17 is modified and the outside area is to be conditioned by reference to a management plan which will future proof the premises licence going forward.

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

1. To *refuse* permission to remove and modify Condition 16 on the Premises Licence.
2. That Condition 17 is hereby modified accordingly and thereafter remains on the Premises Licence in full force and effect.
3. That the Premises Licence Holder is to provide the Licensing Authority with the minimum of delay a revised Premises Plan demarking the front outside areas by reference to the relevant hatching.
4. That a new Condition as specified below as Condition 23 is imposed on the licence requiring the Premises Licence Holder to limit the number of patrons using the front outside areas to 30 patrons at any one time.
5. That a new Condition as specified below as Condition 24 is imposed on the licence requiring the Premises Licence Holder to implement and always operate an outside management plan to include the supervision and management of all patrons using the front outside areas of the Premises.
6. To add conditions in the terms specified below.
7. That the varied licence is subject to any relevant mandatory conditions.

8. That the existing conditions on the licence shall apply in all respects except in so far as they are varied by this Decision.
9. That the varied licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a licensing hearing

10. The permitted hours for the sale by retail of alcohol are:
 - (a) Monday to Thursday 10:00 to 23:30
 - (b) Friday to Saturday 10:00 to 00:00
 - (c) Sunday - 12:00 to 22:30NOTE - The above restrictions do not prohibit:
 - (a) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
 - (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
 - (c) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
 - (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
 - (e) the taking of alcohol from the premises by a person residing there;
 - (f) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
 - (g) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.
11. Regulated Entertainment in the form of live music is limited to two performers only.
12. The terminal hour for sale/supply of alcohol, regulated entertainment and late night refreshment is extended by one hour on St David's Day, St Patrick's Day, St George's Day and St Andrew's Day with 10 day's notice to be given to the Metropolitan Police Service and the Licensing Department of Westminster City Council. The Police to have veto over any event.
13. The terminal for sale and of alcohol, regulated entertainment and late night refreshment may be extended by one hour on statutory bank holiday weekends (Friday to Monday), the Thursday before Good Friday and Christmas Eve with ten day's notice to be given to the Metropolitan Police

Service and the Licensing Department of Westminster City Council. The Police to have veto over any event.

14. All children on the premises to be accompanied by an adult, to be on the premises for the purpose of a meal and to have vacated the premises by 9.30pm.
15. When payment is made by credit or debit card, customer is to be presented with an itemised bill showing the details of all alcoholic drinks purchased.
16. After 21:00 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
17. A risk assessment will be undertaken when customers are drinking outside. If identified via the risk assessment a licensed door supervisor will be on duty on Thursday and Friday evenings, door supervisor's duties shall include monitoring the behaviour of customers outside the premises and ensuring that the pavement remains clear for pedestrians.
18. The Premises Licence Holder shall ensure that the outside of the premises is managed so as to ensure that the pavement is not blocked, there is no public nuisance caused to local residents and patrons are prevented from spreading to areas outside neighbouring premises.
19. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
20. Notices shall be prominently displayed at any area used for smoking requesting patrons to respects the needs of local residents and use the area quietly.
21. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which give rise to a nuisance.
22. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kern edge, shall be swept and or washed daily, and litter and sweeping collected.
23. Notwithstanding Condition 18 above the Premises Licence Holder shall ensure that the front outside areas shown hatched on the premises plan are limited to 30 patrons at any one time excluding staff.
24. The Premises Licence Holder shall implement and operate an outside area management plan to include the supervision and management of patrons using the front outside areas of the premises which shall be kept updated from time to time. A copy of the management plan shall be provided to the Responsible Authorities upon request.

If any problems are experienced then a review of the licence can be made.

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

**The Licensing Sub-Committee
28 July 2022**

2. PRIVATE MEMBERS CLUB - CHESS CLUB, BASEMENT TO FIRST FLOOR, 1A CHESTERFIELD STREET, W1J 5JG

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 2

28 JULY 2022

Membership: Councillor Maggie Carman (Chair) Councillor Iman Less and Councillor Jacqui Wilkinson

Officer Support Legal Adviser: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Jack Robinson-Young
Presenting Officer: Roxsana Haq

Application for a Variation of a Premises Licence in respect of Chess Club Basement to First Floor 1a Chesterfield Street W1J 5JG 22/03665/LIPV

Other parties present: Jack Spiegler (Thomas and Thomas Solicitors), Dave Nevitt (Environmental Health Service), Kevin Lansdown (ECC Mayfair Limited).

Full Decision

Premises

Chess Club
Basement to First Floor
1a Chesterfield Street
London
W1J 5JG

Premises Licence Holder

ECC Mayfair Limited

Cumulative Impact Area

None

Ward

West End

Special Consideration Zone

None

Activities and Hours

As per the premises licence save for the variations applied for.

Summary of Application

The Sub-Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises operates as a private proprietary members club on the basement, ground and first floors. The Premises Licence Holder ("PLH") is ECC Mayfair Limited.

The Premises have been licensed since 2016 and are currently licensed under reference 18/13801/LIPT. The PLH has provided submissions in the form of resident letters in respect of their representations and a presentation. These can be found at Appendix 2 of the Agenda Report. The PLH also applied for pre application advice prior to submitting this application where a couple of visits have been held at the Premises with Environmental Health. The Premises is in the West End Ward but not located within either the West End Cumulative Impact Zone or Special Consideration Zone.

There is a resident count of 84.

The PLH wishes to vary the licence as follows: -

- A. Regularise changes to the premises layout following pre-application advice from the City of Westminster's Environmental Health Consultation Team and District Surveyor advice reference 21/14139/PREAPM.

The proposed changes to the layout include the introduction of the second floor of the premises albeit with no overall increase in the permitted capacity of the premises.

- B. Add works condition

The variation of this premises licence 18/13801/LIPT to vary the layout of the premises will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this licence by the licensing authority. Where there have been minor changes to layout updated layout plans shall be provided to the Licensing Authority.

- C. Vary capacity condition 30 FROM

The capacities are: Ground Floor: 60, First Floor: 60 (excluding staff)

TO

The capacities are: Ground Floor: 60, First Floor: 60, Second Floor 30 subject to an overall maximum of 120 at any one time (excluding staff).

The variation of capacity condition 30 does not result in an overall increase of the existing total permitted capacity of the licensed premises.

The application follows pre application advice from Westminster City Council and does not propose any changes to the permitted licensable activities, hours or an overall increase in capacity.

Representations received

- Environmental Health Service (Dave Nevitt)
- 4 Local residents

Summary of issues raised by objectors

- Representation is made in relation to the application, as the proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety.
- On behalf of my clients, the family who live at 3 Chesterfield Street, I want strongly to object the plans of the opening the venue which will be running late night parties and selling alcohol until 12am. There is enough trouble cause by residents of the rented apartments at 6 Chesterfield Street. All local residents are tired from the drunk people who are staying in the apartments. They cause a lot of disturbance. Hopefully, the plans of the opening the private members club at 1a Chesterfield Street will be rejected by Westminster Council.
- Noise levels coming from the property next door, which we share a party wall with will create a high volume of noise. We have multiple businesses operating out of our building (1 Chesterfield Street W1J 5JF) and we feel that having up to 120 people will create noise levels which will cause disruption to our tenants during business hours. High volumes of people standing outside the building smoking and drinking and talking loudly causing further disruption to our businesses. We are concerned the amount of extra people visiting the street will create traffic congestion. The street is narrow and parking either side of the street will cause difficulties for our clients, delivery drivers and trades-people. Chesterfield street is predominantly a residential street, opening a club on this street will change the dynamic considerably creating a 5:1 ratio (club members to residents). 120 club members plus 30 or so staff creates an intolerable fire risk in a small building with only one fire exit; also, the added consideration of parking on both sides of the street making it impossible for fire trucks to get through in the event of a fire. Kindly review our concerns and let me know how we should proceed with our objection.
- The last club on the premises created havoc in Chesterfield Street both day and night. During the day constant deliveries blocked the street as vans found nowhere to park. At night, dozens of smokers stood in the roadway and blocked the pavement drinking and shouting as they became more intoxicated

creating both a public nuisance and a threat to public safety through their disorderly behaviour. With windows open during the summer, the sounds of music, and 120 people plus staff will create a constant public nuisance and ensure that residents get very little rest until way beyond the time the club is obliged to shut. Chesterfield Street is very narrow with parking on both sides, 120 people leaving after midnight will create a massive disturbance to all residents as well as tailback traffic jams of taxis with nowhere to stop other than the middle of the road. 120 members plus thirty staff will change what is a quiet residential street, occupied by some thirty or so residents into a very busy and noisy thoroughfare, outnumbered 5:1 by club members m120 residents plus staff will be a shocking fire hazard in such a small building with one staircase and no lift. This is a matter of public safety as fire tenders will not be able to get to them source of the blaze due to the narrow width of the street and parking on both sides. By granting this licence and its extension you are in effect ignoring the wishes of the residents, creating a public nuisance, encouraging crime and creating a flagrant fire hazard.

Policy Position

Policies HRS1 and COMB1 both apply under the City Council's Statement of Licensing Policy apply (SLP).

HRS1

- A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.
- B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:
 - 1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.

COMB1

- A. Applications outside the West End Cumulative Impact Zone for premises that propose to operate as a 'combined use premises' will be considered on their merits and subject to:
 - 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
 - 2. The hours for licensable activities for the relevant use being within the council's Core Hours Policy HRS1.
 - 3. The operation of any delivery services for alcohol and/or late night

refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

4. The applicant has taken account of the Special Consideration Zone policy SCZ1 if the premises are located within a designated zone.
- B. Applications inside the West End Cumulative Impact Zones for premises that propose to operate as a 'combined use premises' will be considered on their merits and subject to:
1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
 2. The hours for licensable activities for the relevant premises use being within the council's Core Hours Policy HRS1.
 3. The operation of any delivery services for alcohol and/or late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
 4. The applicant demonstrating that they will not add to cumulative impact within the Cumulative Impact Zone.
- C. When considering what weight is to be given to the relevant uses and policies the Licensing Authority will take into account:
1. Whether it will undermine the licensing objectives.
 2. The current and proposed use of the premises.
 3. When those uses will take place.
 4. What the primary use of the premises is or the uses that will take place in different parts of that premises.
 5. Whether there would normally be a presumption to refuse an application for that use if it was operating as that premises type and not a combined use premises.
 6. Whether the hours sought for the all or parts of the premises are within or outside the Core Hours.
- D. The Licensing Authority will take into account, when considering the application, the relevant considerations from each of the appropriate premises uses policies within this statement
- E. For the purpose of this policy a Combined Use Premises means premises which require a premises licence and where there is more one premises use, and where the uses are not dependent on/ or part of the other uses i.e. are not ancillary to the other uses.

SUBMISSIONS AND REASONS

The Presenting Officer Roxsana Haq introduced the application to the Sub-Committee. She advised that this was an application to vary the premises in respect of Chess Club Basement to First Floor 1a Chesterfield Street W1J 5JG. The PLH is ECC Mayfair Limited. The Premises operates as a private proprietary members club on the basement, ground and first floors. Representations were received from the Mr Dave Nevitt of the Environmental Health Service and four local residents. The Premises is in the West End Ward but not located within either the West End Cumulative Impact Zone or Special Consideration Zone.

Mr Jack Spiegler, Solicitor appearing on behalf of the PLH addressed the Sub-Committee. He introduced the application for a variation which centred around the layout of the Premises with no overall capacity increase.

Mr Spiegler explained there was already a premises licence for this building, but the PLH wanted to amend the layout to add the second floor to the licensable area. Regarding the objections he advised that there had been some misunderstanding that an additional 120 people was to be added to the building, but in fact this was the total figure which would not increase only the expansion of the licensable area.

Mr Spiegler advised he was approached about this capacity figure by concerned parties but when the true position was clarified they did not then go on to object to the licence and those who did object were contacted with no forthcoming reply.

Mr Kevin Lansdown from ECC Mayfair Ltd addressed the Sub-Committee gave some back history and explained they started initially in Paris and have recently moved into London. They have traded as retail or as a restaurant in Paris for almost 100 years. Their club clientele was aimed at international members via their parent company in Paris, but members are by invitation only, it is not open for general admissions to the club with membership costing £2,000 per annum.

The Chair of the Sub-Committee asked about the jobs generated and Mr Lansdown replied that there would be around 30-40 jobs created and he would of course consider hiring locally.

The Sub-Committee enquired about the representation from a local resident regarding the opening up of the second floor of the Club and how would staff be able to escape with the narrow staircase. Mr Spiegler explained that the local resident had been contacted and her concerns addressed but no response had been received back from her.

Mr Dave Nevitt from the Environmental Health Service addressed the Sub-Committee explaining they have spent many hours on site facilitating public safety arrangements. The staircase in question is a single staircase which did raise concerns regarding fire especially. He reported that the Environmental Health Service were in a positive position following the investment from the Club to be satisfied with the fire safety arrangements for public safety. As the overall capacity or hours remain unchanged, public nuisance is not to be affected.

The Chair of the Sub-Committee asked where smokers may go, Mr Nevitt explained that the overall capacity is small, and the percentage of smokers will be even less. Mr Lansdown explained they will have an SIA monitoring the outside area and can monitor smokers as well.

Conclusion

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining this application. There is no policy presumption to refuse the application.

The Sub-Committee has determined a Variation of a Premises License to change the layout of the premises and vary the capacity conditions but with no overall increase in capacity.

The Sub-Committee noted the works to be undertaken to the layout of the Premises in accordance with the submitted plans to include the introduction of the second floor with no overall increase in the permitted capacity of the Premises and therefore agreed the new capacity figures and new works condition.

The Sub Committee welcomed the fact that the relevant public safety issues affecting the Premises had been resolved and that the PLH had been proactive in working with the Environmental Health Service and local residents and agreement had been reached regarding the proposed conditions.

The Sub-Committee was persuaded by the PLH 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.

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

1. To Grant permission for the works to be undertaken to the layout of the Premises in accordance with the submitted plans to include the introduction of the second floor with no overall increase in the permitted capacity of the Premises.
2. That renumbered Condition 30 and specified below as Condition 28 is to be modified accordingly with the new capacity figures and to remain on the licence with full force and effect.
3. That a new works Condition is to be imposed on the licence as specified below in Condition 32.
4. To add conditions in the terms specified below.
5. That the varied licence is subject to any relevant mandatory conditions.

6. That the existing conditions on the licence shall apply in all respects except in so far as they are varied by this Decision.
7. That the varied licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a licensing hearing with the agreement of the Applicant

8. Alcohol may only be sold for consumption:
 - a) by members of a private club and their bona fide guests (not exceeding 4 guests per member). No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission
 - b) Persons attending a pre- booked and bona fide private function or event to which members of the public are not admitted. A register of persons attending the event shall be kept at the premises and made available for immediate inspection by police or an authorised officer of the Council.
9. 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 preceding 31 day period.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
12. A Challenge 21 or Challenge 25 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport or proof of age card with the PASS Hologram.
13. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:

- (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received regarding crime disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service.
14. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
 15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of the local residents and businesses and leave the area quietly.
 16. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the need of local residents and use the area quietly.
 17. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue Licence.
 18. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel; at its junction with the kerb edge, is swept and or washed and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
 19. No collection of waste or recycling materials (including bottle) from the premises shall take place between 23:00 and 07:00 on the following day.
 20. No deliveries to the premises shall take place between 23:00 and 07:00 on the following day.
 21. All waste if to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
 22. The licence shall have no effect until the works as set out in drawings appended to the application have been assessed as satisfactory by the Environmental Health Consultation Team, and this condition has been removed from the licence.
 23. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.
 24. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
 25. No licensable activities shall be permitted in the basement of the premises.

26. In the ground floor members' dining area marked on the plan, the supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
27. In the ground floor members' dining area marked on the plan, the supply of alcohol shall be by waiter or waitress service only.
28. The capacities are: Ground Floor: 60, First Floor: 60, Second Floor 30 subject to an overall maximum of 120 at any one time (excluding staff).
29. After 21:00 hours, at least 1 SIA licensed door supervisor shall be on duty at the entrance of the premises at all times whilst it is open for business and until customers disperse.
30. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
31. There shall be no promoted events at the premises booked and organised by an external promoter with a view to selling tickets to the public for profit.
32. The variation of this premises licence 18/13801/LIPT to vary the layout of the premises will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this licence by the licensing authority. Where there have been minor changes to layout updated layout plans shall be provided to the Licensing Authority.

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

**The Licensing Sub-Committee
28 July 2022**

3. BASEMENT, 35 THE PIAZZA, COVENT GARDEN, WC2E 8BE

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 2

28 JULY 2022

Membership: Councillor Maggie Carman (Chair) Councillor Iman Less and Councillor Jacqui Wilkinson

Officer Support Legal Adviser: Horatio Chance
 Policy Officer: Aaron Hardy
 Committee Officer: Jack Robinson-Young
 Presenting Officer: Roxsana Haq

**Application for a Variation of a Premises Licence in respect of Basement 35
The Piazza Covent Garden London WC2E 8BE 22/03768/LIPV**

Other parties present: Mr Jack Spiegler (Thomas and Thomas Solicitors), Mr Pierre-Charles Cros (Experimental Piazza Ltd), Mr Xavier Padovani (Experimental Piazza Ltd), PC Adam Deweltz (Metropolitan Police Service).

Full Decision

Premises

Basement
35 The Piazza
Covent Garden
LONDON
WC2E 8BE

Premises Licence Holder

Experimental Piazza Limited

Cumulative Impact Area

West End

Ward

St James's

Special Consideration Zone

None

Activities and Hours

As per the premises licence save for the variations applied for.

Summary of Application

The Sub-Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act") in respect of Basement 35 The Piazza Covent Garden London WC2E 8BE. The Premises operates as a nightclub and bar with restaurant facilities. The Premises Licence Holder ("PLH") is Experimental Piazza Limited. The Premises has been licensed since 2005 and is currently licensed under reference 22/02476/LIPT. The PLH has received pre-application advice and this can be seen at Appendix 2 of the Agenda Report together with an entry and dispersal policy, application summary and a presentation about the company which were considered by the Sub-Committee. The Premises is located within the St James's Ward and West End Cumulative Impact Zone. There is a resident count of 40.

The PLH wishes to vary the licence as follows: -

- Regularise changes to the premises layout as shown on the plan appended to the application and following pre application advice reference 22/01339/PREAPM. There is no change to the ground floor entrance area.
- Remove Condition 22 relating to a non-existent cross hatched green area which is neither shown on the current licence plans or proposed plans. This condition appeared on the licence 12/09722/LIPDPS following an application to vary the designated premises supervisor and has remained since then. However, there was no application made to add this condition onto the premises licence.
- Remove Conditions 29 and 30 relating to an ID scanner. This proposal follows ongoing discussions with the Metropolitan Police.

The application does not propose any changes to the existing permitted licensable activities, hours, or capacity.

Representations received

Metropolitan Police Service (PC Adam Dewletz)

Summary of issues raised by objectors

The Metropolitan Police, as a responsible authority, are making a representation against this application. The venue is situated within the Cumulative Impact Area. It is our belief that if granted, the application could undermine the Licensing Objectives in relation to The Prevention of Crime and Disorder. Concern was expressed although the premises is under new management, this did not automatically mean conditions can be removed and that ID scanners were unintrusive and commonplace.

Policy Position

Policies MD1 and HRS1 apply under the City Council's Statement of Licensing Policy apply (SLP).

HRS1

- A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.
- B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:
 1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.

MD1

- B.** It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:
1. Applications to vary the existing licence hours within the Council's Core Hours Policy HRS1, and/or,
 2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.
- C.** The applications referred to in Clause B1 and B2 will generally be granted subject to:
1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
 2. The operation of any delivery services for alcohol and/or latenight refreshment meeting the Council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
 3. The application and operation of the venue continuing to meet the definition of a music and dance premises in Clause D.
- D.** For the purposes of this policy a music and dance premises is defined as a premises whereby the primary purpose of the venue is to:
1. Provide regulated entertainment in the form of music, either in the form of live performances or recorded, to customers.
 2. Provide regulated entertainment in the form of music, either as live performances or recorded, and provide facilities for the provision of dance.
 3. The sale by retail of alcohol may be provided as either a considerable element of the operation of the premises or ancillary to the provision of regulated entertainment.
 - a. Examples of venues that would fall within this policy are night clubs or bars that provide music and dancing.
 - b. De-regulated entertainment (as set out in the glossary will not be subject to this policy).

SUBMISSIONS AND REASONS

Mr Jack Spiegler, Solicitor appearing on behalf of the PLH addressed the Sub-Committee. He introduced the application and said regarding the change of layout to the Premises no concerns have been raised. The Metropolitan Police initially

objected to remove Conditions 29 and 30 but there have since been conversations on a potential compromise.

Mr Spiegler said that the concern was of the unknown risk of removing the ID scanners but to compromise they have agreed to a 6 month pause on the conditions to be reviewed and if this goes well, the PLH will come back for a permanent removal. If this is not a positive step, then the conditions will remain. He suggested to rectify this, a further Condition to have Conditions 29 and 30 to have no effect for 6 months from the opening date could be imposed on the premises licence if the Sub-Committee deemed it acceptable.

PC Stewart from the Metropolitan Police Service addressed the Sub-Committee stating that previously this Premises had a lot of adverse history, hence why there was an initial objection. It was accepted that this was a new operator with a new style of business operating in the Premises. Following on from conversations with Mr Spiegler, he agreed this 6-month period would allow for evidence to be built up, to then review on either side as to whether to keep the ID scanning removed or if it needed to be continued as it was for the previous business operating.

Mr Spiegler at the Sub-Committee's request went into some detail regarding the business's operation in order to get a better understanding of its daily operation and how this would function in practice as a multi-use Premises with live entertainment and a restaurant. He explained that the PLH were operators who already contributed to Westminster and there was a £4million redevelopment of the Premises, which was previously more of a nightclub in the evenings with vertical drinking. He stated that the previous PLH did have concerns raised by the Metropolitan Police and so voluntarily agreed to ID scanners which were appropriate for the time.

Mr Spiegler explained that this no longer fitted the demographic frequenting the Premises. He said that the business model was now somewhat different in that the Premises would attract a sophisticated and mature clientele. Mr Spiegler explained that potential customers may have to join a queue to then get their ID scanned before entering, contrasted say with a young reveller going into a nightclub may be accustomed to. However, a distinction needs to be drawn where a couple out for a meal and a few drinks would not expect to queue on the street after dinner when going for a drink or even have ID on their person. There is an enhanced entry and ejection policy to ensure the licensing objectives can be upheld despite not having the ID scanners, and to ensure the Metropolitan Police have minimal issues with the Premises. He then went onto state this business now operating in the Premises is no longer solely focussed on the sale of alcohol and vertical drinking. Finally, Mr Spiegler explained that prior to taking over a previous premises, the PLH had by way of example turned a different venue around and reduced the cumulative impact of the area, proving that the PLH has a good track record when it comes to the management of its premises.

The Chair of the Sub-Committee then asked the Metropolitan Police for any historical information they may have that may help assist the Sub-Committee inform their views given the context in which they were dealing when considering whether the ID Scanner condition is removed. In reply, PC Stewart gave an example that if 15 people were asked to leave by door staff and as such this then escalated into a violent episode with one person was then charged. If an ID scanner was present all information would have been able to be passed on to the Metropolitan Police and

would have aided their enquiries. The ID scanner at that time was entirely appropriate for the business.

The Sub-Committee queried that if this business were then to close for whatever reason, there would be no condition for an ID scanner on the licence. Mr Spiegler replied saying that he had also discussed a further proposed condition on the Licence linking the licence to the management company directly. If this were to happen, the Conditions would have the effect of coming back into force should the Licence be moved or sold on. The Sub-Committee sought clarification on the type of events that the PLH envisage putting on. Mr Pierre-Charles Cros of Experimental Piazza Ltd replied saying these would be centred around music and shows.

PC Stewart reiterated his comments and concerns to the Sub-Committee again to inform them of the Police's rational for objecting to the variation. He said the Premises is within the West End Cumulative Impact Zone but there are no restrictions on vertical drinking. Should the PLH wish to do so they could potentially operate as a nightclub despite having nothing to show they will. He said that not every premises operates ID scanners the same way, some have large groups of people waiting outside but some high-end private members clubs operate an ID scanner that presents no queue and is quickly done. However, ID scanners also act as a deterrent for those who may commit a crime as they may avoid the premises altogether if they know their details will be taken and logged. ID scanners are also more reliable than the human eye especially when seeking to reduce underage drinking and they can also store data to ensure those who have been banned from the premises cannot re-enter again.

PC Stewart also reminded the Sub-Committee that this was not going to be imposed on the PLH because it is already existing as a condition, hence the request to seek its removal.

Mr Horatio Chance, the Legal Advisor to the Sub-Committee asked the PLH to explain what effect an ID scanner would have on the running of the business. Mr Xavier Padovani of Experimental Piazza Ltd said he had experienced it himself and found that the moment a customer comes in, to be met by an ID scanner was not the impression they were wanting to make and do not want a delay for a customer coming into their establishment, if they do indeed have their ID on them. When asked if this could be advertised on their website, Mr Cros replied and said that there is only so much they can advertise. Mr Cros also said that they will have CCTV in the Premises and will work on the plan for this alongside the Metropolitan Police. He also advised that they aimed to have more security than the Metropolitan Police would ask for so those specific concerns should be alleviated.

Conclusion

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining this application. Accordingly, the Premises falls within the West End Cumulative Impact Zone and so the PLH must prove exceptional reasons as to why the application should be granted.

The Sub-Committee has determined a Variation of a Premises Licence to regularise the layout of the Premises where refurbishment and improvement works are

currently being undertaken by the PLH to include reconfiguration of dispense bar, extension of servery, new booth seating in the dispense bar area, reconfiguration of fixed seating throughout the Premises and an addition of a disabled WC.

The application seeks the removal of conditions one of which relates to a non-existence "cross hatched green area" neither shown on the licensed plans or proposed plans together with 2 conditions relating to the requirement of ID Scanners which are a bone of contention for both parties namely the PLH and the Police.

The Premises are proposed to be used as a multi-use venue with live entertainment a restaurant and carefully curated drinks menu drawing upon the PLH's international experience and reputation. The Sub-Committee noted the huge investment ploughed into the business by the PLH by some 3-4 million which fits into the City Council's concept under its SLP by creating a range of cultural venues and thus considered an exception to policy as this will have the desired effect of reducing the extent of dominance of pubs, bars, nightclubs and fast food premises within the West End Cumulative Impact Zone.

The Sub-Committee agreed to the removal of Condition 22 relating to the cross hatched green area as this served no purpose being on the licence.

However, in relation as to whether the two ID scan conditions should be removed from the premises licence the Sub-Committee considered carefully the very well-made arguments for and against as put forward by the PLH and the Police. However, the key question for the Sub-Committee to consider is what the likely effect the removal of the conditions would have on the PLH's ability to run the Premises when considering public nuisance and crime and disorder issues and the associated risk involved in their removal and whether both the public nuisance and crime and disorder licensing objectives were to be undermined as a result.

The Sub-Committee considered the extent of its powers contained under sections 34 and 35 of the Act, the latter dealing with the steps the Sub-Committee should take when determining such a variation application i.e., "*that it should take such steps considered appropriate for the promotion of the licensing objectives be that to reject in whole in part the application*" having regard to Paragraphs 9.44 and 10.10 on pages 75 and 78 respectively of the Home Office Guidance .

In deciding this very complex issue the Sub-Committee had to consider the style nature and character of the Premises and whether based on the evidence before it a significant change would justify the removal of the two conditions and the potential risks in doing so. It was noted that the Premises operated previously as a night club where ID Scanners were considered appropriate and proportionate and quite rightly conditions had been imposed on the premises licence. However, the Sub-Committee in its determination of the matter realises that it must strike the right balance when considering whether conditions should be removed or remain on a premises licence and ultimately the deciding factor is whether the licensing objectives are likely to be undermined.

The Sub-Committee did not want to be seen to be making a rash decision when it came to arriving at its decision but this decision was based on a common sense and pragmatic approach when looking at the evidence and the promotion of the licensing

objectives. Before arriving at this view, it had to decide whether the two conditions were still “appropriate” notwithstanding the passage of time and their possible removal on a permanent basis and regarded that they were.

The Sub-Committee decided that Conditions 29 and 30 (renumbered 28 and 29) requiring the Premises to have an ID Scanner shall temporarily be suspended for a period of 6 months and have no effect following the removal of the works condition as specified below in Condition 32. However, after this period has ended both conditions shall be reinstated and remain in full force and effect as if the suspension had not been granted. The Sub-Committee concluded that the stance it had taken was appropriate and proportionate in all the circumstances.

The Sub-Committee considered the entry and dispersal policy produced by the PLH as a comprehensive document which persuaded the Sub-Committee to depart from policy and the various commitments the PLH was able to give when it came to the running and management of the Premises by the appointed Designated Premises Supervisor and experience staff.

The variation does not change the opening hours or the sale of alcohol, instead the application is centred around the removal of 3 conditions concerning the use of ID scanners and the layout of the Premises. The Sub-Committee therefore decided that the PLH had proven exceptional circumstances in the West End Cumulative Impact Zone due to the style, nature and character of the Premises.

The Sub Committee in addition welcomed the fact that the PLH was an experienced operator as it held and was operating other premises in Westminster as well as internationally which demonstrated their commitment to promote the licensing objectives. The Sub-Committee agreed and imposed a new works condition on the premises licence which means licensable activities cannot take place at the Premises until this is signed off by the Council’s Environmental Health Service.

The Sub-Committee was persuaded by the PLH that they would be a responsible operator by having the necessary measures and safeguards in place and that the conditions it has imposed on the premises licence would help mitigate the concerns of those objecting and promote the licensing objectives.

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

1. To Grant permission for the works to be undertaken to the layout of the Premises in accordance with the submitted plans.
2. That the Premises Licence Holder is to operate and implement an entry and ejection policy as specified below in Condition 31.
3. That Condition 22 is hereby removed from the licence and no longer ceases to have effect.

4. That a new works Condition is to be imposed on the licence as specified below in Condition 30.
5. That Conditions 29 and 30 (renumbered 28 and 29) requiring the Premises to have an ID Scanner shall temporarily be suspended for a period of 6 months and have no effect following the removal of the works condition as specified below in Condition 32. However, after this period has ended both conditions shall be reinstated and remain in full force and effect as if the suspension had not been granted.
6. To add conditions in the terms specified below.
7. That the varied licence is subject to any relevant mandatory conditions.
8. That the existing conditions on the licence shall apply in all respects except in so far as they are varied by this Decision.
9. That the varied licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a licensing hearing with the agreement of the Applicant

10. This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.
11. Notwithstanding the provisions of Rule of Management No. 6 the premises may remain open for the purposes of this licence from 11pm on each of the days Monday to Saturday to 3am on the day following, and from 11pm on Sunday to 1am on the day following.
12. A telephone line dedicated to the receipt of complaints from the public shall be continuously manned throughout the hours of opening and for 30 minutes after the end of the hours of opening.
13. An announcement shall be made on the public address system at the premises to be audible by all customers therein not less than 15 minutes between a time one and a half hours before closing time and closing time each night directing patrons to the importance of silent departure from the premises.
14. The alteration or modification to any existing sound systems should be effected without prior knowledge of an authorised officer of the Environmental Health Services.
15. The number of persons accommodated at any one time (excluding staff) shall not exceed 575.

16. The use of music and dancing at the premise shall remain ancillary to A3 use.
17. That a comprehensive CCTV system be installed to the satisfaction of the Metropolitan Police Crime Prevention officer and Environmental Health Service. All cameras shall continually record whilst the premises are open to the public which enable frontal identification of every person entering in any light condition. The video recording (i) shall be kept available for a minimum of 31 days with time and date stamping (ii) tape recordings shall be made available to an authorised officer or a police officer together with facilities for viewing (iii) the recordings for the preceding two days shall be made available immediately upon request. Recordings outside the period shall be made available on 24 hours notice.
18. No unauthorised advertisements of any kind (including poster, flyer, sticker, picture, letter, sign, or other mark) is inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or is distributed on street to the public that advertises or promotes the establishment, its premises, or any of the events, facilities, goods, or services.
19. All refuse must be paid, properly presented, and can only be placed on street 30 minutes before the scheduled collection time
20. A minimum of five additional female public WC's shall be installed within the premises prior to the renewal of this licence.
21. The number of persons accommodated at any one time (excluding staff) shall not exceed 575.
22. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be equally available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
23. Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means:
 - (a) Subject to the following paragraphs, the permitted hours on weekdays shall commence at 10.00 and extend until 03.00 on the morning following, except that:
 - iii. the permitted hours shall end at 00.00 midnight on any day on which music and dancing is not provided after midnight; and
 - iv. on any day that music and dancing end between 00.00 midnight and 03.00, the permitted hours shall end when the music and dancing end;
 - (b) In relation to the morning on which summertime begins, paragraph (a) of this condition shall have effect:
 - ii. with the substitution of references to 04:00 for references to 03:00.
 - (c) Except on Sundays immediately before bank holidays (apart from Easter Sunday), the permitted hours on Sundays shall extend until 00.30 on the morning following, except that the permitted hours shall end at 00:00 on any Sunday on which music and dancing is not provided after midnight;

- ii. where music and dancing end between 00.00 midnight on any Sunday and 00.30, the permitted hours on that Sunday shall end when the music and dancing end.
- (d) On Sundays immediately before bank holidays (other than Easter Sunday), the permitted hours shall commence at 12:00 and extend until 01:00 on the morning following except that
 - i. the permitted hours shall end at 00:00 midnight on any Sunday on which music and dancing is not (or, in the case of casino premises, gaming facilities are not) provided after 00:00 midnight;
 - ii. where music and dancing end (or, in the case of casino premises, gaming ends) between 00:00 midnight on any Sunday and 03:00, the permitted hours on that Sunday shall end when the music and dancing end (or, as the case may be, when the gaming ends).
 - iii. The terminal hour for late night refreshment shall extend to 30 minutes after the end of permitted hours for the sale of alcohol set out in d(i) and (ii) above.
- (e) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.
- (f) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00:00 on New Year's Eve.

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of her Majesty's naval, military or air forces;
- (g) the taking of alcohol from the premises by a person residing there;
- (h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

24. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:
- (a) He is the child of the holder of the premises licence;
 - (b) He resides in the premises, but is not employed there;
 - (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress;
 - (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

25. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):
- (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate;
 - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof; and
 - (c) to take all other reasonable precautions for the safety of the children.
26. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
27. On no more than 25 occasions (and in substitution for Temporary Event Notices) per calendar year and following 10 working days notice to be given to the Police and Licensing Authority (or such lesser time as may be agreed with the Police) the hours for the provision of licensable activities currently provided at the premises may be extended to such time as agreed with the Police. The Police have the power to veto any such application.
28. On any occasion when the premises are open to the public, all customers entering the premises after 21:00 hours will have their ID scanned on entry, save for when a Biometric Scanning System is in place (when fingerprint scanning will be required for all customers who have previously shown identification at the premises).

29. Notwithstanding the above condition, a maximum number of 30 guests per night may be admitted at the manager's discretion without ID being scanned and recorded. A legible record of these people's full names shall be retained on the premises for inspection by the licensing authority and police for a period of 31 days. The name of the manager authorising the entrance without scanning will also be recorded.
30. No licensable activities shall be provided under the authority of this licence until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
31. The Premises Licence Holder shall operate and implement an entry and ejection policy at the Premises. A copy of the policy shall be provided to the Responsible Authorities upon request.
32. Conditions 28 and 29 above shall have no effect during the first 6 months following the removal of the works condition. For the avoidance of doubt once this period has ended the conditions shall be reinstated to their former position and thereafter remain in full force and effect.

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

**The Licensing Sub-Committee
28 July 2022**

The Meeting ended at 3.20 pm