



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (6)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** held on **Friday 29th July, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Aziz Toki (Chair), Angela Piddock and Jim Glen

1. MEMBERSHIP

1.1 There were no membership changes.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. GREGGS, 1-4 LEICESTER SQUARE, WC2H 7NA

WCC LICENSING SUB-COMMITTEE NO. 6 ("The Committee")

Friday 29th July 2022

Membership: Councillor Aziz Toki (Chair), Councillor Angela Piddock and Councillor Jim Glen

Officer Support: Legal Advisor: Horatio Chance
 Policy Officer: Aaron Hardy
 Committee Officer: Georgina Wills
 Presenting Officer: Emanuela Meloyan

Present: Ms Sarah Clover, (Counsel), Kings Chambers, Birmingham.
 Applicant - Greggs PLC
 Mr Ian Bagnall (Head of Retail Greggs PLC)
 Ms Julie Smith (Retail Operations Manager Greggs PLC)
 PC Thomas Stewart (Metropolitan Police Service)
 Mr Anil Drayan (Environmental Health Service)
 Ms Karyn Abbot (The Licensing Authority)

**Application for a New Premises Licence in respect of Greggs1-4
Leicester Square London WC2H 7NA- 22/05332/LIPN**

FULL DECISION

Premises

Greggs
1-4 Leicester Square
London
WC2H 7NA

Applicant

Greggs Plc

Ward

St James's

Cumulative Impact

West End Cumulative Impact Zone

Special Consideration Zone

N/A

Activities and Hours applied for

Late Night Refreshment (Outdoors)
Monday to Sunday 23:00 to 05:00

Opening Hours for the Premises
Monday to Sunday 00:00 to 00:00

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises intends to operate as a bakery and confectionary shop offering hot and cold non-alcoholic beverages. The Premises are located within the St James's and West End Cumulative Impact Zone ("West End CIZ"). There is a resident count of 19.

Representations Received

- Metropolitan Police Service (PC Adam Deweltz)
- Environmental Health Service (Anil Drayan)
- The Licensing Authority (Karyn Abbot)

- Councillors Tim Mitchell, Louise Hyams and Mark Shearer, St James Ward Councillors
- One resident

Summary of Representations

- The Metropolitan Police had made representation in relation to the application as the proposal may undermine the licencing objectives of Prevention of Crime and Disorder. The hours sought are also beyond that of Westminster's core hours policy.
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- The Environmental Health Service had made a representation as the premises are located in the West End Cumulative Impact Zone (CIZ). The Application could undermine the Licensing objectives of the Prevention of Public Nuisance, Public Safety and Protection of Children from Harm. The applicant has offered some conditions, but these appear not to fully address CIZ issues as defined in the City Council's Statement of Licensing Policy.
- The Licensing Authority had maintained representations on the Licensing objections of the Prevention of Public Nuisance, Prevention of Crime and Disorder, Public Safety and Protection of Children from Harm.
- St James Ward Councillors had maintained representations as the Premises was situated within the West End Cumulative Impact Zone and failed to sufficiently demonstrate what mitigating factors which would not add to the cumulative impact.
- A resident had raised concerns over the selection and quality of food that was on offer.

The following Polices apply under the City Council's Statement of Licensing Policy ("SLP")

CIP1

- Under Policy CIP1, it is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for pubs and bars, fast food premises and music and dancing and similar entertainment, other than applications to vary hours within the Core Hours under Policy HRS1. Applications for other licensable activities in the Cumulative Impact Zones will be subject to other policies and must demonstrate that they will not add to cumulative impact.

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.

FFP1

- Under Policy FFP1 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 late-night 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 Fast Food Premises in Clause D.
 - D. For the purposes of this policy a Fast Food Premises is defined as:
 1. A premises that provides late night refreshment, either by way of fast food over a counter, via a self-seating basis or take away for immediate consumption.
 2. Food and drink are:
 - a. Available on the premises for self-selection.
 - b. Prepared on the premises.
 - c. Cooked or produced off the premises but brought to that premises in advance of its sale to customers.
 3. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption.
 4. A fast-food premises can provide a delivery service as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.

SUBMISSIONS AND REASONS

Preliminary matters:

1. The Chair introduced the Members of the Sub-Committee and outlined the procedure to the Parties in attendance. Prior to the hearing starting Mr Horatio Chance, the Legal Advisor to the Sub-Committee highlighted a technical point regarding the application and sought clarification from the Applicant as to what had been applied for in terms of late night refreshment as it would appear that "on sales" had only been applied for.
2. The Sub-Committee noted that the Applicant sought to provide a takeaway service and were informed by the Legal Advisor that Scheduled 2 of the Act

defined late night refreshment, namely; ***“It involves the supply of “hot food or hot drink” between the hours of 23:00 and 05:00 to the public for consumption on or off the premises. It includes the supply of hot food or hot drink between those hours on premises to which the public has access. Under Schedule 2, food or drink is to be considered to be “hot” if, before it is supplied, it has been heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and at the time of supply it is above that temperature; or after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature”*** as provided for by paragraph 3.12 on page 16 of the Home Office Guidance.

3. The Legal Advisor stated that the application should have included the provision for “outdoors” as well so that hot food or hot drink can be consumed outside the Premises in accordance with the definition contained under Schedule 2 of the Act, and that the Sub-Committee could only determine the application as submitted by the Applicant.
4. In view of the comments made by the Legal Advisor, Ms Sarah Clover, Counsel for the Applicant Greggs PLC addressed the Sub-Committee by shedding light on the matter and what the true intentions of the Applicant were when it came to the completed application and how this was to be reflected when considering the provision for late night refreshment on and off the Premises. She referred to Judge’s Mr Justice Hickinbottom, ruling on *Matthew Taylor v Manchester City Council and Another 2012* and advised that the Sub-Committee was viewed as acting as a proxy for the public. Ms Clover commented that it needed to be examined on whether all points which would have been raised by the Public regarding the Application had been covered. Ms Clover advised that the Applicant was a widely recognised retailer and that its ‘nature of business’ was well known. She commented that a further consultation regarding ‘off sales’ would not raise any new concerns which had not previously been addressed.
5. The Sub-Committee adjourned at 10:13 to consider the submissions advanced by Ms Clover and resumed at 10:23. The Sub-Committee held discussions and noted that there was Case Law which permitted applications to be amended at the Licensing Sub-Committee despite consultations with all relevant parties had been concluded.
6. The Sub-Committee noted there had been a procedural defect regarding the application which was a technical point and agreed that no Parties had been misled and that an amendment to the Application could be made at this stage by taking a common sense and pragmatic approach when considering the facts and evidence in the round.
7. The Sub-Committee exercising reasonable discretion and in accordance with legal advice given considered that it would be inappropriate to delay the

hearing of the application and to do so would not be in the public interest. The hearing therefore proceeded with all the parties present.

Submissions by the Parties attending the hearing

8. The Presenting Officer, Ms Emanuela Meloyan introduced the application and advised that the application was for a new Premises Licence which sought to trade as a bakery and confectionary shop offering hot and cold non-alcoholic beverages. She confirmed that representations against the application had been received by the Metropolitan Police Service, Environmental Health Service, The Licensing Authority, St James Ward Councillors, and a resident. The Premises are located within the St James's Ward and West End CIZ.
9. Ms Sarah Clover advised that representations had been submitted which detailed how the Premises would operate. She said that the Premises would be the Applicant's flagship store and had recently opened on 18 July 2022. The Premises was reported to be small and was permitted to trade and provide cold food and beverages 24 hours. She confirmed that it was sought to provide late night refreshments between 23:00 to 05:00 and recognised the concerns held in relation to the supply of these goods, namely anti-social behaviour and individuals congregating in localities. Ms Clover advised that only a small offer of goods supplied by the Applicant was classified as hot food. The food products are not prepared in the Premises and are partially cooked in shops. Ms Clover advised that most food offerings at the Premises could be made available to customers throughout the Premise's operational hours.
10. Ms Clover commented that there were no significant differences between products which were considered as 'hot' and 'nonhot' and that both goods were purchased by the same customers. She advised that there would be no additional footfall to the Premises. The Sub-Committee noted that the statistics provided indicated that the core demographic which was expected during later hours were shift workers, night workers and emergency service staff. Ms Clover advised that this cohort was not associated with anti-social behaviour or nuisance. There will be no seating in the Premises and customers will leave the shop after their purchase. In any event the Premises could only hold a maximum of ten customers at any one time.
11. Ms Clover advised that the Applicant had case studies of other branches which offered late night refreshment and that there were no concerns regarding their operational model which included branches in Newcastle and no concerns had been raised by the Responsible Authorities in these localities. Ms Clover advised that the Applicant had a Premises in Victoria London which operated during the later hours and that Conditions had been agreed with the Metropolitan Police Service. She advised that the same Conditions which were imposed at the Victoria, London Branch had been offered. There were no concerns regarding the Premises operating schedule.

12. Ms Clover advised that granting the Application would ensure that there are additional controls placed on the Premises. These included ensuring that there are CCTV, litter picking and SIA door staff on patrol. She commented that these measures would be beneficial to the local security and would contribute to help reduce anti-social behaviour activities in the vicinity. The Premises would not add to the cumulative impact but would help to reduce the concerns associated in these localities. Ms Clover commented that exceptional circumstances had been demonstrated and highlighted that Policies, did not indicate that all applications outside core hours should automatically be refused and needed to be subjected to additional scrutiny on whether they are suitable in their location.
13. Ms Clover advised that the Applicant was an excellent operator and a renowned brand. She advised that the Premises would 'dilute' the footfall and not bring additional persons to the locality. The Sub-Committee was advised that there were other branches in the locality and that the Responsible Authorities had been liaised with. Ms Clover advised that the late-night refreshments was sought in order to ensure that the Premises full range of offer is available to patrons throughout its operation and does not cause confusion about what produce could be purchased at set times.
14. In response to questions from the Sub-Committee, Julie Smith, Retail Operations Manager for the Applicant, advised that 'hot food' which would be on offer included bacon sandwiches, chicken goujons, potato wedges and hot beverages which included tea, hot chocolate, and coffee. The 'hot food' would be stored in a heated cabinet and a range between 6 to 8 different food products would be available.
15. Mr Anil Drayan appearing on behalf of Environmental Health addressed the Sub-Committee. He advised that the Premises had been visited and confirmed that the shop was small and could hold up to 10 customers. Mr Drayan said that queues at the shop could end at Leicester Square during the later hours. There have been no issues with the Premises regarding the promotion of the four licensing objectives from within the Premises which is located within the West End Cumulative Impact Zone. He advised that representations had been maintained to ensure that the Sub-Committee can take a view on whether exceptional circumstances had been demonstrated by the Applicant.
16. In response to questions from the Sub-Committee, Mr Drayan advised that the Premises was located at the 'heart' of the Cumulative Impact Area and was one of the busiest late-night districts and attracted large crowds. Mr Drayan said that the Premises could attract individuals who are not immediately going towards transport hubs. He stated that a new Premises in the locality which had a food offering that was 'value for money' would be attractive to individuals. Mr Drayan noted that the Applicant had advised that sales of 'hot food' were not high and advised that these purchases would increase during the colder months. He commented that these factors would

need to be taken into consideration. In response to questions from Ms Clover, Mr Drayan advised that the Premises was small and queues would likely to build up quickly and noted that this view was speculative.

17. PC Thomas Stewart appearing on behalf of the Metropolitan Police Service advised that representation had been maintained on the grounds of the Prevention of Crime and Disorder. PC Stewart stated that the Premises was located at 'the heart' of the Westminster Cumulative Impact Areas. He commented that Paragraph F56 of the City Council's Statement of Licensing Policy confirmed that fast food premises operating after 23:00 attracted patrons from drink led establishments and these individuals congregated in the area. The Sub-Committee was advised that this had a detrimental effect in the locality and led to an increase in public nuisance. PC Stewart said that Leicester Square, London had several late-night eateries in the locality and was a focal point for late night revellers. The Sub Committee noted that the Metropolitan Police Service had had to implement four Section 35 Dispersal Orders to assist with the dispersal of crowds within the locality. PC Stewart advised that an increase in Premises which offered late night refreshment in the vicinity would only compound the issues already experienced in the locality.
18. PC Stewart commented that the Premises did not have any seating and advised that this could not be accepted as a mitigating factor to prevent crime and disorder and public nuisance. He advised that this position would have a reverse affect. PC Stewart highlighted that the Applicant had failed to take into consideration the impact of establishments that offered late night refreshment in the immediate area. He advised that patrons consume their food in the locality and would not leave the area because of what it has to offer. PC Stewart advised that there were several areas around the garden in Leicester Square which was used for seating and that there were difficulties in dispersing crowds. PC Stewart advised that a rise in licensable activities such as late-night refreshment could lead to an increase in criminal activities and anti-social behaviour.
19. PC Stewart highlighted that only a small percentage of sales amounted to 'hot food' and stressed that individuals would be attracted to this type of produce. He commented that the Premises SIA staff would only have control of customers inside the shop and not after they exit. PC Stewart highlighted that all patrons would leave the Premises after 23:00 and that the Police would be required to deal with any anti-social behaviour that occurred outside the shop. He advised that the Police undertook regular night patrols in Leicester Square to prevent anti-social behaviour and violent crime. PC Stewart advised that the Police resources were limited, and other policing areas could be mal impacted. There is an increase in anti-social behaviour after 23:00. PC Stewart advised that the Application should be refused on the grounds that is in the West End CIZ and had failed to effectively demonstrate how the Premises would not add to further cumulative impact.

20. In response to questions from the Sub-Committee, PC Stewart advised that the Premises operating 24 hours without the provision of late refreshment would cause concerns. PC Stewart advised that these offers would be attractive and noted the Applicant was a well-known operator. PC Stewart said that the Premises would add to the cumulative impact, and in turn this would lead to a general increase in anti-social behaviour in the locality.
21. Ms Karyn Abbot, appearing on behalf of the Licensing Authority addressed the Sub-Committee. She advised that representation had been maintained as the Premises is situated in the West End CIZ and was beyond core hours. Ms Abbot commented that the Premises was in the 'heart of Leicester Square' and was surrounded by late night establishments and other premises which were 'drink led'. She advised that the Applicant needed to demonstrate that the Premises would not contribute to the overall cumulative impact of the area. Ms Abbot advised that the Application would lead to an increase in anti-social behaviour, and this was directly related to dispersals and individuals congregating in the locality. She advised that the application fell under Policies CIP1, HRS1 and FFP1 and that the Applicant was required to demonstrate that the application was an exception to policy.
22. The Sub-Committee noted that customers would not be able to purchase hot beverage with other food items during past core hours and commented that this may raise issues. PC Stewart advised that it was expected that well run operators can manage their Premises and this included ensuring customers are aware what provisions such as food offerings are available. These include having signages about food offerings. In response to questions from the Sub-Committee, PC Stewart confirmed that the hours between 23:00 to 04:00 were the busiest and during these periods patrons would be leaving various establishments in the locality.
23. In response to questions from the Legal Advisor, Ms Clover highlighted that food offerings would continue to be provided during later hours and that there would be additional benefits if the Application were agreed. This included providing surveillance, security, and litter control. Ms Clover advised that late night refreshment included both cold and hot food and that the latter amounted to a small percentage of goods on offer. She advised that this offer had been tested at other branches and did not cause any of the concerns which had been raised earlier.
24. Ms Clover advised that there were no requirements for the operational hours applied for to be reduced and commented that the same offer would be available throughout the duration of the day and later hours. Ms Clover commented that the later hours would largely attract a certain demographic which would include shift workers and staff from the emergency services.
25. The Sub-Committee were advised that there was no evidence or justification for the reduction of hours and that the Responsible Authorities had not considered the mitigations which had been offered to reduce risks during set hours during the latter parts of the evening and beyond. Ms Clover said that concerns raised were speculative and made justifiable through use of Policy.

26. In response to questions from the Sub-Committee, Ms Clover advised that sales would not be increased, and that the Application sought to ensure that all produce on offer are available to customers during the Premises operational hours. Ms Clover advised that signage informing customers what produce was available at certain trading hours would result in an increase in individuals loitering at the Premises rather than engaging in transactions and leaving the store.
27. The Legal Advisor stated to the Sub-Committee that signage was a useful tool which would help enable customers to help understand the parameters of the Law regarding trade and services provisions.
28. The Sub-Committee noted that individuals congregating in localities had an impact on Cumulative Impact Areas and effected various parties and establishments located within these localities. In response to questions from the Sub-Committee, Ms Clover advised that the Application would ensure that customers are served quickly and able to exit the Premises following purchases. She advised that empirical data which had been gathered from branches in Northern Cities in the United Kingdom indicated that customers were on transit to transport hubs when purchasing late night refreshments. Ms Clover commented that there were other branches on route to transport hubs and that the Premises would not divert individuals from set journeys. The Sub-Committee were reminded that demographics of customers were not associated with anti-social behaviour.
29. Ms Clover advised that the Applicants business model was based on 'food on the go' and packaging and marketing were based on this concept. Ms Clover advised that individuals would not be encouraged to remain in the locality and that the Applicant had engaged with the Police regarding conditions and actions which would help to alleviate concerns.
30. In summing up Mr Drayan advised that representation had been maintained as Policy FFP1 required applications to be refused in the West End CIZ unless they could demonstrate exceptional circumstances. Mr Drayan advised that cumulative impact included areas both inside the Premises and also the surrounding locality. He advised that the Applicant had failed to demonstrate that there was an exception to Policy.
31. In summing up PC Stewart advised that the most contentious aspect of the Application was the Premises location. PC Stewart said that the Premises location was at the 'heart of' the West End and that the vicinity had a high rate of anti-social behaviour, and this was on the increase. He commented that a Section 35 Dispersal Order had been instigated on four occasions during July 2022. PC Stewart advised that the location was unique in character and differed to other sites where the Applicant had branches. The Sub-Committee were reminded that customers would consume produce outside the Premises and this action meant that individuals would be viewed as a 'public issue' and not under the control of the Applicant. PC Stewart advised that there were no mitigating factors which would ensure that there

would be no cumulative impact and stated that the Application should be refused on these grounds.

32. In summing up Ms Abbott referred the Sub-Committee to Policy FFP1 which required applications to demonstrate exception to Policy and that they need to be satisfied that this had been undertaken.
33. In summing up Ms Clover advised that the Application had demonstrated an exception to Policy and that the Applicant had a proven track record in providing late refreshments in various localities. She advised that the difference in produce which was being offered was the temperature of the food. Ms Clover advised that evidence provided by the Responsible Authorities were not empirical and were in contradiction to what had been provided by the Applicant. These included concerns regarding queues and demand for late night refreshment during the winter months. Ms Clover advised that the Applicant were aware of their sales figures and commented that consumption of food would be beneficial to individual who had left drink led establishments. Ms Clover advised that SIA Badge Holders employees, CCTV and managing of litter in the vicinity would be beneficial. She advised that demographics of customers would not differ from other branches and that this core group was not associated with crime and anti-social behaviour.
34. Ms Clover advised that a vending machine dispensing hot drinks would encourage individuals to remain in the locality. The Sub-Committee were advised that a Review of the Premises Licence could be held under the Act if the Premises were found to be in breach of Conditions. In response to the Legal Advisor's comments regarding signage, Ms Clover commented that signage advising customers about late refreshment provisions would not be required. However, a Condition which required signage advising customers not to loiter would however be accepted.

Reasons of the Sub-Committee

35. The Sub-Committee has determined an application for a New Premises Licence under the Act for Late Night Refreshment (Indoors and Outdoors) Monday to Sunday from 23:00 to 05:00 and 24 hours Opening Monday to Sunday. The Premises is a new flagship store located in the heart of Leicester Square and is within the West End CIZ. The Premises will supply cold and hot drinks, the retail sale of bread, cakes, flour confectionery, sugar confectionery, bakes, rolls, sandwiches, etc to include a click and collect service.
36. The Applicant provided a summary of model conditions they propose to include on the premises licence along with an operations summary and policy submission. These supporting documents were carefully examined and considered by the Sub-Committee in its determination of the matter and can be found at Appendix 2 of the agenda report.
37. The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining the application. The City Council's SLP under policy FFP1 provides that there is an automatic policy

presumption to refuse such an application within the West End CIZ subject to exceptional circumstances being proven.

38. The Sub-Committee noted that the Applicant was a respected and experienced operator that had numerous branches of Greggs up and down the country with similar offers that promoted the licensing objectives which was never in dispute. The Sub-Committee did not doubt the Applicants ability to run and manage the Premises in a way that would help to promote the licensing objectives. However, the key consideration which the Sub-Committee had to grapple with was whether granting the application would have a negative impact on the West End Cumulative CIZ and this ultimately was the overriding factor and test for the Sub-Committee to decide. It concluded that granting the application would have such negative impact.
39. In arriving at this Decision, the Sub-Committee considered the evidence of the Applicant and of the Responsible Authorities who had objected to the application both orally and in writing.
40. Whilst the Sub-Committee recognised that the Applicant had advanced some good points when it came to mitigation such as CCTV, SIA door staff and litter patrols it did not consider that the Application had a full appreciation of the Leicester Square area and how it worked very late at night when interpreting the workings of the policy considerations under policies CIP1, FFP1 and HRS1, it was not persuaded that exceptionality had been proven when looking at the true workings of each of those policies in practice and how that translated in the Leicester Square area for late night refreshment at a proposed terminal hour of 05:00.
41. The parties who have vast experience and knowledge of the area daily are the Responsible Authorities, namely the Metropolitan Police, Environmental Health and Licensing Authority who objected and made representations to the application and this included Ward Councillors as well who are only too aware of the problems and challenges facing Leicester Square week in and week out particularly from 23:00 hours onwards in terms of public nuisance and crime and disorder.
42. All three Responsible Authorities based on their respective knowledge and experiences of the Leicester Square area requested that the application be refused on the basis that the Applicant failed to provide exceptional reasons over and above what a competent operator is expected to do when it comes to the management of a licensed premises to ensure the promotion of the licensing objectives. The City Council's SLP states that merely being an excellent operator is simply not enough to overcome the policy considerations when it comes to deciding upon exceptional reasons.
43. It was noted by the Sub-Committee that the Applicant had produced a written submission on pages 15-17 of the Agenda Report wherein at paragraph 3 it stated "*Greggs already have two late night shops open in Newcastle City Centre; both close to clubs and bars. The Area Manager for those sites describes the operations as very much "food on the go". People come out of pubs and clubs at various times in the night and drop in for a pastry or*

sausage roll (not hot food). The trade is steady throughout the night but there aren't huge peaks. The shops have not demonstrated any issues or problems and there have been no interventions by the Responsible Authorities". Whilst this information was useful to the Sub-Committee in terms of how the Applicant manages its other licensed premises in the North East of England and is to be commended Leicester Square is altogether a different beast in the heart of London and through this lens is in the considered opinion of the Sub-Committee not comparable or to be seen in the same light due to a variety of material factors that make Leicester Square so unique and personal to the West End CIZ and so different to other such towns and cities in the country.

44. The Sub-Committee took the view that the demographic of a typical Greggs customer could not just be restricted to night shift workers and emergency service but other people within the Leicester Square such as people enjoying a night out who could be patrons leaving other licensed premises and so there is no specific demographic who is likely to be frequenting the Premises during the hours of operation due to the make-up of licensed premises in the area and eclectic mix of people generally who should reasonably be expected to form part of that class of persons at the very least.
45. The Sub-Committee noted a common theme from all three Responsible Authorities when presenting their submissions was that "exceptionality had not been proven by the Applicant. The Police who are the custodians when it comes to matters of crime and disorder outlined the fact that four section 35 orders had been implemented in the area during the period in July and this could not be ignored by the Sub-Committee.
46. The next issue for the Sub-Committee was to consider how much weight should in fact be attached to the Police's evidence considering the merits of the application. The Sub-Committee considered the evidence of the Police to be strong and compelling as the Police are extremely au fait with the area and again are aware of the existing challenges from a policing perspective Leicester Square has during the later hours and the sheer number of people entering the West End CIZ from 23:00 hours onwards.
47. The Sub-Committee took the view that because the Applicant is so well known and the offers, they will have to customers there is the possibility that patrons leaving other licensed premises within the vicinity are likely to be attracted to the Premises due to the hot food and hot drink offer available resulting in the area becoming further swamped with people and adding to negative cumulative impact and increased footfall for all the reasons given above.
48. The Sub-Committee was disappointed that the Applicant was not prepared to reduce the terminal hour by way of compromise as this may have given some comfort to the Responsible Authorities when considering the issue of conditions and the promotion of the licensing objectives and assessing whether in the final analysis a refusal was appropriate and proportionate.

Conclusion

49. By virtue of being in the West End CIA and by virtue of the matters applied for, the Sub Committee had to consider and apply, among other things, Policy CIP1 and Policy FFB1. Under Policy CIP1, it is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment, other than applications to: 1. Vary the hours within Core Hours under Policy HRS1, and/or 2. Vary the licence to reduce the overall capacity of the premises. Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact. Given this application was not to vary hours within the Core Hours nor to reduce capacity, the Applicant would have to demonstrate that the application will not add to cumulative impact to meet Policy CIP1.

The Sub Committee noted D12 of the SLP, which states that –

“D12. Applicants for premises uses that have a presumption to refuse will be expected to demonstrate an exception as to why their licence application should be permitted. It is not possible to give a full list of examples of when the council may treat an application as an exception. However, in considering whether a particular case is exceptional, the Licensing Authority will consider the reasons underlying the West End Cumulative Impact Zone special policy when considering applications”

And D16 which states that –

“D16. The Licensing Authority's policy, in relation to the West End Cumulative Impact Zone, is directed at the global and cumulative effects of licences on the area as a whole. Therefore, a case is most unlikely to be considered exceptional unless it is directed at the underlying reason for having the policy. Exceptions to the West End Cumulative Impact Zone policy to refuse certain types of applications must be for genuinely exceptional reasons.”

50. The Sub Committee when considering the application for late night refreshment for the proposed terminal hour of 05:00 considered the “reasons” for the imposition of the Fast Food Policy under policy FFP1. These reasons are particularly detailed on pages 85-87 of the City Council's SLP and identify the various problems these type of premises attracts after 23:00 hours regarding public nuisance, crime and disorder and dispersal.

51. In terms of exceptional circumstances, the Applicant relied on their oral and written submissions. As made clear in the City Council's SLP, there is no definitive list of what constitutes an “exceptional circumstance”. However, in considering whether a circumstance is in fact exceptional, regard will be had to the reasons underlying the West End CIZ that are directed at the global and cumulative effects of licences in the area as a whole.

The Sub Committee noted D14 – D15, which state that –

“D14. The Licensing Authority will not consider a case to be exceptional merely on the grounds that the premises have been or will be operated within the terms of the conditions on the licence, or that are or will be generally well managed because of the reputation or good character of the licence holder or operator. This is expected in the conduct of all licensed premises. Moreover, licences are for premises and can be easily transferred to others who intend to operate within the scope of the licence and its conditions. Neither will the licensing authority consider the case to be exceptional merely because the capacity of the premises, or any proposed increase in capacity is small. The high number of premises within the West End Cumulative Impact Zone means that a small increase in capacity in each premises would lead to a significant increase overall within that area. It has been commonly argued that customers will be drawn from other premises and there will be no increase in people within the area. The experience of the council is that this is not the case. The massive increase in capacities in the past and, the continuing number of further applications and the observable night-time occupancy levels of premises serve to discredit the argument. Each incremental increase in capacity contributes in part to increasing the attraction of the area as a “honey pot” destination for night-life and to the cumulative problems created by such a high concentration of activity in the area.

D15. Any list of circumstances where exceptions may be granted is not definitive. One example might be a proposal to transfer an existing operation from one premises to another, where the size and location of the second premises is likely to cause less detrimental impact and will promote the licensing objectives, and where the existing operation would otherwise continue as before in the first premises. In order for this to be treated as a consideration justifying an exception to policy, the council will need to be satisfied that the necessary legal mechanisms are in place to ensure that the original premises licence will cease to be operable and cannot be transferred once surrendered. In considering whether there is likely to be less detrimental impact, the Licensing Authority will consider the actual operation of the premises which it is proposed should close, and it will take into account any future proposals which would affect the continued operation of those premises.”

52. Taking everything into account, it was the Sub Committee’s considered view that the exceptional circumstances advanced by the Applicant did not amount to exceptional circumstances as, in the Sub Committee’s view, they did not go to the reasons underlying the West End CIZ when having regard to the fact that even a small change in the West End CIZ contribute to cumulative problems created by such a high concentration of activity in the area even though the sale of hot food and hot drinks was a small percentage of the Applicants business model the West End CIZ would still be negatively impacted because of the increase in numbers overall to Leicester Square in any event.

53. The Sub Committee did not doubt the quality of the management of the Premises. However, as made clear by D14 *“The Licensing Authority will not consider a case to be exceptional merely on the grounds that the premises have been or will be operated within the terms of the conditions on the*

licence, or that are or will be generally well managed because of the reputation or good character of the licence holder or operator. This is expected in the conduct of all licensed premises”.

54. The very specific customer profile relevant to this Premises and for all the reasons stated, the Sub Committee did not consider this exceptional as this premises licence could result in more people in the CIA later at night consuming hot food and hot drink. This did not therefore go to the reasons underlying the CIA.
55. The Sub-Committee in its determination of the matter could not ignore the evidence given by the Police when it came to the issue of crime and disorder in the area for the later terminal hour when deciding whether to grant the Premise Licence. The Sub-Committee noted that allowing the Premises to sell hot food and hot drinks could add to the cumulative impact of the area. Having carefully considered the Police evidence the Sub-Committee concluded that the application would have the likely effect of an increase in crime and disorder in the area and an increased demand on Police resources which are already stretched. Therefore the Sub-Committee concluded that taking all of these factors into account the crime and disorder licensing objective would be undermined when looking at the global impact of the cumulative impact area especially when one of its key roles during the decision making process is to look at “prevention” when considering the causes of crime in accordance with paragraph 2.1 on page 6 of the Home Office Guidance which states “*Licensing Authorities should look to the Police as the main source of advice on crime and disorder...*”.
56. For all these reasons, the Sub Committee concluded that the Applicant had not demonstrated exceptional circumstances as required by Policies HRS1 and FFP1 and the promotion of the licensing objectives. Furthermore, the Sub-Committee considered, in agreement with the Responsible Authorities and Interested Parties, that if granted the licence would have a net increase on cumulative impact in the area thereby not complying with Policy CIP1.
57. Given the unique nature of the location and where the Premises is situated in the heart of Leicester Square the Sub-Committee decided that given the strong representations from the Responsible Authorities particularly the evidence given by the Police the Applicant failed to demonstrate how by selling hot food or hot drink in the West End CIZ that this would not add to negative cumulative impact and promote the licensing objectives.
58. The Applicant’s proposed conditions were considered by the Sub-Committee but it was felt that these would not address the immediate concerns of the parties, the various policy considerations when looking at the West End CIZ and the promotion of the licensing objectives
59. The Sub-Committee realises that it has a duty to strike the right balance when considering the needs of the Applicant and those parties that had objected to the application and took the view that the right balance has been struck when considering the global impact granting such an application would have on the overall effect for the area. It therefore concluded that the

proposed terminal hour of 05:00 would have a negative impact on the cumulative impact area leading to the licensing objectives being undermined which is not what the 2003 Act is designed to do.

60. The Sub-Committee will of course appreciate that the Applicant will be disappointed with this Decision but after very careful consideration of the application and the proposed conditions that were offered to mitigate the concerns of all parties that objected exceptionality was not proven.

Accordingly, the Sub Committee decided that the Applicant had *not* provided sufficient reasons as to why the granting of the application would promote the licensing objectives and therefore ***refused*** the application.

In all the circumstances of the case the approach taken by the Sub-Committee is considered appropriate and proportionate. The application is ***Refused***.

**This is the Full Decision reached by the Licensing Sub-Committee.
This Decision takes immediate effect.**

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

2. FRENCH TACOS, 44 HARROW ROAD, W9 2HU

This application was withdrawn by the Applicant.

3. COYOTE UGLY SALOON, UNIT 30, TROCADERO, 13 COVENTRY STREET, W1D 7AB

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.6
("The Committee")

Friday 29 July 2022

Membership: Councillor Aziz Toki (Chair) Councillor Angela Piddock and Councillor Jim Glen

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Georgina Wills
Presenting Officer: Ms Karyn Abbot

Present: Ms Lisa Sharkey, Solicitor, Poppleston Allen acting on behalf of the Applicant (Coyote Ugly London Limited) Ms Liliana Lovell, Original founder of Coyote Ugly Saloon (USA) Mr Steven Lewis, Director, Coyote Ugly London Limited Mr Christopher Young (Operations Manager) Coyote Ugly London Limited Mr Nick Taplin (Proposed DPS and Operator) Coyote Ugly London Limited Mr Omar Aziz, on behalf of the Landlord of the Piccadilly Institute Building and Trocadero Building, Mr Kevin Jackaman (The Licensing Authority) Mr Anil Drayan (Environmental Health Service) PC Thomas Stewart (Metropolitan Police Service)

Application for a New Premises Licence - Coyote Ugly Saloon Unit 30 Trocadero 13 Coventry Street London W1D 7AB 22/05496/LIPN

FULL DECISION

Premises

Coyote Ugly Saloon
Unit 30 Trocadero,
13 Coventry Street,
London
W1D 7AB

Applicant

Coyote Ugly London Limited

Ward

St James's

Cumulative Impact

West End Cumulative Impact Zone ("West End CIZ")

Special Consideration Zone

N/A

Activities and Hours applied for

Sale by retail of alcohol (On and Off)

Monday to Sunday 08:00 to 03:00

Late Night Refreshments

Monday to Sunday 23:00 to 03:00

Exhibition of Films (Indoors)

Monday to Sunday 08:00 to 03:00

Recorded Music (Indoors)

Monday to Sunday 08:00 to 03:00

Live Music (Indoors)

Monday to Sunday 10:00 to 03:00

Performance of Dance

Monday to Sunday 10:00 to 03:00

Opening Hours for the Premises

Monday to Sunday 08:00 to 03:00

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act") in respect of Coyote Ugly Saloon Unit 30 Tracerero 13 Coventy Street London W1D 7AB ("The Premises"). The Premises proposes to operate as an American style entertainment, performance venue on the ground floor. This will include a variety of live performances, live music, and karaoke style entertainment. The Applicant has the exclusive rights to operate a Coyote Ugly Saloon in the UK. There will be a merchandise store selling a selection of branded Coyote Ugly themed merchandise. The Premises are located in St James's Ward and fall within the West End CIZ.

Representations Received

- Metropolitan Police Service (PC Tom Stewart)
- Environmental Health Service (Anil Drayan) (**Withdrawn**)
- The Licensing Authority (Jessica Donovan)
- One resident

Summary of Representations

- The Metropolitan Police had made representation in relation to the application as the proposal may undermine the licencing objectives of Prevention of Crime and Disorder. The hours sought are also beyond that of Westminster's core hours policy. The Premises is also located in the West End Cumulative Impact Zone.
- The Environmental Health Service had made a representation on the Licensing objections of the Prevention of Public Nuisance, Public Safety and Protection of Children from Harm. There was also further clarification needed on how the premises shall operate particularly late at night as the premises is located in the West End Cumulative Impact Zone.
- The Licensing Authority had maintained representations on the Licensing objections of the Prevention of Public Nuisance, Prevention of Crime and Disorder, Public Safety and Protection of Children from Harm.
- A resident had maintained representations on the Licensing objections of the Prevention of Public Nuisance and Prevention of Crime and Disorder.

Policy Position

The following policies apply under the City Council's Statement of Licensing Policy ("SLP").

CIP1

- It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment, other than applications to:
 1. Vary the hours within Core Hours under Policy HRS1, and/or
 2. Vary the licence to reduce the overall capacity of the premises.

C. Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.

D. For the purposes of this policy the premises types referred to in Clause A are defined within the relevant premises use policies within this statement.

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

- Under Policy PB1 A. Applications outside the West End Cumulative Zone will generally be granted subject to:
The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
The hours for licensable activities being within the council's Core Hours Policy HRS1.
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.
The applicant has taken account of the Special Consideration Zones policy SCZ1 if the premises are located within a designated zone.
The application and operation of the venue meet the definition of a Public House or Bar in Clause D.
B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:
Applications to vary the existing licence hours within the council's Core Hours Policy HRS1.
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:
The application meeting the requirements of policies CD1, PS1, PN1 and CH1, and/or,
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.
The application and operation of the venue continuing to 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

1. The Presenting Officer, Ms Karyn Abbot introduced the application and advised that the application was for a new Premises Licence which sought to operate as an American style entertainment, performance venue. She confirmed that representations against the application had been received by

the Metropolitan Police Service, Environmental Health Service, The Licensing Authority, and a resident. She outlined that the Premises are within the St James's Ward and West End Cumulative Impact Zone.

2. Ms Lisa Sharkey, Solicitor acting on behalf of the Applicant advised that the Application was beyond core hours and was in the West End CIZ. She referred to Paragraph D15 of the City Council's SLP which stipulated that a transfer of a Premises to another smaller establishment and to a location in which they would cause less detrimental impact would be considered as an exception to Policy.
3. Ms Sharkey advised that the Piccadilly Institute located in Shaftesbury Avenue on the 12th and 13th Floors had a capacity of 1515 and could operate until 03:00. She advised that an offer to reduce the Piccadilly Institute capacity by 350 and to change the 03:00 nightclub licence to a restaurant licence had been made. Ms Sharkey advised that the Freeholder of both the Piccadilly Institute and Trocadero wished to repurpose the former building. She advised that the Trocadero had undergone redevelopment, and this included a 760-bedroom hotel and changes to the ground floor. The Sub-Committee noted that the ground floor would be used for the Coyote operation.
4. Ms Sharkey advised that the Applicant would be further reducing the capacity of the Piccadilly Institute as part of the Application. She advised that the night-time economy and offer would continue to be maintained and capacities for these activities would be redeployed. It was proposed to diversify the entertainment offers in both Premises and transfer capacities to a different location in the same area. She advised that an extensive set of Conditions had been offered and were in like form to the conditions that had been imposed by a Licensing Sub-Committee for the 12th and 13th Floors relating to the Piccadilly Institute. Ms Sharkey stated that the Application ensured that the Premises had a more modern set of Conditions and that a capacity of 350 would make it more manageable.
5. The Sub-Committee was advised that a Condition had been offered which required the Premises to be ancillary to the main function as a Coyote Ugly Saloon theme operation venue. Ms Sharkey commented that the Conditions offered covered a whole host of areas which included Dispersal Policy, Traffic Marshalls, Door Staff, Staff Training, Terrorism and ID Scanning. Ms Sharkey advised that it was acknowledged that the Piccadilly Institute was currently operating to a 200 capacity. However, should the application not be granted the Piccadilly Institute's capacity would remain at 1500. Ms Sharkey highlighted that a Premises with a live operation and licence was being surrendered.
6. Ms Sharkey advised that the Premises was an American Style performance venue which played Country and Rock Music. She advised that the first bar was set up in 1994 in New York and that a film was produced which showcased how the premises operated. Ms Sharkey advised that The Walt Disney Company owned the brand and oversaw operations. There are four

premises which operate in the United Kingdom which include Birmingham, Cardiff, Swansea and Liverpool and these venues were all located in cumulative impact zones. There have been no incidents in any of these venues.

7. In response to questions from the Sub-Committee, Ms Sharkey commented that it was proposed to reduce the capacity of the Piccadilly Institute by 350 and that the application was for a capacity of 350. The Sub-Committee noted that the capacity was being transferred and that the application had a raft of Conditions which would ensure the licensing objectives are promoted. Following further questions from the Sub-Committee, Ms Sharkey said that the new Premises would be a stand-alone venue operated by Coyote Ugly London Limited and was not involved with the Piccadilly Institute. The Premises will operate everyday throughout the daytime and offered a relaxed food environment with dancing. The performance will be varied and during the latter hours would have a West End Stage performance dinner offer. The Premises is located 50yards from the Piccadilly Institute. Ms Sharkey advised that the Landlord's long-term plan was to redeploy capacity from the Piccadilly Institute to the Trocadero and aimed to create a mix of entertainment.
8. Following further questions from the Sub-Committee, Ms Sharkey advised that the bar in the Piccadilly Institute was located on the first and second floors. There are currently five dance floors in the Piccadilly Institute. Ms Sharkey said that the capacity for the above would be reduced to a figure recommended by the Sub-Committee if the application was granted and the capacity would need to be assessed by Environmental Health.
9. Mr Kevin Jackaman appearing on behalf of the Licensing Authority advised that representation had been maintained as the Premises was in the Cumulative Impact Area and said that Policies CIP1 and PB1b should be considered. Mr Jackaman advised that it was Policy to refuse applications in the West End CIZ other than to vary hours of existing licenses within core hours or reduce overall capacity.
10. He advised that variations of new applications for bars and public houses should be limited to exceptional circumstances. The Sub-Committee were advised that they are required to view each application on its merits and needed to be satisfied that the Applicant had demonstrated that the application was an exception to policy and would not add to the cumulative impact. In response to questions from the Sub-Committee, Mr Jackaman advised that Paragraph D15 was applicable and advised that the Policy related to the transfer of an existing premises to another establishment rather than part off the capacity.
11. Mr Anil Drayan appearing on behalf of the Environmental Health Service advised that representation had been maintained to ensure that that the Service partakes in discussions and provide advice. Mr Drayan confirmed that the Premises was situated in the West End CIZ, outside core hours and operated as a bar. He advised that the Piccadilly Institute and Trocadero were located closely to each other. He advised that the transfer of the 350 capacities from the Piccadilly Institute was to an area which did not have a

high residential unit and that there were no concerns regarding additional public nuisance or public safety issues. He went further onto say that the Trocadero was in a similar area as the Piccadilly Institute.

12. Mr Drayan advised that the overall capacity of the Premises should be taken into consideration and not just the numbers which establishments were currently operating. He said that the Applicant had offered a number of Conditions which were more modern, and these should be taken into account regarding elevating concerns and cumulative impact.
13. In response to questions from the Sub-Committee, Mr Drayan advised that the Piccadilly Institute had operated above a capacity of 200. There has been no history of complaints regarding public nuisance in relation to the establishment and this was primarily due to its location. He said that the Trocadero capacity limiting to 350 would enable for patrons to be managed and reduce concerns regarding public nuisance. Following further questions from the Sub-Committee, Mr Drayan advised that the Trocadero would have sound limiters and the proposed operational style and transfer would not cause a public nuisance to the residential blocks situated in Shaftesbury Avenue. He advised that the Freeholder should determine which areas of the Piccadilly Institute capacity should be reduced
14. PC Thomas Stewart appearing on behalf of the Metropolitan Police advised that representation had been maintained based on the crime and disorder licensing objective being undermined. PC Stewart reiterated that it was Policy to refuse applications in the West End CIZ and commented on the specific requirements as set out in Policy CIP1 and referred the Sub-Committee to Paragraph D11 on page 47 of the City Council's SLP.
15. He advised that the Applicant sought to demonstrate an exception to Policy through the transfer of capacity from an existing Premises to a new Premises. He said that the Piccadilly Institute had recently been operating at a capacity of 200 and that this premises had a capacity of 1500 and a reduction of 350 would not result in any real reduction in the operational capacity of the Piccadilly Institute. PC Stewart highlighted that Paragraph D15 on page 48 of the SLP referred to a transfer of an operation from one Premises to another and not capacity.
16. PC Stewart stated that the roof top bar at the Trocadero was not in operation and therefore its real impact was unknown. He advised that crime levels in the West End had returned to pre-covid levels and that offences such as sexual assaults and assaults now exceeded previous rates. PC Stewart advised that an additional drink led Premises in the West End would in his view lead to an increase in crime. PC Stewart advised that a Premises comprising of capacity of 1000 would cause less nuisance in comparison to two Premises which each had a capacity of 500. He advised that the Applicant had submitted a raft of Conditions and policies which aimed to promote the licensing objectives and confirmed that this submission did not adequately demonstrate that the Application was an exception to policy or evidence that there would be no negative cumulative impact. The Sub-Committee was advised that no Conditions had been offered regarding the provision of vertical drinking.

17. PC Stewart advised that the granting of the application could lead to a precedent being set and therefore encourage other establishments to reduce existing capacities in venues and transfer these numbers to nearby new Premises. He advised that this practice would lead to an increase in crime and disorder.
18. In response to the Sub-Committee PC Stewart advised that the Piccadilly Institute had previously caused concerns and the establishment had monthly briefings with the Metropolitan Police and as a result the capacity for the Piccadilly Institute had decreased, and this enabled for the Premises to be better managed and reduce concerns. Following further questions from the Sub-Committee, PC Stewart advised that the Piccadilly Institute operated above a 200 capacity prior to the Covid-19 pandemic and said that it was unlikely for the Premises to operate to their full capacity. He advised that in his view a transfer of capacities would lead to an increase in crime and disorder.
19. Mr Horatio Chance the Legal Advisor to the Sub-Committee confirmed that all Applications are to be considered on their individual merits having regard to the evidence before the Sub-Committee so no precedent could be set. In terms of the Sub-Committee's powers for determination are concerned a degree of flexibility could be exercised when applying and interpreting Paragraph D15 of the SLP because it had been drafted wide and that the list of exceptional circumstances was not definitive.
20. PC Stewart advised that it was preferred for the Applicant to surrender a Licence rather than reduce capacity and commented that the Piccadilly Institute would continue to trade albeit with a reduced capacity and that operational aspects of an establishment was a more prominent concern rather than its capacity.
21. PC Stewart stated that the Metropolitan Police interacted with Premises and will ensure that appropriate actions are put in place in relation to any concerns regarding crime and disorder associated with establishments.
22. In response to questions from Mr Aaron Hardy the Policy Advisor to the Sub-Committee, Ms Sharkey advised that it was not expected for the Trocadero to operate to its full capacity throughout the week and that this figure would be dependent on footfalls. Ms Sharkey said that the Piccadilly Institute operational style was to remain and that there would be a reduction in capacity. She advised that the conditions proposed for the Trocadero were more extensive than the Piccadilly Institute and included having traffic marshals and door staff who are employed to aid patrons. Ms Sharkey reiterated that the Piccadilly Institute licence had a capacity of 1500, and these numbers would be more difficult to manage when patrons exited at 03:00.
23. Following questions from the Sub-Committee, PC Stewart confirmed that Conditions offered by the Applicant were appropriate for the type of venue. He advised that operators are expected to employ a minimum number of SIA staff members and that these figures should be based on risk assessments. PC

Stewart advised that mandatory searches should take place preferably before 22:00.

24. In Summary, Mr Jackaman advised that Paragraph D15 did not provide a definitive list of what should be considered as an exception to Policy and that the Sub-Committee were given flexibility and had to be satisfied that the Premises would not add to cumulative impact in the West End Cumulative Impact Zone and considered in policy terms an exception for the application to be granted.
25. In Summary, Mr Drayan advised that there was a capacity transfer, and that the application was for a different style of venue from the establishment which numbers were to be reduced. He advised that night club venues created more public nuisance in comparison to entertainment led venues. Mr Drayan advised that the Applicant had offered a comprehensive set of Conditions. He said that the overall capacity should be considered alongside all the licensable activities including those which were not in current use. Mr Drayan advised that the Application fell under Policy PB1 (b) and that sufficient exemption had been demonstrated to rebut the policy presumption. These included the reduction of capacity of a venue which had historic concerns regarding public nuisance, a raft of Conditions and the style of operation of the new Premises. He advised that the Environmental Health Service's representation was now withdrawn.
26. In Summary, PC Stewart advised that the reduction in capacity would promote the Public Safety Licensing Objective but did not necessarily promote crime prevention. He advised that the Metropolitan Police were concerned with the Premises operational style. PC Stewart commented that the reduction of the capacity of one Premises should not have any bearings on the operation of a different venue. He maintained the view that the reduction in the capacity of the Piccadilly Institute would not have a large bearing on reducing crime and disorder. PC Stewart advised that there had been an increase in the crime figures in the West End and that these numbers exceeded pre Covid-19 statistics. These include assaults and sexual assaults. PC Stewart concluded by saying increases in crime and disorder impacted the Metropolitan Police resources and policing. These resources were particularly limited during the early mornings, and this had an impact on response times.
27. In Summary, Ms Sharkey advised that it was acknowledged that the City of Westminster sought to have a vibrant night economy which had a good offer. She advised that Paragraph D15 was not definitive and gave the Sub-Committee some flexibility in its decision making when considering the merits of the application. She said that the capacity of an existing night club was to be reduced and be transferred to a new entertainment led establishment and this would attract a different type of clientele which had a wider age range. The Sub-Committee was advised that established Case Law allowed capacities to be transferred to a new establishment.
28. Ms Sharkey advised that the proposed Conditions were extensive, modern and enforceable. The new Premises would be more manageable and advised that the Piccadilly Institute capacity of 1500 was to remain if the Application

were refused. Ms Sharkey confirmed that there would be no change of crime figures. She advised that a Condition had been offered which made the operations ancillary to the function of the Premises which was an entertainment led venue. Ms Sharkey confirmed that the request to search patrons in the evening would be accepted.

Decision and Conclusion

29. The Sub-Committee has determined an application for a New Premises Licence under the Act. The Premises proposes to operate as an American style multi-use entertainment performance venue with various licensable activities relating to the sale of alcohol, live and recorded music, late night refreshment and performance of dance together with a restaurant and carefully curated drinks menu drawing upon the Applicant's international experience and reputation.
30. The Sub-Committee noted the huge investment ploughed into the business by the Applicant by some 3-4 million which will demonstrate how the Premises is to be transformed into a multi-use venue operating in the West End CIZ. The hours applied for are beyond Westminster's core hours.
31. 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 CIZ and so there is an automatic policy presumption to refuse the application. However, for this presumption to be rebutted, the Applicant must prove exceptional reasons as to why the application should be granted.
32. The Sub-Committee did not take a rigid approach when considering all relevant parts of the policy because a degree of flexibility is to be applied when looking at the workings of the policy for these Premises. Instead, a flexible approach was taken having regard to all areas of the SLP particularly when considering paragraph D15.
33. The Sub-Committee noted the Responsible Authorities who had objected to the Application and the various submissions that were made in respect of the West End CIZ. Despite the Environmental Health Service now being content with the Application which resulted in a withdrawal of their objection during the hearing by Mr Drayan, the Metropolitan Police Service and Licensing Authority were still however, maintaining their objections based on the presumption to refuse such applications in the West End CIZ.
34. The Sub-Committee when considering the matter had regard to Policies CIP1, HRS1 and PB1(b) under the City Council's SLP. The first starting point for the Sub-Committee was to establish based on the evidence before it whether the Applicant had provided exceptional reasons as required by the terms of the SLP. The Sub-Committee concluded that the Applicant had provided exceptional reasons and will go onto explain below those reasons:-

In deciding whether the Sub-Committee should consider granting the application it had to consider the style, nature and character of the Premises

and how the Premises would operate under the proposed licensable activities applied for. The Sub-Committee formed this judgement based upon the evidence and the many reasons given by the Applicant during the hearing which included the offer of a reduction of a 350 capacity for the Piccadilly Institute's premises and whether such a reduction could be applied to these Premises and considered an exceptional circumstance having regard to Paragraph D15 on page 48 of the SLP.

Paragraph D15 of the SLP states:

“Any list of circumstances where exceptions may be granted is not definitive. One example might be a proposal to transfer an existing operation from one premises to another, where the size and location of the second premises is likely to cause less detrimental impact and will promote the licensing objectives, and where the existing operation would otherwise continue as before in the first premises. In order for this to be treated as a consideration justifying an exception to policy, the council will need to be satisfied that the necessary legal mechanisms are in place to ensure that the original premises licence will cease to be operable and cannot be transferred once surrendered. In considering whether there is likely to be less detrimental impact, the Licensing Authority will consider the actual operation of the premises which it is proposed should close, and it will take into account any future proposals which would affect the continued operation of those premises”.

35. The Sub-Committee accepted the argument advanced by the Applicant that a transfer of a Premises to another smaller establishment and to a location in which they would cause less detrimental impact was to be considered as an exception to Policy and used the example of the Piccadilly Institute located in Shaftesbury Avenue on the 12 and 13 Floors which had a capacity of 1515 and could operate until 03:00 although this was currently operating at a 200 capacity.
36. The Sub-Committee noted the offer to reduce the Piccadilly Institute capacity by 350 and to change the 03:00 nightclub licence to a restaurant licence and that point had been made clear by the Applicant.
37. The Sub-Committee noted the extensive proposed Conditions and was pleased that these had been agreed with the Responsible Authorities who objected to the application and these were similar, to the conditions imposed on the premises licence for the Piccadilly Institute. These were updated conditions and imposed on the Premises Licence by the Sub-Committee covering a whole host of areas which included a Dispersal Policy, Door Staff, Traffic Marshalls, Staff Training, Terrorism, ID Scanning and would therefore make enforcement easier for when City Council Inspector's undertake visits to the Premises.
38. Referring to the bespoke Dispersal Policy produced by the Applicant the Sub-Committee viewed this as a comprehensive document that will promote the licensing objectives and is to be used robustly in running the Premises to the highest standards.

39. The Sub-Committee was persuaded that a departure from the SLP policy was appropriate when considering the dispersal policy and what potential impact in terms of nuisance this would have on the West End CIZ particularly when customers are leaving the Premises at the terminal hour. In formulating this view the Sub-Committee accepted the commitment and undertakings given by the Applicant when it came to the security arrangements and management of the Premises by the appointed Designated Premises Supervisor and experienced staff.
40. The Sub-Committee welcomed the Condition offered by the Applicant which restricts the use of the Premises by requiring the Premises to be ancillary to the main function as a Coyote Ugly Saloon theme operation venue and this has been imposed as a condition on the Premises Licence.
41. The Sub-Committee accepted the Applicant's argument that the capacity of an existing night club was to be reduced and be transferred to a new entertainment led establishment and this would attract a different type of clientele which had a wider age range.
42. The Sub-Committee therefore decided that the Applicant had proven exceptional circumstances in the West End CIZ due to the style, nature and character of the Premises and it primarily being an entertainment led venue. The City Council's concept under its SLP recognises and accept that this type of premises create a range of cultural venues within Westminster and 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 and thus considered to be an exception to policy.
43. The Sub Committee in addition welcomed the fact that the Applicant was an experienced operator as it held and was operating other premises in Westminster as well as internationally which demonstrated their on-going commitment to the promotion of the licensing objectives.
44. 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.
45. The Sub-Committee noted that the Applicant would be further reducing the capacity of the Piccadilly Institute as part of the Application. The night-time economy and offer would continue to be maintained and capacities for these activities would be redeployed. The Applicant proposes to diversify the entertainment offers in both Premises and transfer capacities to a different location in the same area.
46. The Sub-Committee agreed that in the final analysis an exception to Policy had been demonstrated by the Applicant namely the reduction of the capacity of a night club and the transfer of these numbers to an entertainment led venue. The Sub-Committee noted that a raft of Conditions had been offered by the Applicant which would help promote the Licensing Objectives.

47. The Sub-Committee was persuaded by the Applicant that they would be a responsible operator by having the necessary measures and safeguards in place to promote the licensing objectives 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 of the individual circumstances of this case and the promotion of the four licensing objectives:

1. To grant permission for the **Exhibition of Films (Indoors)** Monday to Sunday 08:00 to 03:00 **Seasonal Variations: On the commencement of British Summertime, the terminal hour shall be extended by 60 minutes. The start time of 08:00 hours is for residents and bona fide guests of the adjoining hotel. For members of the public this activity will commence at 10:00 hours Monday to Saturday and midday on Sunday, including Bank Holiday Sundays.**
2. To grant permission for **Live Music (Indoors)** Monday to Saturday 10:00 to 03:00 Sunday 12:00 to 03:00 **Seasonal Variations: On the commencement of British Summertime, the terminal hour shall be extended by 60 minutes.**
3. To grant permission for **Recorded Music (Indoors)** Monday to Sunday 08:00 to 03:00 **Seasonal Variations: On the commencement of British Summertime, the terminal hour shall be extended by 60 minutes. The start time of 08:00 hours is for residents and bona fide guests of the adjoining hotel. For members of the public this activity will commence at 10:00 hours Monday to Saturday and midday on Sunday, including Bank Holiday Sundays.**
4. To grant permission for **Performance of Dance (Indoors)** Monday to Saturday 10:00 to 03:00 Sunday 12:00 to 03:00 **Seasonal Variations: On the commencement of British Summertime, the terminal hour shall be extended by 60 minutes.**
5. To grant permission for **Anything of a similar description to that (Indoors) falling within (e), (f) or (g)** Monday to Saturday 10:00 to 03:00 Sunday 12:00 to 03:00 **Seasonal Variations: On the commencement of British Summertime, the terminal hour shall be extended by 60 minutes.**
6. To grant permission for **Late Night Refreshment (Indoors)** Monday to Sunday 23:00 to 03:00 **Seasonal Variations: On the commencement of British Summertime, the terminal hour shall be extended by 60 minutes.**
7. To grant permission for the **Sale by Retail of Alcohol (On and Off)** Monday to Sunday 08:00 to 03:00 **Seasonal Details: On the commencement of British Summertime, the terminal hour shall be extended by 60 minutes. The start time of 08:00 hours is for residents and bona fide guests of the adjoining hotel. For members of the public this activity will commence at**

10:00 hours Monday to Saturday and midday on Sunday, including Bank Holiday Sundays.

8. To grant permission for the **Opening Hours of the Premises: Monday to Sunday: 08:00 to 03:00 Seasonal Details: On the commencement of British Summertime, the terminal hour shall be extended by 60 minutes. The start time of 08:00 hours is for residents and bona fide guests of the adjoining hotel. For members of the public this activity will commence at 10:00 hours Monday to Saturday and midday on Sunday, including Bank Holiday Sundays.**
9. That the Licence is subject to any relevant mandatory conditions.
10. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

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

11. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a Coyote Ugly themed entertainment venue operated by Coyote Ugly London Ltd.
12. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognized photographic identification cards, such as a driving licence, passport, or proof of age card with the PASS Hologram.
13. (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
(b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
(c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
(e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
14. 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.
15. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the

premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

16. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
17. As soon as possible, and in any event within 1 month from the grant of this licence, the premises shall join the local Pubwatch or other local crime reduction scheme approved by the police, and local radio scheme, if available.
18. A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria:
 - (a) the limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses.
 - (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder.
 - (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team.
 - (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team.
 - (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
19. 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.
20. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
21. Any special effects or mechanical installations shall be arranged, operated, and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the licensing authority, where consent has not previously been given:
 - dry ice and cryogenic fog

- smoke machines and fog generators
- pyrotechnics including fireworks
- firearms
- lasers
- explosives and highly flammable substances.
- real flame
- strobe lighting.

INFORMATIVE: The premises licence holder will be seeking consent to use smoke machines, lasers, and strobe lighting at the premises as part of the stage show.

22. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased. NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
23. All windows and external doors shall be kept closed after (21:00) hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
24. There shall be no admittance or re-admittance to the premises one hour before the terminal hour for licensable activities, except for patrons permitted to temporarily leave the premises (e.g., to smoke, make a phone call).
25. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of residents and businesses and leave the area quietly.
26. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke or make a phone call, shall be limited to 10 persons at any one time.
27. 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.
28. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
29. A copy of the premises' dispersal policy shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council.
30. No deliveries to the premises shall take place between (23.00) and (08.00) on the following day.
31. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

32. No waste or recyclable materials, including bottles, shall be moved, removed from, or placed in outside areas between (23.00) hours and (08.00) hours on the following day unless collections are arranged during the times for the Council's own commercial waste collection service for the street.
33. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) on the following day unless collections are arranged during the times for the Council's own commercial waste collection service for the street.
34. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
35. All fabrics, curtains, drapes, and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
36. 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.
37. The number of persons accommodated at the premises as a whole at any one-time (excluding staff) shall not exceed (x) persons – to be determined on clearance of works condition but it shall not be more than 350 excluding staff in any case.
38. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority. If there are minor changes during the course of construction new plans shall be submitted with the application to remove this condition.
39. There shall be no sales of hot food or hot drink for consumption 'off' the premises after 23:00 hours.
40. Loudspeakers shall not be located in the entrance unless there is a sound lobby, or outside the premises building.
41. Door staff and Body worn video will be in use.
42. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under a Sexual Entertainment Venue Licence.

43. The premises licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
44. The premises licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by SIA trained personnel so as to ensure that there is no public nuisance or obstruction to the public highway.
45. There shall be no payment made by or on behalf of the premises licence holder to any person for bringing customers to the premises directly off the street.
46. An attendant shall be on duty in the cloakroom during the whole time that it is in use.
47. (a) An attendant shall be on duty in the male and female toilets areas (within the licensed area) from 21:00 hours daily until the premises are closed to the public. (b) Attendants shall be equipped with a means of alerting security without delay, e.g, radio, BWV, or personal alarm which shall be kept on their person.
48. After midnight all drinking vessels used in the venue shall be made from a sustainable material other than glass. All drinks in glass bottles are to be decanted into non glass containers or non-glass carafes prior to being served, with the exception of champagne, wine or bottles of spirits with a minimum size of 70 CL supplied by way of waiter/waitress service to tables. Staff shall clear all empty champagne and spirit bottles promptly from the table. Customers shall not be permitted to leave their table carrying any such glass bottle or drink directly from the bottle.
49. From 22:00 hours, a full pat-down search of all entrants and bag search, shall be conducted by properly trained security staff of the appropriate gender. Searching will be supplemented using two functional metal detecting wands. All searches will be covered by the premises CCTV system. Prior to 22:00 hours, searching shall be based on a risk assessment by designated security staff.
50. In the event that an assault involving an injury or of a sexual nature is committed on the premises (or appears to have been committed), the management will immediately ensure that: a. the Police (and, where appropriate, the London Ambulance Service) are called without delay; b. all measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the Police; c. the crime scene is preserved so as to ensure a full forensic investigation to be carried out by the Police; such other measures are taken (as appropriate) to fully protect the safety of all persons on the premises.
51. Where the premises are open for the sale of alcohol for consumption on the premises then from 22:00 hours a personal licence holder shall be on duty.

52. After 22:00 a minimum of 2 SIA shall be employed. All security engaged outside the entrance to the premises, or supervising or controlling queues outside the premises, shall wear high visibility yellow jackets or vests. Security staff shall display their SIA a licence at all times went on duty. At the commencement of duty, all security personnel must have their names and licence number logged with date and time. Names must be legible and appropriate for a legal document. The log shall be made available for inspection of the Responsible Authorities upon request and be retained for a minimum of 31 days.
53. A traffic marshal shall be employed by management from 22:00 on Friday, Saturday and any other time deemed necessary by the premises licence Holder. They shall remain on duty until all customers have left the immediate vicinity of the premises to ensure, as far as reasonably practicable, there is no obstruction in the immediate vicinity of the premises from customers or vehicles linked to the premises. The Traffic Marshall shall wear a high visibility jacket of a different colour to those worn by SIA door staff and marked 'traffic marshal' to be clearly identifiable in this role and equipped with a radio link to security.
54. SIA door staff shall from midnight until close, monitor Shaftesbury Avenue to encourage the quiet dispersal of customers.
55. Customer facing front of house staff shall receive at least basic training in Conflict Management provided by a qualified source. Training records for such staff shall be kept on the premises and provided to the Responsible Authorities for viewing upon request.
56. The premises licence holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all front of house staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day they start their employment.
57. (a) After 21:00 hours, all customers entering the premises shall have their ID scanned on entry, save for when a biometric scanning system is in place. The details recorded shall include a live facial image capture of the customer and capture the photographic identification produced. The details recorded by the ID scanner system shall be made available to the Police and the local authority upon request. (b) The requirement in (a) above is subject to the following exceptions, namely that a maximum number of (25) guests per night may be admitted at the Managers discretion without necessarily photo ID being scanned and recorded. The admission of such guests however shall be in accordance with the following procedure: (i) The DPS shall approve in writing the names of a maximum of three managers other than him/herself who are authorised to sign in such guests. (ii) A legible record (the signing in sheet) of those guest's name shall be retained on the premises for inspection by the licensing authority and Police for a minimum period of 31 days. The

name of the DPS approved manager authorising the admission will also be recorded by that manager, (iii) Guests shall be required to produce some form of ID such as a bank card (or emailed electronic photo ID) and ID scan entry with a live photo shall be created. (iv) Where there are appropriate reasons for a guest not to be able to produce ID and be subject to ID scan, the Approved Manager may still permit entry. In such circumstance he shall also record the reasons for this in the signing in sheet. (c) Notwithstanding (a) above, patrons who are attending a pre-booked private event at the premises do not need to have their ID Scanned on entry and instead a written guest list shall be held at reception for the event, and will be retained for 31 days after the event for inspection by the police and responsible authorities upon request.

58. All front of house staff at the premises shall receive Welfare and Vulnerability Engagement (WAVE) training by a qualified trainer, and once every 12 months thereafter. The date the training was provided and signed confirmation from the member of staff shall be recorded and made available for inspection by the Responsible Authorities upon request.
59. The applicant contends that this application can be treated as an exception to policy upon the basis that the capacity for the Piccadilly Institute stated within Premises Licences 22/02799/LIPVM and 22/02800/LIPVM (which has a 3 am licence) shall be reduced by 350 persons. This condition to be removed once the two licences for the Piccadilly Institute have been amended to reduce the capacity by 350 persons.

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

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

4. THE BOX, 11-12 WALKERS COURT, W1F OBZ

LICENSING SUB-COMMITTEE No. 6

Friday 29 July 2022

Membership: Councillor Aziz Toki (Chairman), Councillor Angela Piddock and Councillor Jim Glen

Legal Adviser: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Georgina Wills
Presenting Officer: Kevin Jackaman

Objections: One local resident objector

Present: Mr Craig Baylis Solicitor of Kingsley Napley LLP, representing Mr Aasim Chaudhri (Applicant Too 2 Much Ltd)

The Box, 11-12 Walker's Court, London, W1F 0ED	
22/05408/LISEVR	
1.	Renewal of Sexual Entertainment Venue Premises Licence under the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009)
	The Sub-Committee has determined an application for a Renewal of a Sexual Entertainment Venue Premises Licence made by Too 2 Much Ltd to operate the Premises as a sexual entertainment venue between the hours of 09:00 to 04:00 on each of the days Monday to Saturday and 09:00 to 00:30 on Sundays.
	Amendments to application advised at hearing: None
	Decision (including reasons if different from those set out in report): The Presenting Officer Kevin Jackaman representing the Licensing Service, introduced the report. He advised that this was an application for a Renewal of a Sexual Entertainment Venue Premises Licence made on behalf of the Applicant, Too 2 Much Limited in respect of The Box, 11-12 Walker's Court, London, W1F 0ED. He further advised that one objection had been received from a local resident. Mr Baylis, representing the Applicant, advised that this was a renewal of its licence which had been done on an annual basis. Mr Baylis said that in his view the resident objector did not really touch upon they key issues required for the objection to be valid under the 1982 Act. He said that many of the issues raised were to do with the area generally and not directly related to these Premises and so very little weight should be attached to the objection. Mr Baylis said that he had very much left to say apart from the fact that there was no evidence to grant a refusal of the application.

In reply to questions from the Sub-Committee Mr Baylis said that there had been problems with gangs in the area but this was an ongoing problem which the Police are currently dealing with. In terms of the Premises security arrangements the Applicant, Mr Aasim Chaudhri confirmed there is always SIA security monitoring the outside of the Premises ensuring that customers are kept safe within the defined zone of the Premises. Mr Chaudhri stated that unfortunately due to the crime in the local area customers can sometimes be the target for watch thefts when leaving the Premises which was ultimately a policing issue and not within the strict control of the Premises.

The Sub-Committee noted that this was an application for a renewal of the Applicants SEV licence and in its determination of the matter considered all relevant factors namely the locality of the venue and its surrounding premises such as schools and places of worships.

The Sub-Committee noted that the number of sexual entertainment venues permitted within the Council's Sexual Entertainment Venues Statement of Licensing Policy had not been exceeded and that there had been no complaints made regarding the Premises.

The Sub-Committee had regard to the objection at Appendix D of the Report.

The Sub-Committee in its determination of the matter had regard to all the oral submissions made at the hearing and to all the written documentation that had been submitted. The Sub-Committee noted that there had been no local objections or breaches of the Premises Licence and none of the Responsible Authorities had objected to the application.

The Sub-Committee, therefore, granted the Renewal of the Sexual Entertainment Premises Licence subject to the Standard Conditions applicable to licences for sex establishments in Westminster as prescribed by the Council pursuant to Paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and the additional conditions imposed on the Premises Licence as specified below.

Standard Conditions

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of relevant entertainment, or material depicting nudity or relevant entertainment, shall be visible from outside the premises.

5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.
6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the relevant entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.
9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras 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. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period together with facilities for viewing.
11. 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 to the public and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
 - (a) all crimes reported to the venue;
 - (b) all ejections of patrons;
 - (c) any complaints received;
 - (d) any incidents of disorder;
 - (e) seizures of drugs or offensive weapons;
 - (f) any faults in the CCTV system or searching equipment or scanning equipment;
 - (g) any refusal of the sale of alcohol;
 - (h) any visit by a relevant authority or emergency service;
 - (i) any breach of licence conditions reported by a Performer.

13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.
15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
16. Relevant Entertainment shall be given only by Performers and the audience shall not be permitted to participate in the relevant entertainment.
17. There shall be no physical contact between Performers whilst performing.
18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.
20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
21. Where Relevant Entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.
23. Performers must redress fully immediately after each performance.

Additional Conditions

24. At least one SIA registered door supervisor shall be permanently employed in the first floor licensed area of the premises and at least one permanently employed in the area providing entrance to the basement area. In addition, on such occasions that both floors are used for nude cabaret or nude table side dancing two additional door supervisors shall be so employed.
25. In the first-floor theatre and basement area (a) nude cabaret may be provided and (b) nude table side dancing may be provided. For the avoidance of doubt, nude table side dancing is the performance of dance, either nude or partially nude, for customers seated at a table.
26. The number of persons permitted in the premises (excluding staff) shall not exceed 288 at any one time.
27. Notwithstanding standard condition 17, necessary contact in order to perform skilled dance or acrobatic routines is permitted.
28. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
29. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
30. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
31. 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.
32. 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.
33. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
34. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
 - i. pyrotechnics including fire works
 - ii. firearms
 - iii. lasers
 - iv. explosives and highly flammable substances
 - v. real flame
 - vi. strobe lighting

35. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
36. No relevant entertainment shall be provided at the premises until such time that the premises have been inspected by the Licensing Authority and Environmental Health.

The Licensing Sub-Committee
29 July 2022

The Meeting ended at 4.00 pm