



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 20th October, 2022**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Concia Albert and Caroline Sargent

Apologies for Absence: Councillor Robert Eagleton

1. MEMBERSHIP

- 1.1 It was noted that Councillor Robert Eagleton had sent his apologies.
- 1.2 Nominations for the post of Chair were invited. An nomination was received for Councillor Concia Albert. There were no further nominations.
- 1.3 **RESOLVED:** That Councillor Concia be appointed Chair of the Licensing Sub Committee (3) for this meeting.

2. DECLARATIONS OF INTEREST

- 2.1 There were no declarations of interest.

1. CHOTTO-MATTE,11-13 FRITH STREET, W1D 4RB

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 3
("The Committee")

Thursday 20 October 2022 – Item 1

Membership: Councillor Concia Albert (Chairman) and Councillor Caroline Sargent.

Officer Support: Legal Adviser: Vivienne Walker
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Roxanna Haq

Other Parties: Mr Kurt Zdesar (Applicant), Mr Alun Thomas (Thomas and Thomas Partners, Solicitor representing the Applicant)
Mr Anil Drayan (Environmental Health Service),
Ms Karyn Abbott (Licensing Authority),
Mr Richard Brown (Solicitor, Westminster's Citizens Advice representing Mr Mark Wallinger and Mr Mark Wallinger (local resident)).

Application for a Variation of Premises Licence in respect of Chotto-Matte
11-13 Frith Street, London W1D 4RB - 22/07519/LIPV

Full Decision

Premises

Chotto-Matte
11-13 Frith Street
London W1D 4RB

Applicant

NZR Limited

Ward

West End

Cumulative Impact Area

West End

Special Consideration Zone

N/A

Additional Activities and Hours applied for

Recorded Music

Mondays to Saturdays 10.00 to 01.30

Sundays 12.00 to 00.30

From the start time on New Year's Eve until the finish time on New Year's Day.

Summary of Application

This is an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act"). The Premises operates as a Peruvian and Japanese restaurant, grill and sushi bar. The Premises are located in the West End and in the West End Cumulative Impact Zone.

There is a resident court of 104.

The application seeks the following:

1. To vary the layout of the Premises and include a basement area. There are no changes to the existing permitted hours or the capacity of the Premises.
2. Amend conditions 13 and 23 on the existing Premises Licence.
3. Include recorded music on Monday to Saturday 10.00 to 01.30 and Sunday 12.00 to 00.30.

Representations received

Environmental Health Service (EHS) (Anil Drayan)

Licensing Authority (LA) (Karyn Abbott)

One Resident (Mark Wallinger)

Summary of issues raised by the objectors

EHS stated:

As presented, the application would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.

The Licensing Authority stated:

They have concerns on how the application will promote the licensing objectives:

Prevention of Public Nuisance

Public Safety

Prevention of Crime and Disorder

Protection of Children from Harm.

The Resident stated:

Noise from extractor, kitchen, steel gate/door, deliveries and refuse collection causes a nuisance.

Policy Position

HRS1

Applications for hours outside the core hours will be considered on their merits, subject to other relevant policies, and with particular regard to 1-14 **page 62 of the Statement of Licensing Policy**:

RNT1 (B)

Applications inside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the Council's Core Hours Policy HRS1.
3. The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
4. The application and operation of the venue meeting the definition of a restaurant as per Clause C.

C. For the purposes of this policy a restaurant is defined as:

1. A premises in which customers are shown to their table or the customer will select a table themselves to which food is either served to them or they have collected themselves.
2. Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at a table.
3. Which do not provide any takeaway service of food and/or drink for immediate consumption, except if provided via an ancillary delivery service to customers at their residential or workplace address.
4. Where alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
5. The sale and consumption of alcohol prior to such meals may be in a bar area but must also be ancillary to the taking of such meal.

SUBMISSIONS AND REASONS

Ms Roxanna Haq outlined the application to the Sub-Committee. She advised that representations had been received from the Environmental Health Service, the Licensing Authority and one local resident. She further advised that the Premises were located within the West End Ward and in the West End Cumulative Impact Area. She confirmed that additional submissions from the Applicant and the Environmental Health Service had been circulated to the Sub Committee.

Mr Alun Thomas, Solicitor, on behalf of the Applicant, outlined the application before the Sub-Committee. He referred to the plans of the Premises and outlined that the application for variation was in three parts:

- a) **Change of Layout** – Repositioning the sushi counter to first floor. Reconfiguration of fixed seating throughout and the inclusion of a small “speakeasy” lounge within the basement (works not yet completed). Mr Thomas confirmed with the exception of the speakeasy, the works had already been completed and inspected by the Environmental Health Service.
- b) **Amendment to conditions** - Amend condition 13 and condition 23 on the current Premises Licence and add Model Condition 82, a works conditions, to the Premises Licence. Mr Thomas advised that the effect of which was to include a speakeasy and operate part of the basement on the same existing terms as the ground floor, i.e., Alcohol by waiter/waitress service to persons seated, save for the hatched areas and limited to 30 persons, and ancillary to food after 23:00. Mr Thomas emphasised that the capacity would not increase. The Applicant just wished to change where it can be, e.g., if the basement was closed the customers would go on the ground floor and vice versa. The number of vertical drinkers would remain the same.
- c) **Include Regulated Entertainment of Recorded Music**: in accordance with the existing permitted hours.

Mr Thomas advised that the Premises operated as a fine dining restaurant and the Applicant was a very experienced operator. He explained that the application for the variation had followed a formal pre-application advice meeting with Environmental Health Service and the District Surveyor. Mr Thomas emphasised that there was no change in respect of the permitted hours, which would remain as 10:00 to 01:00 hours Monday to Saturday and 12:00 to 00:00 Sundays nor the capacity which would remain as 300 persons (excluding staff).

Mr Thomas outlined that the Applicant wished to incorporate a small “speakeasy” lounge within the basement to hire out for private functions to their regular customers. The area would not be open to the general public. He advised that the upper levels of the Premises had been recently refurnished, and the restaurant areas were now very spacious with comfortable chairs/sofas, carpets and curtains which absorbed the sounds and noises created by the restaurant. He explained that the large ‘nightclub’ speakers on the first floor had been removed and replaced with small speakers that were less intrusive and had much less sound reach.

Mr Thomas advised that he had briefly spoken to Mr Brown and Mr Wallinger this morning regarding the noise complaints circulated by the Environmental Health Service on Tuesday. He added that the Applicant had tried to contact Mr Wallinger twice to discuss his representation, however, no response had been received. He confirmed that the Applicant was very happy to work with Mr Wallinger and all local residents to ensure residential and commercial properties have a good relationship.

Mr Thomas referred to the noise complaints. He emphasised that the complaints had ceased in 2021 and it appeared that they were in relation to music during the COVID alfresco period where people were dining outside to avoid catching the

virus. He advised that as restaurants had now returned to pre-pandemic operations the complaints had ceased. Mr Thomas further advised that the air conditioning unit was set to go on and off via a timer, however, the Applicant would inspect it to ensure that it was working correctly. Mr Thomas explained that the bins were placed outside of the Premises at 9am ready to be collected by Westminster Collection Service. He confirmed that the location of the restaurant's kitchen had not been changed. Mr Thomas emphasised that the air conditioning unit, waste collection and deliveries were not relevant to this variation to the Premises Licence.

Mr Thomas concluded by advising the Sub Committee that they did not need to take into consideration any of the Council's Cumulative Impact Policies as the Premises was a restaurant and the capacity and hours of operation were remaining the same as in the current Premises Licence.

In response to questions from the Sub Committee, Mr Thomas advised that the basement area would be used to hold selective private events for their regular customers or for event organisers who approached them and who were successfully vetted by the Applicant. He emphasised that the area would not be promoted or externally advertised, and that the maximum capacity would be either 40 persons seated or 30 persons standing. He advised that customers entered and left the Premises through the front door and were shown to the secret door leading down to the basement. He confirmed that there was CCTV throughout the Premises and that the old Premises Licence had been surrendered 10 years ago. He outlined in detail the importance of the restaurant's daily vegetable delivery at 6am.

Ms Karyn Abbott, representing the Licensing Authority, advised that the Licensing Authority were no longer concerned about the bar area as the Applicant had no intention of increasing the capacity of the Premises. She outlined that the Premises were located within the West End Cumulative Impact Area and as such various policy points needed to be considered, namely HSR1, CIP1 and RNT1. She advised that the Applicant needed to demonstrate that the application for the variation to the Premises Licence would not add to cumulative impact in the busy West End area especially as he was seeking to include Regulated Entertainment of Recorded Music until 1:30am. It was therefore for the Sub-Committee to be satisfied that the Applicant has demonstrated these points and could promote the Licensing Objectives.

Mr Anil Drayan, representing the Environmental Health Service (EHS), advised that EHS had maintained their representation on the Public Nuisance and Public Safety Licensing Objectives, however, after having discussions with the Applicant EHS no longer had any issues with the application. Mr Drayan outlined that he was present to assist the Sub Committee if they had any questions regarding the conditions that had been agreed between the EHS and the Applicant. He stated that the Applicant must have been aware there had been noise complaints as the City Inspectors would have been in contact with him to discuss the various breaches. He confirmed that no noise complaints had been received since July 2021, so it appeared that the complaints had been due to the operation of the alfresco dining scheme in the West End. He explained that the playing of recorded music was not a licensable activity before 11pm under the Live Music Act, however, after 11pm it needed to be a licensable activity because of the potential nuisance that it might cause to the surrounding area. He advised that the Premises had installed a sound

limiter which could be set in conjunction with the Applicant, Environmental Health Service and the resident(s) as Mr Wallinger had indicated that music vibrated through the fabric of the building into his flat located above the restaurant. Mr Drayan confirmed that he considered that the proposed conditions were proportionate and appropriate and would promote the licencing objectives.

Mr Drayan then discussed the numerous conditions with the Sub Committee, Mr Thomas and Mr Brown between them agreed amendments, deletions and additions to the conditions that would be attached to the Premises Licence if the Committee were minded to grant the application. Discussions included the timings of the waste collection and deliveries to the Premises, contact details and escape of noise from the Premises. Mr Thomas requested that the condition regarding deliveries be amended to read 07:00 hours instead of 08:00 hours. Mr Thomas also confirmed that all doors would be fitted with soft closing mechanisms.

Mr Richard Brown, solicitor from the Citizens Advice Bureau and representing Mr Mark Wallinger, local resident, set out his submission to the Committee. He advised that the residential and commercial need to co-exist in the West End which was the reason why Mr Wallinger had wanted the opportunity to inform the Sub Committee of his concerns regarding the application. Mr Brown advised that Mr Wallinger had lived above the Premises for four years. He advised that Mr Wallinger accepted the vibrant nature of the area, however, there was a distinction between that and experiencing noise through the structured Premises itself into your bedroom and continuous disturbances around the clock which interrupted his sleep.

Mr Brown referred to condition 23 and requested that the words 'in total' be added. He then referred to the recorded music aspect of the application and advised that Mr Wallinger did not want the noise nuisance from the music to be reoccurring because it was clear from the noise complaints that had been made historically that noise nuisance coming from the Premises was ongoing. He commented that it was unusual for a restaurant that did not historically have recorded music on their Premises Licence to request it as a licensable activity. He outlined that consideration had been given to allow recorded music in licensed Premises up to 11pm as this was considered reasonable, however, to allow it beyond 11pm was considered risky. He emphasised to the Sub Committee that if they refused the application the Premises would still be able to play music after 11pm albeit at a much lower volume which would suit Mr Wallinger and promote the licensing objectives.

Mr Mark Wallinger, local resident, addressed the Sub Committee. He stated that he had actually been woken up during the night by hammering coming from the Premises. He advised that he had wanted to attend the meeting to outline the issues he had been facing since he first moved into the property four years ago. He advised that the Premises created constant noise 24/7 by way of the extractor fan working from 8am until 01:00 hours, from clearers cleaning and banging furniture in the early hours of the morning, the slamming of doors and the vibration of music coming from the fabric of the building. He emphasised also the constant noise from the slamming of outside doors during the day and night which reverberated throughout his entire flat. He highlighted the employees shouting outside at the back of the restaurant, smoking and occasionally playing music long after midnight. He commented on deliveries taking place at 05:00 hours every morning and repairs being carried out in the middle of the night. He stated that the management had

been very dismissive towards him throughout the years and the Premises showed no respect for their neighbours.

Mr Thomas advised the Sub Committee that the Applicant would have every door fitted with soft closing mechanisms to prevent them from banging and would investigate what could be done regarding the metal door shared with other restaurants in the building. He also advised Members that the Applicant would speak to the management about the cleaners to ensure that they cleaned quietly and discuss all measures that could be taken to reduce noise escaping from the Premises.

Mr Drayan advised the Sub Committee that he would walk around the Premises with both the Applicant and Mr Wallinger to help resolve all the issues raised by Mr Wallinger at today's hearing.

Mr Thomas highlighted that the Applicant had applied for Regulated Entertainment of Recorded Music to tighten up the Premises Licence and in doing so had also accepted additional conditions to be attached to the Premises Licence. He added that if the application was refused the conditions proposed by the Environmental Health Officer could not be placed on the Premises Licence. Mr Drayan confirmed that it was more advantageous to have Recorded Music as a licensable activity so that the conditions could be placed on the Premises Licence. Mr Thomas advised that the music played through the new speakers would not be heard outside of the Premises.

During the summing up, Mr Thomas emphasised that the Applicant was very willing to work with Mr Wallinger to resolve the issues raised at the Sub Committee meeting. He detailed how important it was that the restaurant received its daily fruit and vegetable delivery at 6am. He advised that the Applicant was an experienced operator and the Premises were a fine dining restaurant. He emphasised that licensing Regulated Entertainment after 11pm would promote the licensing objectives.

Conclusion

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining this application.

The Sub-Committee noted that the Premises were operated as a fine dining restaurant and the Applicant was an experienced operator who had owned the restaurant for over 10 years. Both the EHS and LA confirmed that they did not have any specific issues with the Premises when it came to public nuisance and crime and disorder and only maintained their objections because the Premises are located within the West End CIZ. The Sub Committee further noted that there was no change in respect of the permitted hours, nor the capacity and the additional conditions imposed on the Premises would alleviate any residential concerns.

The Sub-Committee imposed on the Premises Licence Model Condition 24 which requires that a telephone number be made available for the Premises so that local residents and businesses in the vicinity can make contact should any problems arise.

In reaching its decision, the Sub-Committee concluded that the conditions imposed on the premises licence were appropriate and would promote the licensing objectives.

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

1. To grant permission to **vary the approved plans appended to the Licence to reflect changes to the ground floor, first floor and the basement of the Premises.**
2. To grant permission to **amend condition 13 of the Licence to read: waiter/waitress service shall be available at all times on the ground floor and basement for customers seated at tables.**
3. To grant permission to **amend condition 23 of the Licence to read: The supply of alcohol on the ground floor and basement of the premises shall at all times only be to persons seated and by waiter/waitress service, save for the areas shown hatched black on the plan. The maximum number of persons in the areas hatched black on the plan shall not exceed 30 persons in total.**
4. To grant permission for **Recorded Music** Monday to Saturday 10:00 to 01:30 hours Sunday 12:00 to 00:30 hours.

Seasonal Variations: From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

5. To grant permission for **the deletion of condition 17 of the Licence.**
6. That the Licence is subject to any relevant mandatory conditions.
7. That the existing conditions on the Licence shall apply in all respects except in so far as they are varied by this Decision.
8. That the varied Licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions consistent with the Operating Schedule

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a metropolitan Police crime prevention

officer. All entry and exit points shall be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times 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 of authorised officer through the preceding 31-day period.

10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
11. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
12. The supply of alcohol at the premises on the first floor shall only be by waiter/waitress to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
13. Waiter/waitress service shall be available at all times on the ground floor and basement for customers seated at tables.
14. All outside tables and chairs shall be rendered unusable by 23.00 each day.
15. There shall be no sale or supply of draught beer.
16. Private entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit shall be permitted at any time.
17. No alcohol to be supplied for consumption anywhere on the premises after 23.00 hours except as an ancillary to food.
18. The maximum number of persons accommodated on the premises at any one time (excluding staff) shall not exceed 300 persons.
19. Before the premises open to the public, the plans as deposited for the new basement area as shown on the plans will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction a variation application may be required.
20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
21. The supply of alcohol on the ground floor and basement of the premises shall at all times only be to persons seated and by waiter/waitress service, save for the areas shown hatched black on the plan. The maximum number of persons in the areas hatched black on the plan shall not exceed 30 persons in total.

22. Late Night refreshment shall be permitted from 23:00 on New Year's Eve until 05:00 on New Year's Day.
23. The hours for sale of alcohol may be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

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

24. The variation of this Premises Licence (22/07519/LIPV) will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this Licence by the Licensing Authority.
25. 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, and
 - (e) no additional sound generating equipment shall be used on the premises with being routed through the sound limiter device.
26. A direct telephone number for the manager of the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
27. 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.
28. 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.
29. No deliveries to the premises shall take place between 21:00 and 07:00 hours on the following day except for deliveries of fruit and vegetable products.

30. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
31. No waste or recyclable materials, including bottles shall be moved, removed from, or placed in the outside areas between 23:00 and 07:00 hours on the following day unless it is during the Council's own hours for collection of waste for the street.
32. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 and 07:00 hours on the following day unless it is during the Council's own hours for collection of waste for the street.

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

**The Licensing Sub-Committee
20 October 2022**

2. LUCORE, 44 BRUTON PLACE, W1J 6PB

This application was Granted under Delegated Authority.

3. MARYLEBONE THEATRE, GROUND FLOOR, 35 PARK ROAD, NW1 6XT

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 3
("The Committee")

Thursday 20 October 2022 – Item 2

Membership: Councillor Concia Albert (Chairman) and Councillor Caroline Sargent.

Officer Support: Legal Adviser: Vivienne Walker
Policy Officer: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Roxanna Haq

Other Parties: Mr Owen Lloyd (Applicant, Theatre Manager), Mr Peter Mayhew (Licensing Agent, representing the Applicant) and Mr Maxwell Koduah (Environmental Health Service)

Application for Variation of a Premises Licence in respect of Marylebone Theatre, Ground Floor, 35 Park Road, London NW1 6XT- 22/07446/LIPV

Full Decision

Premises

Marylebone Theatre
Ground Floor
35 Park Road
London NW1 6XT

Applicant

The Anthroposophical Association

Ward

Regents Park

Cumulative Impact Zone

N/A

Special Consideration Zone

N/A

Additional Activities and Hours applied for

1. To permit the exhibition of films

Monday to Sunday 12.00 to 23.30 (Basement to third floor).

2. To vary the start time for the provision of plays

Monday to Sunday 12:00 to 00:00 (Basement to third floor).

3. To permit the existing licensable activities and closing time to cover the basement to the third floor.

4. To permit the sale of alcohol for consumption on the premises Monday to Sunday 11.30 to 23.00 (Basement to third floor).

5. To remove and add conditions to promote the licensing objectives

6. To amend the current approved plans.

Summary of Application

This is an application for a variation of Premises Licence under the Licensing Act 2003 ("The Act"). The premises operates as a theatre.

There is a resident count of 212.

The Premises are located in the Regents Park Ward but **not** in the Cumulative Impact Zone or Special Consideration Zone.

Representations received

Environmental Health Service (EHS) (Maxwell Koduah)

Three Residents objected to the application (one withdrew on 13 September 2022)

Summary of Objections

- The application for plays, films and sale of alcohol would have the likely effect of causing an increase in Public Nuisance and affect Public Safety. There is an increase in capacity from 264 to 320 (56).
- The music is very loud at events on Sundays.
- Playing music until 00.00 is unacceptable

Policy Position

HRS1

- Applications within the core hours set out below in this policy will generally, be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.

The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.

CCSOS1(A)

- Applications outside the West End Cumulative Zones will generally be granted subject to the application meeting the requirements of policies CD1, PS1, PN1 and CH1 and the hours for licensable activities are within the Council's Core Hours Policy HRS1.
- **Core Hours:** Cinemas, Cultural Venues and Live Sporting Premises
Monday to Sunday: 9am to Midnight.

SUBMISSIONS AND REASONS

Ms Roxanna Haq, Senior Licensing Officer, outlined the application to the Sub-Committee. She advised that representations had been received from the Environmental Health Service and three local residents. She further advised that the Premises were located within the Regents Park Ward but not in the Cumulative Impact Area or Special Consideration Zone.

Mr Peter Mayhew, Licensing Agent, on behalf of the Applicant, outlined the application before the Sub-Committee. He advised that the Premises were an established theatre which had been in operation for many years. He stated that the Applicant had decided earlier this year to change the way the theatre operated to maximise the available space and its revenue. He added that renovations had taken place and now there were scheduled performances going forward which had already been running under Temporary Event Notices (TENs).

Mr Mayhew explained that the Applicant had approached the Licensing Service who had advised them that the current Premises Licence was not fit for purpose as it did not permit the sale of alcohol and the conditions were somewhat dated. The Licensing Service therefore suggested that the Applicant make an application to vary their current Premises Licence to permit the exhibition of films and the sale of alcohol within the hours current permitted on the existing Premises. He added that the variation was made predominately to get the sale of alcohol onto the licence and emphasised that the sale of alcohol was very much ancillary to the other activities in the theatre. He advised that the small bar would only be selling a few glasses of wine and beer to people attending the activities within the theatre.

Mr Mayhew advised the Sub Committee that the Applicant was proposing to add 30 additional conditions to the Premises Licence to make it fit for purpose to sell alcohol and that the majority of the conditions were from the Council's list of model conditions.

Mr Mayhew referred to the three representations against the application and advised the Sub Committee that one of the representations had now been withdrawn. The Licensing Service confirmed that this was correct. Mr Mayhew advised that neither of the representations were really relevant to this variation as they both referred to preventing the extension of the hours of operation for music, recording music and live music and the Applicant was seeking of none of these activities or an extension to the operating hours. He advised that the only change was to the regulated entertainment of sharing of films which would end before the hours for recorded music and live music needed to be licensable activities and included on the

Premises Licence. He added that the theatre was also going to start showing their films earlier in the day on a Sunday to benefit residents.

Mr Mayhew referred to the representation received from the Environmental Health Service (EHS). He advised that the Applicant had met with the Environmental Health Officer and the District Surveyor and had agreed a set of proposed conditions to be added to the Premises Licence and the deletion of the existing conditions from the current operating schedule. He outlined that during the meeting there had been discussion regarding the rules of management and that he could now confirm that an up-to-date rules of management document had been produced which was much more practical for the Applicant and the Responsible Authorities. He added that the document had been sent to the Licensing Authority and the Environmental Health Service and that the Environmental Health Service were content with the new Rules of Management document. He requested to circulate the document to the Sub Committee, however, the Sub Committee decided not to accept it as the two objectors were not in attendance at the meeting. Mr Mayhew then outlined the extensive proposed conditions that had been agreed between the Applicant and the Environmental Health Service and highlighted how the Applicant would be operating from the perspective of public safety.

Mr Maxwell Koduah, representing the Environmental Health Service (EHS), advised that EHS had maintained their representation to assist the Sub Committee if they had any questions regarding the proposed conditions that had been agreed between the EHS and the Applicant. He confirmed that he did not have any concerns with the application and that there had been no noise complaints made against the theatre. Mr Koduah emphasised that as this was an application for a variation to the Premises Licence and therefore the conditions attached to the Premises Licence needed to be appropriate and proportionate and ensure that the four licensing objectives were promoted. Mr Koduah advised that he had seen a copy of the Premises dispersal policy and he was content with it.

In response to questions from the Sub Committee, Mr Mayhew explained that it was highly unlikely that the Premises would ever be at full capacity at any one time. He advised that the capacity had been increased due to the theatre wishing to use a couple of additional rooms located upstairs for conferences, business meetings and educational programmes. He confirmed that the District Surveyor was very content with the new capacity figures. He stated that the theatre would not be operating after 11pm and therefore it would not cause any late-night nuisance in the area. He advised that there was a small smoking area located at the side of the theatre, however, people usually left the theatre straight after the performance and did not stop to smoke. He confirmed that Challenge 25 would be in operation at the bar and that the bar area was only for use by patrons of the theatre. He advised that the theatre programme of events was set well in advance and that all events were risk assessed and if there was a necessity for SIAs they would be hired for that particular event. He stated that no complaints had been received during the 20 days of operating under the Temporary Event Notices. He confirmed that the Applicant was very happy to engage with the local residents to resolve any issues. He outlined that the duty manager was always located at the box office except in an emergency and the telephone would always be answered and the voicemail system regularly reviewed during the evening.

Mr Mayhew stated that the theatre could monitor capacity via the box office and the selling of theatre tickets, and all events would be prebooked so the Applicant would always know what type of event was being held in the rooms and the numbers attending. He advised that the bar area would not sell spirits or cocktails and that the sale of a few glasses of wine and beer were complimenting the other activities in the theatre. He outlined how the theatre disposed of their waste and glass bottles and referred to the disposal of waste conditions that would be attached to the Premises Licence.

Ms Walker, Legal Advisor, then discussed the numerous conditions with the Sub Committee, Mr Mayhew and Mr Drayan and between them agreed amendments, deletions and additions to the conditions that would be attached to the Premises Licence if the Committee were minded to grant the application. Discussions included recycling of glass bottles, the timings of the waste collection, providing a telephone number of the duty manager and smoking outside of the Premises.

Conclusion

The Sub-Committee realises that it has a duty to consider each application on its individual merits and took into account all the committee papers, submissions made by the Applicant and the oral evidence given by all parties during the hearing in its determination of the matter.

The Sub-Committee in its determination noted that the Premises had been operating as a theatre for many years without complaint and the Environmental Health Service did not have any specific issues with the Premises when it came to public nuisance and crime and disorder. The Environmental Health Officer stated that EHS had maintained their objection to assist the Sub Committee with the extensive proposed conditions to be added to the Premises Licence. The Sub Committee further noted that there was no change in respect of the permitted hours and the additional conditions imposed on the Premises Licence would alleviate any residential concerns.

The Sub-Committee imposed on the Premises Licence Model Condition 24 which requires that a telephone number be made available for the Premises so that local residents and businesses in the vicinity can make contact should any problems arise.

In reaching its decision the Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would not undermine the licensing objectives.

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

1. To grant permission for the **exhibition of films** Monday to Sunday 12:00 to 23:30 hours (Basement to Third Floor).

2. To grant permission to **vary the start time for the provision of plays** Monday to Sunday 12:00 to 00:00 (Basement to Third Floor).
3. To grant permission for **the existing licensable activities and closing time to cover the basement to the third floor.**
4. To grant permission for **the sale of alcohol for consumption on the premises** Monday to Sunday 11:30 to 23:00 hours (Basement to Third Floor).
5. To grant permission to **remove and add conditions to promote the licensing objectives.**
6. To grant permission to **replace the current approved plans with the plans submitted in support of the application.**
7. That the Licence is subject to any relevant mandatory conditions.
8. That the existing conditions on the Licence shall apply in all respects except in so far as they are varied by this Decision.

Conditions consistent with the operating schedule

11. Appropriate induction training shall be undertaken with all relevant staff who do not hold a Personal Licence to cover appropriate subjects for their role including:
 - a. The responsible sale of alcohol.
 - b. The prevention of under-age sales of alcohol, the Challenge 25 policy and in checking and authenticating accepted forms of identification.
 - c. The responsibility to refuse the sale of alcohol to any person who is drunk.
 - d. Fire safety and emergency evacuation proceduresAll training shall be recorded and training records made available on request to an authorised officer of the Licensing Authority or the Police.
12. Recording Practices - An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - a. all crimes reported to the venue
 - b. all ejections of patrons
 - c. any complaints received concerning any of the Licensing Objectives
 - d. any incidents of disorder
 - e. all seizures of drugs or offensive weapons
 - f. any faults in the CCTV system or searching equipment or scanning equipment.
13. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored

for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.

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 Zero Tolerance Policy towards the use, possession and supply of illegal drugs shall be adopted and enforced.
16. The Premises Licence Holder shall risk assess any event taking place at the premises which involves Licensable Activities, to identify the requirements for door supervisors:
 - a. Where a requirement for door supervisor is identified a minimum of one SIA Registered Door Supervisor per 100 customers or part thereof shall be employed.
 - b. Where a requirement for door supervisor is identified, a register of door supervisors employed shall be maintained. This register shall record their name, SIA Door Supervisor Licence number, contact details and be signed by the Door Supervisor as well as an authorised member of the premises management team.
17. Fire Safety - A fire risk assessment shall be conducted and regularly reviewed. In line with the Fire Risk Assessment:
 - a. An integrated fire detection and alarm system is installed, checked, regularly tested and maintained by a competent person.
 - b. Fire extinguishers are installed in accordance with the recommendations of the fire risk assessment.
 - c. Emergency lighting is installed in accordance with the recommendations of the fire risk assessment.
 - d. All emergency exits are marked on the premises plan.
18. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed 320 persons.
19. Adequate and suitable first aid boxes shall be maintained and signage to identify their location and the location of first aiders shall be displayed.
20. 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.
21. 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.

22. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
23. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
24. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
25. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
26. 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.
27. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times,
28. No waste or recyclable materials including bottles shall be:
 - a. moved, removed or placed in outside areas between 22:00 hours and 06:30 hours on the following day.
 - b. No waste or recyclable materials shall be emptied from one receptacle into another in any external area of the premises between 22:00 hours and 09:00 hours on any day.
29. 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.
30. 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.
31. Loudspeakers shall not be located in the entrance and exit of the premises or outside the building.
32. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by suitably trained member of staff, so as to ensure that there is no public nuisance or obstruction to the public highway.
33. Smoking Area - An ashtray shall be affixed to the wall outside and staff shall be trained to clear any litter generated by smokers on a regular basis.
34. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.

35. Patrons permitted to temporarily leave and then re-enter the premises e.g., to smoke or make a phone call shall not be permitted to take any alcohol with them.
36. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
37. 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.
38. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
39. 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 are open.
40. All external doors and those windows in rooms where any regulated entertainment or amplified music is taking place, 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.
41. No collections of waste or recycling materials (including bottles) from the premises shall take place between 22.00 and 07.00 hours on the following day.
42. No deliveries to the premises shall take place between 22.00 and 08.00 hours on the following day.
43. Non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
44. A direct telephone number for the duty manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity upon request.

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

**The Licensing Sub-Committee
20 October 2022**

The Meeting ended at 2.15 pm

CHAIRMAN: _____

DATE _____