



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 12th January, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Aziz Toki (Chair) and Louise Hyams

1. MEMBERSHIP

1.1 It was noted that there were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. LA SERRE KNIGHTSBRIDGE, 2-14 BROMPTON ROAD, SW1X 7QN

This application was Granted under Delegated Authority.

2. CAFE SOCIETY, RIVERWALK HOUSE, 157-161 MILLBANK SW1P 4FA

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

Thursday 12 January 2023 – Item 1

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Membership: Councillor Aziz Toki (Chair) and Councillor Louise Hyams

Officer Support: Legal Adviser: Vivienne Walker
Policy Officer: Kerry Simpkin
Committee Officer: Georgina Wills
Presenting Officer: Jessica Donovan

Present: Ms Prabpreet Panesar, Agent, Glf Catering Limited
Mr Giuseppe D'Amore, Applicant, Glf Catering Limited
Sally Fabbricatore, Environmental Health Service

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**Application for a New Premises Licence in respect of Café Society Riverwalk
House 161 Millbank London SW1P 4FA – 22/08784/LIPN**

FULL DECISION

Premises

Café Society Riverwalk
House 157-161 Millbank
SW1P 4FA

Applicant

Glf Catering Limited

Ward

Vincent Square

Cumulative Impact Zone

None

Special Consideration Zone

None

Licensable Activities and Hours applied for

Opening Hours of the Premises:

Monday to Sunday 07.00 to 22:30 hours

Sale by Retail of Alcohol (On and Off Sales)

Monday to Sunday 10.00 to 22.00 hours

Representations Received

- Environmental Health Service (Sally Fabbriatore)
- Metropolitan Police Service (PC Dave Morgan) **Withdrawn 18 October 2022**
- One resident

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Summary of Objections

- Environmental Health Service stated the provision of the supply of alcohol may cause an increase in Public Nuisance in the area and may also impact on Public Safety.
- Local Resident stated that the granting of the application would increase anti-social behaviour and Public Nuisance.

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Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 (“The Act”). The Premises propose to operate as a coffee shop comprising of a seating area, kitchen area, toilet and a store. The outside area in front of the premises is also included as part of the premises for licensable activities to take place (in the form of waiter/waitress service to customers in that area). There is a resident count of 44.

Policy Considerations

HRS1

Applications within the core hours set out 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.

SHP1

Applications for a shop outside 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.

DECISION AND REASONS

Ms Jessica Donovan, Senior Licensing Officer summarised the application set out in the report before the Sub-Committee. She explained that the application was for a New Premises Licence. There was representation received from the Metropolitan Police Service, Environmental Health Service, and a resident. The Metropolitan Police withdrew their representation following agreement of conditions with the Applicant on 18 October 2022. The Premises are situated in the Vincent Square Ward but not located in a Cumulative Impact Zone or Special Consideration Zone.

Ms Prabpreet Panesar, Agent, Gf Catering Limited advised the Sub-Committee that the main objections received in relation to the application was concerns regarding urination, smoking and noise nuisance in the locality. Ms Panesar advised that the Applicant had held the Premises License since 2019 and there was no history of complaints being raised in relation to the above-mentioned concerns. She advised that the building had CCTV all around the Premises and a 24-hour concierge service. The Sub-Committee was informed that individuals would be discouraged from partaking in any anti-social behaviour such as urinating near the Premises. She advised that the concierge service was supplied by a highly reputable company and that all complaints would be dealt with expeditiously by the Service. The Sub-Committee was advised that there were fully functioning toilets within the Premises.

Ms Panesar advised that concerns had been raised following the application to renew the Licence. She informed the Sub-Committee that the operating hours of the Premises were seasonal and during the winter months operated between 07:00 to 17:00 hours and summer periods from 07:00 to 20:00 hours. The Sub-Committee was advised that the lease permitted the Premises to have external seating and required that the tables and chairs are brought inside at the end of trade. Ms Panesar advised that the objector was located 150 miles away from the Premises and that there was a public house nearby and that nuisances were likely to emanate from this establishment.

In response to questions from the Sub-Committee, Ms Panesar advised that the previous Licence had expired and informed that Mr Giuseppe D'Amore, the Applicant, Gif Catering Limited was the sub-lease holder. Mr D'Amore advised that the alcohol menu was limited and that the Premises were not a party destination. He advised that the Model Condition 24 which required for the Premises contact details to be made available would be accepted and informed that Café Society's telephone number was on the Website. Mr D'Amore advised that the alcohol supplied would be ancillary to a meal and will be consumed within the Premises boundary. Most sales are largely for coffee and Italian cuisine which included pastries. Following further questions, Mr D'Amore advised that the Premises had their own CCTV in addition to those which were installed around the building by the Freeholder.

Sally Fabbriatore, representing Environmental Health Service advised that representations had been maintained due to objections raised by a resident and to assist the Sub-Committee. Ms Fabbriatore informed that Environmental Health Service was satisfied with the application in relation to meeting the Licensing objectives of the Prevention of Public Nuisance and Public Safety. She confirmed that there were no structural changes or changes to the Premises' operational model.

Ms Fabbriatore confirmed that external seating needed to be rendered by 22:00 hours and that use of this area was seasonal and therefore no conditions had been proposed for its usage. There is no history of complaints for the Premises regarding public urination and noise nuisance. The Sub-Committee was advised that the Metropolitan Police had proposed a condition which required for alcohol to be ancillary to food and this had been accepted by the Applicant. Ms Fabbriatore advised that this condition was more restrictive. She stated that the conditions proposed by Environmental Health Service had been accepted and those agreed with the Metropolitan Police were satisfactory and would alleviate any concerns.

Conclusion

The Sub-Committee noted that they have a duty to determine each application on its individual merits. In reaching their decision, the Sub-Committee considered all the committee papers, supplementary 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 noted that no noise complaints had been made against the Premises. Whilst a local resident had expressed concerns about the noise that may be caused by the granting of the licence, the Committee concluded that the lack of

previous complaints alongside Environmental Health Service's considering that the proposed conditions would alleviate residents' concerns and would ensure that the licensing objectives were promoted.

The Sub-Committee placed weight on the fact that the Applicant had agreed to the conditions proposed by the Metropolitan Police Service and Environmental Health Service, noting that the Police representation had been withdrawn. The Sub-Committee noted that the Applicant was a good operator, and the locality was well managed.

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

1. To grant permission for **Sale by Retail of Alcohol (On and Off Sales)** Monday to Sunday 10:00 to 22:00 hours.
2. To grant permission for the **Opening Hours for the Premises** Monday to Sunday 07:00 to 22:30 hours.
3. That the Licence is subject to any relevant mandatory conditions.
4. 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 the agreement of the Applicant

9. All staff engaged in the sale of alcohol will be trained in respect of their legal and social responsibility when doing so. They will also be trained in the contents of the premises licence including any conditions contained therein.
10. A record of all staff training shall be maintained at the premises and will be produced for inspection by the Police or Authorised Officers of the Licensing Authority upon request.
11. 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 entire 31-day period.
12. 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.

13. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
14. Sales of alcohol for consumption off the premises shall only be supplied to customers who have been dining at the premises.
15. 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.
16. The supply of alcohol shall be by waiter or waitress service only.
17. Staff shall be trained in respect of the fire risk assessment and health and safety risk assessment. All findings from these policies shall be properly implemented at the premises.
18. First aid facilities shall be maintained at the premises.
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. All outside tables and chairs shall be rendered unusable by 22.00 hours each day.
22. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
23. 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.
24. The number of seated persons inside the premises (excluding staff) shall not exceed 23 persons.
25. Alcohol shall only be supplied for consumption on the premises to persons who are seated.
26. There shall be no self service of alcohol.
27. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.

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. The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.
For the purpose of this condition a 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.
30. 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.
31. 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.
32. 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, searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
33. 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 glass containers with them.
34. A direct telephone number for the 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.

The date for appealing the decision will not start until the Full Reasoned Decision has been sent to the Parties

**Licensing Sub-Committee
12 January 2023**

3. LATE NIGHT FOOD HARROW ROAD, 332 HARROW ROAD, W9 2HP
WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.1
("The Committee")

Thursday 12 January 2023 – Item 2

Membership: Councillor Aziz Toki (Chair) and Councillor Louise Hyams

Officer Support: Legal Adviser: Vivienne Walker
Policy Officer: Kerry Simpkin
Committee Officer: Georgina Wills
Presenting Officer: Jessica Donovan

Present: Mr Shadov Zomorodian, Applicant, Late Night Food Harrow Road Limited
Kudzaishe Mondhlani, Environmental Health Service and
Sally Fabbriatore, Environmental Health Service

Application for a New Premises Licence in respect of Late Night Food Harrow Road 332 Harrow Road London W9 2HP – 22/09433/LIPN

FULL DECISION

Premises

Late Night Food Harrow Road
332 Harrow Road
London
W9 2HP

Applicant

Late Night Food Harrow Road Limited

Ward

Westbourne

Cumulative Impact Zone

None

Special Consideration Zone

None

Licensable Activities and Hours applied for

Opening Hours of the Premises:

Monday to Sunday: 07:00 to 01:00 hours

Seasonal Variations: None

Sale by Retail of Alcohol (Off Sales)

Monday to Saturday: 08:00 to 23:00 hours.

Sunday: 09:00 to 22:30 hours

Seasonal Variations: None

Representations Received

- Environmental Health Service (Kudzaishe Mondhlani)
- Metropolitan Police Service (PC Steve Muldoon) **Withdrawn 30 November 2022**
- Three residents

Summary of Objections

The Environmental Health Service expressed concerns on the grounds of the Prevention of Public Nuisance and Public Safety. Local residents objected on the basis of the Prevention of Public Nuisance, Public Safety and the Prevention of Crime and Disorder. After the Applicant agreed to reduce the hours for the sale of alcohol and the conditions proposed by the Metropolitan Police Service and Environmental Health Service, two residents withdrew their representations. The Metropolitan Police Service withdrew their representations following an agreement of conditions with the Applicant.

Summary of Application

This is an application for a new premises licence to operate as an Off Licence. There is a resident count of 304.

Policy Considerations

HRS1

Applications within the core hours set out 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.

SHP1

Applications for a shop outside 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.

DECISION AND REASONS

Ms Jessica Donovan, Senior Licensing Officer summarised the application set out in the report before the Sub-Committee. She explained that the application was for a New Premises Licence. Ms Donovan advised that during the consultation the applicant reduced the hours for Retail by Sale of Alcohol from Monday to Sunday 07:00 to 01:00 to Monday to Saturday: 08:00 to 23:00. Sunday: 09:00 to 22.30 (Off Premises). The Metropolitan Police withdrew their representation following the agreement of conditions with the Applicant. There were additional representations received and these were circulated to all interested parties. The Premises are situated in the Westbourne Ward and not located in a Cumulative Impact Zone.

Mr Shadov Zomorodian, Applicant, on behalf of Late-Night Food Harrow Road Limited advised the Sub-Committee that Late Night Food was a family business and that all conditions proposed by the Responsible Authorities would be complied with. Mr Zomorodian informed the Sub-Committee that he had altered the Premises' operational hours as advised by Environmental Health Service. He advised that he wished to create 'a safe environment' and 'help the community'. Mr Zomorodian stated that he would continue to work with the Council and residents to ensure that any issues raised are quickly resolved. The Sub-Committee were advised that the sale of alcohol was an integral part of the business model, and it was aimed for Late Night Food Harrow Road Limited to expand and have additional stores in the Borough.

In response to questions from the Sub-Committee, Mr Zomorodian advised that it was sought for alcohol to be included in the Premises offer and this was to ensure that a wide range of produce are available for patrons. The Sub-Committee were informed that the Premises were a convenience store, for patrons to be able to obtain all their grocery items. Mr Zomorodian advised that Temporary Event Notices will be applied for during events such as the Notting Hill Carnival and New Year's Day. There will be signs displayed on the Premises which informs what hours alcohol is sold. The Sub-Committee were advised that there would be no seating available in the Premises and that the forecourt would not be used. In response to question from the Policy Officer, Mr Zomorodian advised that the Premises had not started to trade. Following further questions from the Sub-Committee, Mr Zomorodian informed that he was aware that the area had a concentration of vulnerable persons and advised that no sales of alcohol would be made to patrons that are under the influence of substances.

Kudzaishe Mondhlani on behalf of Environmental Health Service, advised that representations had been made as the original hours sought for the sale of alcohol were beyond core hours. Ms Mondhlani advised the Sub-Committee that the Applicant had consulted with the Service regarding the conditions and reducing their operations to core hours. The Sub-Committee were advised that the Premises had been visited twice and that all conditions proposed had been agreed by the Applicant also, for operations to be within core hours. She advised that there were three objections received by residents and that two were withdrawn following the Applicant agreeing to the conditions and the reduction in their operational hours. Ms Mondhlani confirmed that there is no previous history regarding the Premises.

In response to questions from the Sub-Committee, Ms Mondhlani advised that the representations from Environmental Health Service had been maintained to assist the Sub-Committee only. Ms Mondhlani confirmed that Condition 8 should read that both 'customers' and 'staff' will not have access to stored alcohol outside the hours of authorised sales. Ms Mondhlani advised the Sub-Committee that she was satisfied with the Application and confirmed that Environmental Health Service representations had been withdrawn.

Conclusion

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

The Sub-Committee noted that the Applicant had agreed to the conditions proposed by the Metropolitan Police Service and Environmental Health Service. The Applicant had reduced their operational hours to core hours.

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

1. To grant permission for **Sale by Retail of Alcohol (Off Sales)** Monday to Saturday 08:00 to 23:00 hours Sunday 09:00 to 22:30 hours.
2. To grant permission for the **Opening Hours for the Premises** Monday to Sunday 07:00 to 01:00 hours.
3. That the Licence is subject to any relevant mandatory conditions.
4. 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 the agreement of the Applicant

6. Licensable activities shall be ancillary to the premises being used primarily as a convenience store.
7. There shall be no self-selection of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
8. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
9. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
10. 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.
11. The external door shall be kept closed after 21:00 hours except for the immediate access and egress of persons.
12. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
13. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
14. 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.
15. No deliveries of alcohol to the premises shall take place between 23.00 and 08.00 hours on the following day.
16. No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.
17. 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 and will include the external area immediately outside the premises entrance. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or Authorised Officer throughout the entire 31-day period.

18. 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.
19. 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.
20. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
21. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
22. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles and cans.
23. No more than (15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
24. A Challenge 21 or 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.
25. 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) any faults in the CCTV system, searching equipment or scanning equipment
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service

The date for appealing the decision will not start until the Full Reasoned Decision has been sent to the Parties.

Licensing Sub-Committee
12 January 2023

4. GELUPO, 7 ARCHER STREET, W1D 7AU

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

Thursday 12 January 202- Item 3

Membership: Councillor Aziz Toki (Chair) and Councillor Louise Hyams

Officer Support: Legal Adviser: Vivienne Walker
Policy Officer: Kerry Simpkin
Committee Officer: Georgina Wills
Presenting Officer: Jessica Donovan

Present: Thomas O'Maoileoin, Thomas and Thomas, Agent, BDL
Restaurant Limited
Bruce Kamp, Applicant, BDL Restaurant Limited
Richard Brown, Westminster Citizen Advice Bureau, representing
Marina Tempia of Soho Society
Marina Tempia of Soho Society

Application for Variation of Premises Licence in respect of Gelupo 7 Archer Street London W1D 7AU – 22/09398/LIPV

FULL DECISION

Premises

Gelupo 7 Archer Street
London
W1D 7AU

Applicant

BDL Restaurant Limited

Cumulative Impact Zone

West End

Ward

West End

Special Consideration Zone

N/A

The variations sought were as follows:

- To add the retail sale of alcohol for consumption on the premises.
- To amend the permitted hours for Late Night Refreshment to core hours.
- To amend current condition 8 as set out below.

Conditions proposed to be varied

Current

Condition 8.

A proof of age scheme, such as Challenge 21, shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.

To

Condition 8.

A proof of age scheme, such as Challenge 25, shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.

Licensable Activities and Hours applied for

Opening Hours of the Premises:

Current

Monday to Wednesday: 11:00 to 23:00
Thursday to Saturday: 11:00 to 01:00
Sunday: 11:00 to 23:00.

To

Monday to Thursday: 10:00 to 23:30
Friday to Saturday: 10:00 to 00:00
Sunday: 10:00 to 22:30.

Sale by Retail of Alcohol (On Sales)

Current

Monday to Sunday: N/A

To

Monday to Thursday: 10:00 to 23:30

Friday to Saturday: 10:00 to 00:00

Sunday: 11:00 to 22:30

Late Night Refreshments:

Current

Monday to Wednesday: N/A

Thursday to Saturday: 23:00 to 01:00

To

Monday to Thursday: 23:00 to 23:30

Friday to Saturday: 23:00 to 00:00

Representations Received

- The Soho Society

Summary of Objections

The Soho Society had maintained representation on the grounds of the prevention of crime and disorder, prevention of public nuisance and cumulative impact in the West End Cumulative Impact Zone.

Summary of Application

This is an application for a variation of Premises Licence. The premises operate as an ice cream parlour and are situated within the West End Cumulative Impact Zone but not the Special Consideration Zone. The Premises have had the benefit of a Premises Licence (22/04036/LIPDPS) since 2010. There is a resident count of 221.

Policy Considerations

CIP1

A. 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 Zone 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

Applications within the core hours set out 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.

SHP1

Applications for a shop inside the West End Cumulative Impact Zone will be considered on their own merits and 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 having demonstrated that they will not add to cumulative Impact within the Cumulative Impact Zone.

DECISION AND REASONS

Ms Jessica Donovan, Senior Licensing Officer summarised the application set out in the report before the Sub-Committee. She explained that the application was for a variation of an existing Premises Licence. The Applicant sought to add the sale of alcohol for consumption on the premises, amend the permitted hours for Late Night Refreshment to core hours and amend Condition 8. The Soho Society had made representation. There were additional representations received by the Soho Society and these were circulated to all parties. The Premises are situated in the West End Ward and in the West End Cumulative Impact Zone but not the Special Consideration Zone.

Mr Thomas O'Maoileoin on behalf of BDL Restaurant Limited advised the Sub-Committee that the Premises were an Ice Cream Parlour and had been in trade since 2010. The Sub-Committee were informed that Gelupo was one of the oldest establishments operating in Archer Street and was trading before regeneration began in the area. The Applicant also operates a Restaurant in the same vicinity for 15 years and was fully invested in the Area. He advised that the Applicant sought to increase their offer, and this included the sale of alcohol. The alcohol menu would be limited and include beverages such as Prosecco and Negroni. He advised that the sale of alcohol would be ancillary to the main function of the Premises, namely an Italian Ice Cream Parlour.

Mr O'Maoileoin advised that the Application met all Policy requirements and was exception to Policy. He informed the Sub-Committee that the Premises' operational hours during the week had been reduced to core hours. He stated that the Applicant

had liaised with the Soho Society regarding the Application. He stated that the Application fell under Policy SHP1 and reminded that its primary function was the sale of goods and therefore it should be classified as a shop. The Planning Application which had been granted also reflects this and the type of business rates which is currently paid. Mr O'Maoileoin advised that the Premises will remain as a shop and would not transfer into a bar or fast-food premises. He advised that the licence was limited and would not undermine any of the Policies or four Licensing Objectives. He highlighted that no representations had been submitted by the Responsible Authorities.

The Policy Officer informed the Sub-Committee that Policy SHP1 (Shop Policy) applied, and that the Premises also fell into the definition of the FFP1 (Fast Food Policy). The Sub-Committee were informed that ice cream could be consumed within and outside the Premises. The Policy Officer advised that the Application should be considered under FFP1 and was like other fast-food restaurants and highlighted that produce on sale were consumed in the same manner. The Sub-Committee were reminded that there was no presumption to refuse applications that fell under FFP1 which was made to vary licence hours to core hours. The Policy Officer reminded the Sub-Committee that the Applicant was required to demonstrate that the Premises would not add to the cumulative impact and would promote all four of the Licensing Objectives. The Sub-Committee were informed that the Premises having a limited alcohol menu would not suffice. Mr O'Maoileoin informed the Sub-Committee that the Applicant had reduced the capacity to 15 and that the Premises were currently trading and had been in operation since 2010.

In response to questions from the Sub-Committee, Mr O'Maoileoin advised that the operational model had been slightly changed in that the Premises would have a limited alcohol offer and that the main function will continue to be an Ice cream parlour. He informed the Sub-Committee that the Premises were in a residential area and no objections had been received from residents. Mr O'Maoileoin commented that The Soho Society had acknowledged that the Applicant was a good operator and was one of the first operators in the locality before the vicinity was regenerated. He advised that the Licence will be specific to the Applicant and enable the Premises to have a similar offer to several Patisseries based in Soho. The Sub-Committee were advised that most patrons would either be residents or tourists. Mr O'Maoileoin commented that he was of a view that FFP1 was designed to tackle issues associated with hot food outlets, such as littering and Anti-Social Behaviour. He advised that an Ice cream parlour attracted a different type of customers. The Sub-Committee were informed that if the Premises were considered under FFP1, there would be no change in its style of operation as ice cream would continue to be consumed both within and outside the Premises.

In response to questions from the Sub-Committee, Bruce Kamp, Applicant, BDL Restaurant Limited advised that the Premises were to be refurbished and part of the revised business model was increasing the offer to include a limited sale of alcohol. Mr Kamp advised that alcohol would be served to seated persons by waiter or waitress service. Mr Kamp confirmed that he was also the proprietor of the restaurant which was located at 12 Archer Street which was opposite the Premises. Following further questions from the Sub-Committee, Mr Kamp advised that a condition which required for a signage that informs patrons that they could use public conveniences at the main restaurant would be agreed.

Richard Brown, Westminster Citizen Advice Bureau, representing Marina Tempia of Soho Society advised that representation had been maintained to give views on the Policy Positions of the Application. Mr Brown advised that the Application did not fully meet PB1 (Public House) or FFP1 (Fast Food Policy). The Sub-Committee were informed that there were no concerns with the operational model of the Applicant. He highlighted that the application did not restrict alcohol to a meal and reminded that the Premises are in the Cumulative Impact Zone and there were concerns regarding later trading hours. The Sub-Committee were informed that Anti-Social Behaviour increased after 21:00 hours and that these nuisances began before this time frame. Mr Brown stated that the retail sale of alcohol for consumption on the premises was a new addition to the licence and hours applied for this licensable activity was beyond 21:00 hours.

Mr Brown informed that there was an increase in late night refreshment between Thursday and Saturday. The Sub-Committee were informed that the Soho District had a high level of crime in general and that the application would add an additional licence premises in the locality. He advised that it was welcomed that the capacity would be reduced to 15 persons and noted that the Licence would be personal to the Applicant. The Sub-Committee were reminded that they had to be satisfied that the application would not add to the cumulative impact and informed that alcohol not being ancillary to table meals would have this effect.

Marina Tempia of The Soho Society advised the Sub-Committee that there were other establishments which had been operating in the locality before the Premises opened in 2010. Ms Tempia stated that Great Windmill Street had previous issues with Anti-Social Behaviour, and illicit activities and these concerns were not as profound in Archer Street. She advised that any additional licenced premises would have an impact on the licensing objectives and cumulative impact. The Sub-Committee were advised that since 2021 there had been over 18 new alcohol licence being granted. This included four new premises licence which increased the number of individuals in the locality by 837. In 2022, 12 new licenced premises were granted, and this increased the capacity in the locality by 1420. Ms Tempia advised that there had been a constant increase in the number of licensable premises despite the cumulative impact zone policy being in place. Ms Tempia advised that robberies, assaults and sexual assaults crime statistics in the locality were at higher rate than the pre-covid figures. She informed the Sub-Committee that Applicants should only apply for hours which they wish to operate and highlighted that the Premises are only open at stated hours and there were concerns that the hours would be altered. In response to questions from the Sub-Committee, Ms Tempia advised that Anti-Social Behaviour started to increase from 18:00 hours onwards and that reduction in hours was preferred.

The Sub-Committee noted that the Premises' operational hours were seasonal and are reduced during the winter. This included 00:00 in the summer on certain days and 22:00hrs in the winter. In response to questions from the Sub-Committee, Mr Kamp advised that the menu was to be reviewed and that the main offer would continue to be Ice Cream. Following questions from the Legal Officer, Mr O'Maoileoin confirmed that a condition which required for the sale of alcohol to be ancillary to food would be accepted.

Conclusion

The Committee has a duty to consider the 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 noted that the Applicant had agreed to several conditions which included that the sale of alcohol will be ancillary to food and there be signage displayed which informs patrons that they could use public conveniences at 12 Archer Street. The Sub-Committee noted that the Premises Licence would be personal to BDL Restaurant Limited, and the main function of the establishment would be an Ice Cream Parlour. The Applicant was noted as being a good operator. It was also noted that there were no representations by the Responsible Authorities.

Accordingly, the Sub-Committee decided that the Applicant had provided valid reasons as to why the granting of the application would not add to negative cumulative impact in the Cumulative Impact Zone and thus promoting the licensing objectives.

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

1. To grant permission for the sale of alcohol for consumption on the premises.
2. To grant permission to amend the permitted hours for Late Night Refreshment core hours.
3. To grant permission to amend condition 8 of the current Premises Licence in the terms specified below.
4. To grant permission to add conditions in the terms specified below.
5. That the Licence is subject to any relevant mandatory conditions.
6. That the existing conditions on the Licence shall apply in all respects except in so far as they are varied by this Decision.
7. That the varied Licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions on the Current Licence

6. Off sales of alcohol will not be permitted after 23:00 hours Monday to Saturday and 22:30 hours on Sunday.
7. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
8. A proof of age scheme, such as Challenge 25, shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises 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. Recordings shall be made available immediately upon the request of Police or Authorised Officer throughout the preceding 31-day period.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show the Police recent data or footage with the absolute minimum of delay when requested.
11. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
12. There shall be no self service of alcohol at the premises.
13. No more than 10% of the sales area to be used at any one time for the sale, exposure for sale, or display of alcohol.
14. A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log 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.
15. 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 incidents of disorder
 - (d) any faults in the CCTV system or searching equipment or scanning equipment.

16. There shall be a minimum of two employees present on the premises during the hours when licensable activities take place.
17. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
18. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
19. Alcohol sales shall be limited to Italian beers, wines and spirits only.
20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
21. No super-strength beer, lagers or ciders of 5.5 % ABV (alcohol by volume) or above shall be sold at the premises.
22. There shall be no take-away of hot food or hot drink after 23.00 hours.

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

23. The hours for on-sales shall be until 23.30 hours Monday to Thursday; midnight Friday to Saturday and 22.30 hours Sunday.
24. The sale of alcohol on the premises shall at all times be ancillary to the main function of the premises as a gelato/ ice cream parlour.
25. The premises shall only operate as Gelupo and this licence shall be personal to BDL Restaurant Limited.
26. 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.
27. The supply of alcohol on the premises shall be by waiter or waitress service only to persons seated.
28. The number of persons seated in the premises at any one time shall not exceed 30 persons excluding staff.
29. No deliveries to the premises shall take place between 23.00 hours and 08.00 hours.
30. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours.

31. The sale of alcohol for consumption on the premises shall be ancillary to food.
32. Notice shall be displayed on the premises advising customers how they can access WC facilities.

The date for appealing the decision will not start until the Full Reasoned Decision has been sent to the Parties.

**The Licensing Sub-Committee
12 January 2023**

The Meeting ended at 1.00 pm