



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 4th May, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Robert Eagleton (Chair), Angela Piddock and Caroline Sargent

1. MEMBERSHIP

1.1 It was noted that there were no Membership changes to the Sub Committee.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. AMICI, BASEMENT, 187 WARDOUR STREET, W1F 8ZB

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

Thursday 4th May 2023

Membership: Councillor Robert Eagleton (Chair)
Councillor Angela Piddock and Councillor Caroline Sargent

Officer Support:	Legal Adviser:	Vivienne Walker
	Policy Officer:	Daisy Gadd
	Committee Officers:	Katherine Stagg / Georgina Wills
	Presenting Officer:	Kevin Jackaman

Other Parties: Ms Lana Tricker (LT Law) on behalf of Caprice London Ltd (the Applicant), Mr Walid Salem (Operations Manager) on behalf of Caprice London Ltd, Karyn Abbott (The Licensing Authority), Maxwell Koduah (Environmental Health), Mr Tony Miah (City Inspectorate), PC Tom Stuart (Metropolitan Police Service),

Richard Brown (Legal Representative, Soho Society), Marina Tempia (Soho Society) and Alex Phillips (Caprice London Ltd).

Application for Variation of Premises Licence in respect of Amici Basement
187 Wardour Street London W1F 8ZB – 23/00460/LIPV

Full Decision

Premises

AMICI
Basement
187 Wardour Street
London W1F 8ZB

Applicant

Caprice London Limited

Ward

West End

Cumulative Impact Area

West End Cumulative Impact Zone

**Licensable Activities and Hours applied for
Conditions proposed to be varied.**

Current

Condition 12

The venue 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 will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the venue is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.

To

Condition 12

12 (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises 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.

12 (b) A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

Current

Condition 25

“The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 95 persons.”

To

Condition 25

The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 70 persons.”

Conditions proposed to be added

- After 23.30 Thurs and midnight Fri and Sat the capacity of the premises shall not exceed 40 persons (excluding staff)
- After 23.30 Thurs and midnight Fri and Sat alcohol may only be sold for consumption by members of a private club and their bona fide guests (not exceeding (4) guests per member). No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission.
- A list of the names and addresses of members of the Club shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guests introduced by members. Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the Council.
- 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.
- 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.
- 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.

There will be no change to permissions Sunday to Wednesday and no change to the restaurant conditions.

Hours Premises are Open to the Public

Current

Monday to Thursday 11:00 to 00:00 hours

Friday to Saturday 11:00 to 00:30 hours

Sunday 12:00 to 23:00 hours

To

Monday to Wednesday 11:00 to 00:00 hours

Thursday to Saturday 11:00 to 02:15 hours

Sunday 12:00 to 23:00 hours

Sale by Retail of Alcohol

Current

Monday to Thursday 11:00 to 23:30 hours

Friday to Saturday 11:00 to 00:00 hours

Sunday 12:00 to 22:30 hours

To

Monday to Wednesday 11:00 to 23:30 hours

Thursday to Saturday 11:00 to 02:00 hours

Sunday 12:00 to 22:30 hours

Late Night Refreshment (Indoors)

Current

Monday to Thursday 23:00 to 23:30 hours

Friday to Saturday 23:00 to 00:00 hours

To

Monday to Wednesday 23:00 to 23:30 hours

Thursday to Saturday 23:00 to 02:00 hours

Performance of Live Music (Indoors)

Current

Monday to Thursday 11:00 to 23:30 hours

Friday to Saturday 11:00 to 00:00

Sunday 12:00 to 22:30

To

Monday to 11:00 to 23:30 hours

Thursday to Saturday 11:00 to 02:00

Sunday 12:00 to 22:30

Provision of Recorded Music (Indoors)

Current

Monday to Thursday 11:00 to 23:30 hours

Friday to Saturday 11:00 to 00:00 hours

Sunday 12:00 to 22:30 hours

To

Monday to Wednesday 11:00 to 23:30 hours

Thursday to Saturday 11:00 to 02:00 hours

Sunday 12:00 to 22:30 hours

Activities and Hours sought
Performance of live music (indoors)

Thursday to Saturday 23:00 to 02:00

Summary of Application

This is an application for a Variation of Premises Licence under the Licensing Act 2003 ("The Act"). The Premises operate as a restaurant and lounge and sought.

1. To extend the permitted hours for retail sale of alcohol, late night refreshment and recorded music on Thursdays from 23.30 to 02.00 and Friday to Saturday extend from 00:00 to 02:00.
2. To add live music as a licensable activity from 23.00 to 02.00 Thursday to Saturday.
3. Reduce the capacity of the premises overall from 95 to 70 persons.
4. To vary and update Conditions 12 and 25 and to include additional conditions

There will be no change to permissions Sunday to Wednesday and no change to the restaurant conditions.

The Premises have had the benefit of a Premises Licence since 2010 and hold an existing licence under reference 21/14479/LIPDPS.

The Premises are located within the West End Ward and West End Cumulative Impact Zone but not within the Special Consideration Zone. There is a resident count of 60.

Representations Received

- Metropolitan Police Service (MPS) (PC Tom Stewart)
- Environmental Health Service (EHS) (Maxwell Koduah)
- Licensing Authority (LA) (Jessica Donovan)
- X4 Local residents
- Amy Phillips on behalf of Paramount House Freehold Limited
- Alex Phillips on behalf of Phillips and Southern Limited

Issues raised by Objectors.

The Metropolitan Police Service:

- If the variation is granted it would undermine the licensing objective: the prevention of crime and disorder.
- The application does not demonstrate exceptional circumstances, nor does it show how the proposed operation will not adversely affect the licensing objectives, in particular the prevention of crime and disorder.

Environmental Health Service:

The licensable activities would have the likely effect of causing an increase in Public Nuisance within the West End Cumulative Impact Zone and may impact on Public Safety.

Licensing Authority:

The Licensing Authority has concerns in relation to this application and how the premises would promote the four licensing objectives:

- Public Nuisance
- Prevention of Crime and Disorder
- Public Safety
- Protection of Children from Harm

Local Residents:

- Local residents had raised objections on the grounds of the Prevention of Public Nuisance, Prevention of Crime and Disorder and the application being contrary to the Councils' cumulative impact policies and the proposed mitigation to address concerns being inadequate.

The Soho Society:

- This application is contrary to the Pubs and Bars (PB1), Core Hours HRS1 and Cumulative Impact CIP1 Policies.
- It will fail to promote the licensing objectives and increase cumulative impact in the West End Cumulative Impact Zone.
- We reject the applicants attempt to present a possible exception to policy with the creation of a new private members club by offering a reduction in capacity of the restaurant.

Policy Considerations

HRS1

Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies and with particular regard to the following:

1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.
2. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.
3. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.

4. The existing hours of licensable activities and the past operation of the Premises (if any) and hours of licensable premises in the vicinity.

RNT1

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 being within the Council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the Council's Ancillary Delivery of Alcohol and/or Late Night Refreshment Policy DEL1.
4. The application and operation of the venue meeting the definition of a restaurant as per Clause C.

SUBMISSIONS AND REASONS

Mr Kevin Jackaman outlined the application to the Sub-Committee. He advised that representations had been received from the Metropolitan Police Service, Environmental Health, the Licensing Authority and seven interested parties including the Soho Society. He informed that the Premises is located within the West End Ward and West End Cumulative Impact Zone (CIZ) but was not in a Special Consideration Zone. He confirmed that the additional submissions from the Applicant and the Interested Parties had been circulated.

Ms Lana Tricker on behalf of the Applicant outlined the application before the Sub-Committee. She explained that the Applicant was applying for a variation of the premise license with no changes to the license on a Sunday to Wednesday. The Premises trades as a Mediterranean and Middle Eastern cuisine restaurant with a menu which changes monthly. The clientele are largely couples in their 30s and 40s. She explained that alcohol would only be served to clienteles that are seated, be waited and also ancillary to a meal. This would not change if the license were to be granted and was similar to the Model Condition 66 (MC66). The MC66 would be accepted if the Licence is granted.

Ms Tricker informed the Sub-Committee that the Applicant sought a license up to 02:00Hrs on a Thursday to Saturday and would run as a membership only restaurant past the core hours. The Applicant would know the clientele and the general public would have to leave the Premises before the end of core hours. She informed the Sub-Committee that conditions 32 and 33 on the proposed license are WCC model conditions. The Applicant wished to open later as patrons are wanting to eat later and more exclusively. They want to take advantage of this and introduce a £500 a year membership fee to produce more revenue to keep them financially viable. She

informed the Sub-Committee that the membership scheme will allow them to easily identify anyone that misbehaves and causes any disturbances.

Ms Tricker informed the Sub-Committee that the Applicant had not applied for any events within the variation as they will be always operating as a restaurant and can apply for a temporary license for events if needed. She informed the Sub-Committee that music was not played loud in the Premises as it is just background music. They sought recorded and live music within the application just in case there is a request for singers. She advised the Sub-Committee that there had been two complaints of music escaping the Premises in October and December 2022 where officers did visit the venue and saw that doors were closed. On one occasion the officer did say there was an increase in bass and asked the Premises to turn it down. Ms Tricker informed the Sub-Committee that two doors down from the Premises is Simmons a late-night venue so there is no verification that the noise was from the Premises as the complainant lives about 50 meters away from the Restaurant. She informed the Sub-Committee that the Applicant is not complacent about noise escape and nuisance in the cumulative impact zone and the dispersal policy is set out clearly in the paper. There has been no particular Police complaints by patrons or them being victims of crime. She advised that further condition had been offered and this included patrons being seated and that a full list of conditions were listed in the additional papers and were in line with the Council's F112 Policy.

Ms Tricker highlighted that the objections received from the Metropolitan Police Service, Environmental Health and the Licensing Authority were all on policy grounds. The Application includes a general reduction of 25 from 95 patrons to 70 up to 23.30Hrs on Thursdays and 00:00Hrs on Fridays and Saturdays, and 40 patrons in the extended hours. Two-hour reservations would be taken to ensure the smooth reduction to 40 in the extended hours and security will be present after 23:00Hrs and the applicant has no objection to keeping the mentioned for 30 minutes after dispersal. The last booking will take place at 01:00Hrs She informed the Sub-Committee that the Application also tightened up other conditions on the license. There is no large activity outside with the smoking area, holding 5 or 6 at once, and doors will be managed. There is also no advertising of alcohol outside the Premises and the operation conditions ensure that it is not open to the general public after core hours. She informed the Sub-Committee that the Applicant understood the local resident concerns and had a direct line to management and no contact from them had been made. The Application also includes Conditions on noise and refuge and these concur with the Council's Model Conditions. She highlighted that the Premises would operate as a restaurant for 40 people during extended hours with the added protection that it will only be for members. If there are any breaches of conditions these can be dealt with by the Responsible Authorities.

In response to questions Ms Tricker informed the Sub-Committee that the reduction in capacity after 23.30Hrs would be enforced. She advised that the Premises website will advised that it operates as a restaurant with non-member bookings only available 2 hours before 23.30Hrs. As the Premises is not a bar it will be simply ensuring non-member tables complete their meals and leave by then. In response to why this application was exceptional Ms Tricker highlighted that it will not have mass dispersal at 02:00Hrs and patrons would be filtered out slowly. She also highlighted that the Premises capacity would decrease after core hours and only members who paid fees would be permitted to remain during this period, there would be increased

security and highlighted that the venue operating as restaurant would have a less of an impact on the CIZ. Ms Tricker advised that the Applicant was aware of the wider global issue regarding the CIZ. She also confirmed that the Applicant would accept the Model Condition 66 (MC66)

Mr Walid Salem, Applicant, in response to questions confirmed that new members will have to pay a £500 annual fee. He informed the Sub-Committee that if they have been to the premise or have contact to them, they can make an application with a form requesting all their details. Then the office will process it and wait 48 hours for confirmation. Mr Salem informed the Sub-Committee that they would welcome their close business connections into the membership for late dinners. Mr Salem also confirmed that they have never seen more than 7-8 people in the designated smoking area at one time, they did have electronic shisha at one point but following an Environmental Health request to not have it in a restaurant they stopped offering it. Ms Tricker on the dispersal at 02:00hrs confirmed that the worst-case scenario is that 40 people will leave at this time, however was of a view that this would not happen as the Premises had a dispersal policy and the Restaurant assists their patrons in booking taxis and Ubers. They also can give tables bills at different times to help stagger the dispersal. Mr Salem confirmed this is the case and they do not allow their members to stand outside waiting for taxi's as they inform them when their onward travel is outside.

Mr Maxwell Koduah from Environmental Health asked some questions to benefit the Sub-Committee on the dispersal policy. In response Ms Tricker informed that the Applicant would manage the dispersal from within the premise by ensuring clientele leaving the Premises would be staggered and informed that the Premises had a noise lobby. She also informed the Sub-Committee that due to the membership scheme if individuals are disruptive, the member of staff at the front door would be able to recognise the patron and subsequently they can have their membership suspended or revoked. She had advised that they have not had to do this yet with any of their clientele.

Mr Koduah advised the Sub-Committee that he had not visited the Premises and that Mr Tony Miah City Inspector had and was present at the meeting. He informed the Sub-Committee of two items of relevance: why the restaurant wants to include live music if they were not keen on going ahead with it and how to manage the reduction in capacity. He informed the Sub-Committee that if the live music be granted in the license, then Environmental Health believe that Model Condition 23 should be triggered after 23.30Hrs. He also informed the Sub-Committee that the 40 patrons after 00:00Hrs adds a risk of disruption in the CIZ. He highlighted that there would be an additional 40 people in the area for 2 hours. He advised that Environmental Health was satisfied with the SIA. The Sub-Committee was informed that the SIA would help to manage nuisance, but this would be restricted to the Premises and not the wider area.

Mr Tony Miah, City Inspector, informed the Sub-Committee that he had recently visited the Premises during the previous week and that Mr Salem was present. He advised that Mr Salem was not aware of some of the Conditions on the License and was unable to initially provide CCTV footage from the previous evening. Mr Salem was only able to show two screens for the outside area and nothing for the inside. He informed the Sub-Committee that the local area had dozens of late-night venues

in the locality and this included Simmons. He advised that the Premises operating until 02:00Hrs or 03:00Hrs would have an impact on local residents.

In response to questions Mr Koduah informed the Sub-Committee that they have received three noise complaints for the Premises. The first predates the current ownership but the last two were in October and December 2022 where no notice was served, but residents had written to the Environmental Health with these complaints. They were due to loud music coming from the Premises with one being after 22:00Hrs and the other at 02.15Hrs when they were holding an event. He informed that Model Condition 11 would have to come into force after 23.30Hrs.

Mr Miah in response to question confirmed that the visit was a routine visit during a busy night so did not ask to see the inside CCTV footage. That said he advised that he had concerns on public safety on the Premises with emergency signage not illuminated and the Restaurant could use further signage, the fire extinguisher had not been inspected for 2 years despite it needing to be inspected annually. The CCTV coverage inside was poor with nothing covering the cavern areas where problems could happen but would not be seen. A member of staff also mentioned that electronic shisha was used in the Premises and Mr Miah advised that in the areas where it is offered you do get an increase in anti-social behaviour. He advised that the membership scheme for the extended hours and knowing the clientele deters public nuisance is a valid position. Mr Miah advised that clienteles who departed in private expensive and show vehicles could cause public nuisance due to their loud engine noises. Ms Tricker confirmed that all issues raised in the City Inspectors visit have since been dealt with and remedied including the CCTV.

Ms Karyn Abbott, Licensing Authority, advised that the application was outside the core hours and the extension could add to the CIZ in a saturated area of late-night licenses. She advised that the Sub-Committee would have to be satisfied that the additional 40 people after core hours would not have an adverse impact.

PC Tom Stuart, Metropolitan Police Service, informed the Sub-Committee that they had maintained representation due to the location of the Premises being in the West End Cumulative Impact Zone. While he accepts that the issues do not arise from the Premises directly and that an increase of 40 people is not large it does add to the number of people in the area between 00:00Hrs and 02:00Hrs when crime is at its peak. He informed the Sub-Committee that there had been an increase in violence which included robberies and sexual assaults. The location of Wardour Street is a thorough fare between the West End and Oxford Street and even if additional 40 people do not misbehave, they may become victims of crime with the additional 2 to 3 hours for them to consume alcohol and increase their vulnerability. He advised that the levels of crime are greater than pre pandemic when the CIZ were put in place. In response to questions PC Stuart confirmed that wealthier patrons are more likely to be targets of robbery and become victims. He advised that the location had many exits off via Wardour Street and gave criminals different exit routes.

Mr Richard Brown, Westminster's Citizens Advice, representing the Soho Society and resident Mr Miller informed the Sub-Committee that the extension of two hours on the busiest days of the week are contrary to the aims of the CIZ Policy. He advised that after core hours private members only clubs were not viewed as being exception to the policy. He advised that there had been no engagement or mediation

on this application by the Applicant with either the Soho Society or local residents. Mr Brown raised concerns over how the premise would be managed in particular following the reduction of the clientele to 40 after core hours and the different styles of operations. Mr Brown advised that Mr Miller had submitted two noise complaints to the Council following trying to engage with the Premise on multiple occasions. The complaints were during two Temporary Events Notices (TENs) where music was audible outside the restaurant when the front door was not closed highlighting that nuisance is likely if granted. Mr Brown confirmed that the Applicant had been polite and helpful when Mr Miller had been in contact with them but due to the reoccurring nature of nuisance experienced, he had escalated concerns to the Council.

Mr Brown informed the Sub-Committee that a recent survey by Soho Society found that 59% of residents had had their sleep disturbed on 3 nights a week. He informed that the reduction in capacity in core hours does not mitigate the increase of 40 additional patrons being in the vicinity outside core hours. The Premises website advertised that it is a restaurant and cocktail bar with happy hours from 16:00Hrs-close Tuesdays to Thursdays. Mr Brown advised that he was successfully able to book a table for happy hour for 22.30Hrs. He informed that it would be difficult to enforce the Condition which required alcohol to be ancillary to food during the extended hours. Mr Brown highlighted that adopting a membership only system did not add any protection and commented that with a capacity of 40 if all members bring 4 guests, staff would not know all the patrons. Mr Brown advised that he had misgivings on whether the demographics of the clientele could be used as an exception and commented that there would still be more people in the area which could lead to crime and disorder and impact on already over stretched Police resources.

Mr Alex Phillips representing Phillips and Southern Ltd, advised that they had 8 flats in Paramount House and that the building was situated opposite the Premises. He informed the Sub-Committee that post the Covid-19 Pandemic their tenants had complained about anti-social behaviour and had left flats due to the noise nuisance. He informed the Sub-Committee that individuals used the entrance of the flats as a public convenience and last month they had an intruder break into the building by tailgating one of the residents. He also informed that in the warmer months, the Premises windows being left open would lead to noise emanating from the Premises and this would cause severe nuisances. In response to questions Mr Phillips informed the Sub-Committee that he heard of the issues second hand and on occasions these had been reported as the reasons why tenants had given up their lease. Mr Phillips advised that he could not confirm whether nuisances was connected to Amici. He informed that the venue had been mentioned by one of the tenants that resided in Paramount House.

Ms Marina Tempia, Soho Society, informed the Sub-Committee that it was noted that there would only be an additional 40 people in the CIZ. She advised that over the years any increase in license premises had led to an increase in crimes and anti-social behaviour in the locality. She stated figures for the covid years of 2020-22 and informed that, 38 new licensed premises were granted which would add 2,500 people into the Cumulative Impact Zone. Out of the 38 new licenses, 5 of these licenses were granted outside of core hours with 781 additional people into the CIZ. She highlighted that this needed to be considered alongside the higher backdrop of individuals already in the area. She also highlighted that if patrons arrive at 00:00Hrs

for dinner it was likely that they would have had alcoholic beverages beforehand and could cause public nuisance when leaving the Premises. These patrons could also likely become victims of crime if under the influence of alcohol. She advised that the exit routes both north and south of the Premises had a large amount of pedicabs and crowds during the evening due to the high number of late-night premises and that an additional 40 patrons would have impact.

In summing up, Mr Brown informed the Sub-Committee that there were concerns regarding the noise complaints during later hours from the venue and commented on the wider concerns found in the cumulative impact zone. He advised that it was preferred for the venue to operate within the core hours.

In summing up, Ms Tricker advised that the Premises was firmly a restaurant where alcohol was ancillary to food, be waited and served to seated patrons. The Model Condition 66 would be accepted. She reiterated that it would only be for members after core hours, on a reservation system, with no off sales and dispersion would be staggered. The Premises would attract members for a later dinner who without it may go and seek further entertainment elsewhere. She informed the Sub-Committee that there had been no crimes or disorder at the Premises and these included patrons being intoxicated. The Applicant would not push for live or recorded music to be included and MC11 as requested from Environmental Health would be accepted. Their website will be updated regarding membership requirements and all members must record the names of their guests and this would enable for individuals to be easily identified if they cause any nuisance. She commented that patrons were not likely to contribute to any public nuisance such as vomiting and urinating near residential properties as alcohol would be ancillary to food and there are sufficient toilets in the Premises.

In summing up Mr Salem highlighted to the Sub-Committee that the Premises had been open for a year and two months and have had no Police visits or complaints. Mr Salem informed that both complaints which had been raised by the neighbour and been addressed. The Premises is situated next to the Chicken shop and the latter was reported to have large queues. He advised Simmons establishment was located nearby and that bass was not used in Amici Restaurant. He also informed that the last booking for dinner will be 21;00Hrs and will only accept member bookings afterwards.

In response to questions Mr Salem informed the Sub-Committee that there have been no problems from the Police and all the matters raised in the City Inspectorate's recent visits had now been resolved. Ms Tricker informed the Sub-Committee that they are happy to accept the Model Conditions MC66 and MC11. She also clarified that the Premises had successfully applied for TENs which ended at 02.00Hrs and 03:00 Hrs. These TENs were for private members only and operated with the restaurant Condition.

Conclusion

The Sub-Committee considered the application on its individual merits. In reaching their decision, the Sub-Committee took into account all the committee papers and the submissions made by all the parties, including the Metropolitan Police Service and Environmental Health Service, supplementary submissions made by the Applicant, and the oral evidence given by all parties during the hearing in its determination of the matter.

In reaching its decision, the Sub-Committee was not persuaded that the Applicant had demonstrated that the Premises would not add to the West End cumulative impact or was an exception to Policy In particular with this Application being for after core hours to 02:00Hrs and there being an additional 40 people in the locality during these later hours

The Sub-Committee also noted that this Application would not promote or uphold the four licensing objectives, in particular Policy PN1, the Prevention of Public Nuisance The Sub-Committee noted in particular the submissions from the Metropolitan Police Service and the local residents who have had made previous noise complaints regarding the premises on dates in October and December 2022 when the applicant had held a special event license.

Therefore, having carefully considered the committee papers, the additional papers and the submissions made by all of the parties orally, **the Sub-Committee has decided**, after taking into account all of the individual circumstances of this particular case to **REFUSE** the application.

The Sub-Committee agreed that the Applicant had not provided sufficient reasons as to why this Application was exceptional and how granting the variation of the Premises License would promote the four licensing objectives.

**This is the Full Decision of the Committee which takes effect forthwith.
The Licensing Sub-Committee
4 May 2023**

2. BASEMENT AND GROUND FLOOR, 10 GOLDEN SQUARE, W1F 9JA

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

Thursday 4 May 2023

Membership: Councillor Robert Eagleton (Chair) Councillor Angel Piddock and Councillor Caroline Sargent

Officer Support: Legal Adviser: Vivienne Walker
Policy Officer: Daisy Gadd
Committee Officers: Georgina Wills /Katherine Stagg
Presenting Officer: Kevin Jackaman

Other Parties: Martin Jones on behalf of Golden Square Mart Limited (the applicant company), Phil Day, Applicant Golden Square Mart Limited, Sally Fabbricatore (Environmental Health) and Karyn Abbott (Licensing Authority)

Application for New Premises Licence in respect of Basement and Ground Floor 10 Golden Square London W1F 9JA 23/00796/LIPN

Premises

Basement and Ground Floor
10 Golden Square
London W1F 9JA

Applicant

Golden Square Mart Limited

Ward

Pimlico North

Activities and Hours applied for

Hours Premises are Open to the Public

Monday to Saturday 09:00 to 23:00 hours
Sunday 09:00 to 22:30

Seasonal Variations: From 10:00 hours on New Year's Eve to 01:30 hours on New Year's Day. From 10:00 hours on Chinese New Year to 01:30 hours the following day.

Sale by Retail of Alcohol (On Sales)

Monday to Saturday 09:00 to 23:00 hours
Sunday 09:00 to 22:30

Sale by Retail of Alcohol Shop On the Ground Floor (Off Sales)

Monday to Saturday 09:00 to 21:00 hours

Seasonal Variations: From 23:00 hours on New Year's Eve to 01:00 hours on New Year's Day. From 23:00 hours on Chinese New Year to 01:00 hours the following day.

Late Night Refreshment (Indoors and Outdoors)

Late Night refreshment is only applied for as a seasonal variation

Seasonal Variations: From 23:00 hours on New Year's Eve to 01:00 hours on New Year's Day. From 23:00 hours on Chinese New Year to 01:00 hours the following day.

Representations Received

- Environmental Health Service (Sally Fabbricatore)
- Licensing Authority (Jessica Donovan)
- Two Local residents

Issues raised by Objectors.

- The Environmental Health Service had maintained representations as the provision of the supply of alcohol may cause an increase in Public Nuisance in the Cumulative Impact Zone and may impact on Public Safety.
- The Licensing Authority had maintained representations due to concerns regarding how the premises would promote the four licensing objectives Public Nuisance, Prevention of Crime & Disorder, Public Safety and the Protection of children from harm
- Two residents had maintained representations on the licensing objection of the Prevention of Public Nuisance.

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act").

The Premises propose to trade in the basement and part of the ground floor as an Asian restaurant which is licensed for the sale of alcohol from 09:00 to 23:00 hours Monday to Sunday. The remainder of the ground floor is intended to trade as an Asian supermarket which is licensed for the sale of alcohol for consumption off the premises from 09:00 to 21:00 Monday to Sunday.

Following consultation, the Applicant has reduced the terminal hour for the sale of alcohol on a Sunday to 22:30 hours.

The Premises currently hold a Licence under reference 22/04691/LIPV. The applicant proposes to surrender the existing premises licence should this application be granted.

Policy Position:

CIP1

It is the Local Authority's policy to refuse applications within the West End Cumulative Impact Zone for pubs and bars, fast food premises and music and dancing and similar entertainment other than applications to:

1. Vary the hours within Core Hours under Policy HRS1 and/or
2. Vary the licence to reduce the overall capacity of the premises

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

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.

COMB1

Applications inside the West End Cumulative Impact Zones for premises that propose to operate as a combined use premises will be considered on their merits and subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities for the relevant premises use being within the Council's Core Hours Policy HRS1.
3. The applicant demonstrating that they will not add to cumulative impact Within the Cumulative Impact Zone.

DECISION AND REASONS

Mr Kevin Jackaman, Senior Licensing Officer, summarised the application set out in the report before the Sub-Committee. He explained that the Application was for a New Premises Licence. There were representations received from the Licensing Authority, Environmental Health, and two residents. He advised that the Premises existing License would be surrendered if the Application was granted. The Applicant following consultations has reduced the hours on Sunday and were now within core hours. Premises are located within the West End Ward and West End Cumulative Impact Zone but not within the Special Consideration Zone.

Mr Martin Jones, Applicant's Legal Representative advised that Mr Phil Day, Applicant was the Director of Golden Square Mart Ltd and also directly involved with the daily operation of the Premises. The Company's Headquarters was situated next to the Premises. Mr Jones advised that several Conditions had been proposed by the Applicant and that the terminal hours for Sunday had been altered and was now within the core hours. The Sub-Committee was informed that a Condition had been proposed which ensured that the Premises main function would be a restaurant and shop, and that the sale of alcohol would be ancillary to a meal. The Conditions proposed by the Responsible Authorities have been accepted by the Applicant. Mr Jones confirmed that the existing Premises alcohol license would be surrendered if the Application was granted. The Sub-Committee was advised that Conditions 23, 24 & 25 on the existing operational scheduled would be retained and these related to noise nuisance, means of fire escape and approved arrangement of the Premises. The Model Condition 87 (MC87) has also been accepted which prohibits any odour

or steams being omitted from the Premises which would cause a nuisance to any business or resident living in the area.

Mr Day advised that 10 Golden Square London operated as a restaurant serving Korean cuisine. He advised that the current License allowed for alcohol to be served on the basement and that it was sought for the food offer to also be made available on the ground floor. He advised that the front of Premises would continue to be used as a 'convenient area' which patrons would be held when ordering takeaways. Mr Day advised that hot food takeaway was only available between 12Noon and 15:00Hrs and after this period orders were all delivered. Mr Day commented that patrons were asked whether they wished to be served alcoholic beverages with their meals on arrival and if this was desired would be directed to the basement area. The Sub-Committee was advised that this question would not be asked if the Application was granted as patrons could be seated in any part of the Premises and therefore avoid any awkwardness. This would also ensure that there is better management of seatings.

Mr Jones advised that a total of £6000 had been invested in an ozone device which would ensure that all odours are eliminated. He advised that representations had been maintained regarding noise complaints and informed that extractor fans would have auto times which would switch off the machinery after 23:00Hrs. He advised that these measures would mitigate concerns raised by residents. The Sub-Committee were reminded that restaurants were less of a concern regarding the Cumulative Impact Zone, unlike bars, pubs and fast-food establishments. Mr Jones advised that the Application could be viewed as a variation and highlighted that the Premises had been in operation since 2022 without any concerns. There are no ques or residential building located opposite the Premises or overlooking from properties. He advised that it was ensured that Challenge 25 was successfully operated and only one incident had occurred in which a patron was refused sales due to their age.

In response to questions from the Sub-Committee, Mr Jones confirmed that the Application had been sought to allow on sales on the ground floor and to enable the same license provisions to be applied to all areas of the Premises. He advised that additional trading hours during New Year Eve and Chinese New Year had been sought and that this provision was not currently on the License. Mr Jones confirmed that celebrations of the Chinese New Year was for one night only and these dates altered each year. He advised that additional staff would be employed during the above-mentioned date and patrons would be monitored. There will be a set menu offered and the operational model would be to ensure that there is a high turn around' of patrons. The Sub-Committee was advised that patrons would be required to book tables and that there would be no prolonged drinking.

Following further questions from the Sub-Committee, Mr Jones confirmed that the Fridge compressor had been replaced with an internal compressor and that extractor fans would now have a timer which shuts the machine down after a 23:00hrs. Mr Jones commented that various Conditions had been proposed regarding refuse collection and shop doors being closed to ensure that no nuisances are omitted from the Premises. Mr Day advised that the delivery service generated a small percentage of revenue and was not part of the core business. Mr Day advised that

active steps would be taken to ensure that all delivery drivers do not cause any nuisance and that there were adequate motorcycle parking bars for their vehicles.

Ms Karyn Abbott, Licensing Authority sought clarification regarding sale of alcohol for off sales and was informed that this would be on Monday to Sundays between 09:00Hrs to 21:00Hrs. Ms Abbott advised that the Premises' operational hours had been reduced and was now within core hours. She advised that a series of Conditions had been agreed with the Applicant which included MC66 (Restaurant Condition) and all areas would fall under it. The current license would be surrendered if the Application is granted. The Applicant had also offered a Condition which stipulates that alcohol will be ancillary to the main function of the Premises which is a restaurant and shop. The Sub-Committee were reminded that they had to be satisfied that the Premises would not add to the cumulative impact.

Ms Sally Fabbriatore, Environmental Health advised that complaints had been received regarding odour and noise nuisance omitting from the Premises and confirmed that these had not amounted to a statutory nuisance. Ms Fabbriatore advised that a visit was undertaken and that works had been agreed and implemented. She advised that no complaints had been received following completion of works and that the Premises would continue to be monitored. She informed that there was an additional complaint received regarding noise and stated that an auto timer had been installed for the extractor fan and that a visit would take place if there were any concerns. The Sub-Committee was advised that the additional Conditions proposed by the Applicant was welcomed in particular 'means of escape' and 'eliminating odour'.

In response to questions from the Sub-Committee, Ms Fabbriatore advised that the Premises current capacity was suitable and commented that the Restaurant had been in operation with these numbers. She advised that there was an adequate number of toilets within the Premises. Environmental Health had maintained representation to assist the Sub-Committee.

In his summary, Mr Jones advised that the Applicant had taken active steps to address concerns raised by residents in relation to odour and noise nuisance. He advised that the Application would result in an additional 40 extra covers and that alcohol would be ancillary to a meal.

In response to the Legal Officer, Mr Martin advised that off sales would be Monday to Sunday between 09:00 to 21:00hrs. There would be no off sales from the Basement. Mr Martin advised that the Applicant agreed for the words 'shall be' to be inserted for Conditions 24 and 25.

Conclusion

The Sub-Committee has determined an application for a new Premises Licence under the Licensing Act 2003 ("The Act").

The Sub-Committee considered the 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 the Applicant had agreed to the Conditions proposed by the Licensing Authority and Environmental Health Services. The Applicant had also reduced their operational hours to be within core hours and put in measures to address concerns of residents. This included an investment of £6000 of an ozone device which prevent any odour or steam escaping from the Premises and an auto timer on the extractor fan which shuts the machinery down after 23:00Hrs. The Sub-Committee noted that the Applicant was a good operator, and the locality was well managed. The Sub-Committee noted the importance of supporting local businesses and addressing the concerns of local residents.

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 the matter and the promotion of the four licensing objectives:

1. To grant permission for Seasonal Variation for **Late Night Refreshment** from 23:00 hours on New Year's Eve to 01:00 hours on New Year's Day. From 23:00 hours on Chinese New Year to 01:00 hours the following day.
2. To grant permission for the **Sale by Retail of Alcohol (On Sales) in the Basement area** Monday to Saturday 09:00 to 23:00 hours Sunday 09:00 to 22:30 hours.
3. To grant permission for the **Sale by Retail of Alcohol (Off Sales) on the Ground Floor** Monday to Sunday 09:00 to 21:00 hours.

Seasonal Variations: from 23:00 hours on New Year's Eve to 01:00 hours on New Year's Day. From 23:00 hours on Chinese New Year to 01:00 hours the following day.

4. To grant permission for the **Opening Hours for the Premises** Monday to Saturday 09:00 to 23:30 hours Sunday 09:00 to 22:30 hours.

Seasonal Variations: from 09:00 hours on New Year's Eve to 01:30 hours on New Year's Day. From 09:00 hours on Chinese New Year to 01:30 hours the following day.

5. That the Licence is subject to any relevant mandatory conditions.
6. That the Licence is subject to the following conditions imposed by the Sub-Committee which are considered appropriate and proportionate to promote the licensing objectives.

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

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. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
12. 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 or cans.
13. 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.
14. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
15. 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.
16. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 hours and 08.00 hours on the following day.
17. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
18. No deliveries of alcohol to the premises shall take place between 23.00 hours and 08.00 hours on the following day.
19. The number of persons permitted in the basement of the premises at any one time (excluding staff) shall not exceed 60 persons.
20. The number of persons permitted to be seated on the ground floor restaurant at any one time (excluding staff) shall not exceed 40 persons.
21. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.

22. 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.
23. Staff involved in the sale and supply of alcohol shall receive training in relation to licensing legislation and age challenging. Refresher training shall be conducted annually. All staff involved in the sale and supply of alcohol shall be fully conversant with the conditions contained in this Premises Licence. No member of staff will be permitted to sell alcohol until such time as they have completed the training. Records of such training shall be kept by the DPS for a minimum of 12 months and made available to the Police or other responsible representative on request.
24. The Premises Licence Holder shall use a refusals book when the need to refuse any sale of alcohol arises whether in the shop premises or in the restaurant and in that refusals book will note the date and time of refusal, the product attempted to be purchased, a description of the customer and whether ID was requested/suitable if it was produced, the reason for the refusal and the name and signature of the member of staff making the refusal. The DPS shall retain the refusals book for a minimum of 12 months. The incident book will be made available to the Police on request. Each reported incident will be dated and signed by the person making the report and that person's name will be clearly legible alongside the signature.
25. The sale by retail of alcohol for consumption off the premises from the shop premises to members of the public will cease at 21:00 hours each day.
26. Alcohol purchased for consumption in the restaurant will be ordered via an app or with a member of waiting staff in the restaurant and brought to the customer by a member of staff for consumption with their table meal. The customer will not be able to purchase alcohol from the shop premises directly for consumption in the restaurant.
27. Any alcohol displayed for sale in the shop concession will be kept in units with opaque lockable shutters. The shutters will be closed and locked when the premises close.
28. There will be appropriate fire-fighting equipment throughout the premises.
29. The emergency exits shall be clearly marked.
30. Clear, legible signs will be prominently displayed where they can easily be seen and read by customers stating that a Challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage will be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.

31. The basement and the area hatched green as shown on the ground floor plan shall operate as a restaurant,
- a. in which customers are shown to their table or the customer will select a table themselves;
 - b. where the supply of alcohol is by waiter or waitress service only;
 - c. which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table;
 - d. where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

For the purpose of this condition '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.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

32. The delivery of alcohol to customers to their residential address or workplace will be ancillary to the main premises use as a restaurant and shop.
33. Alcohol cannot be purchased for delivery without the purchase of food.
34. Delivery of alcohol will only be made via a third party and delivery drivers will not be engaged directly by the applicant. The applicant will ensure that any third party to which they have contracted the delivery of food and alcohol has sufficient age verification procedures in place for the sale of alcohol and has regular training for its delivery personnel on their age verification procedures.
35. The applicant will ensure that any third party to which they have contracted their delivery service have sufficient procedures and mitigation to ensure that their delivery personnel do not create public nuisance either at the premises where the delivery originates and/or at the delivery destination.
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 direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
38. The premises licence will only remain valid so long as the main function of the premises is a restaurant and shop (with retail of alcohol ancillary).

39. 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.
40. 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.
41. 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.
42. 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.
43. No licensable activities shall take place at the premises until premises licence 22/04691/LIPV (or such other number subsequently issued for the premises) has been surrendered and is incapable of resurrection.

**This is the Full Decision of the Committee which takes effect forthwith.
The Licensing Sub-Committee
25 May 2023**

3. AL- SULTAN RESTAURANT, 51-52 HERTFORD STREET, W1J 7ST

This application was Granted under Delegated Authority.

4. 43 WARWICK WAY, SW1V 1QS

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

Thursday 4th May 2023

Membership: Councillor Robert Eagleton (Chair)
Councillor Angela Piddock and Councillor Caroline Sargent

Officer Support: Legal Adviser: Vivienne Walker
Policy Officer: Daisy Gadd
Committee Officers: Katherine Stagg / Georgina Wills
Presenting Officer: Kevin Jackaman

Other Parties: Mr Joseph Abou-Khalil on behalf of Two Crazy Perros Ltd (the applicant company), Sally Fabbricatore (Environmental Health)

and Mr Richard Brown (Citizens Advice Westminster)
representing Ms Middleton, local resident.

**Application for New Premises Licence in respect of 43 Warwick Way London
SW1V 1QS 23/00523/LIPN**

Premises

43 Warwick Way
London SW1V 1QA

Applicant

Two Crazy Perros Limited

Ward

Pimlico North

Special Consideration Zone

Victoria

Activities and Hours

Sale by Retail of Alcohol (On Sales)

Monday to Saturday 10:00 to 23:00 hours

Sunday 10:00 to 22:30hours

Seasonal Variations: None

Hours Premises are open to the Public

Monday to Saturday 08:00 to 23:0 hours

Sunday 08:00 to 22:30hours

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The Premises operate as a restaurant and consist of ground floor and basement with tables and chairs outside. The Premises have had the benefit of a Premises Licence under reference number 05/12712/LIPN. This licence was surrendered on 23 July 2021.

The Premises are located within the Pimlico North Ward and the Victoria Special Consideration Zone but not within the Cumulative Impact Zone. There is a resident count of 197.

Representations Received

- Environmental Health Service (Dave Nevitt)
- Three local residents (x1 objector and x2 supporters)

Issues raised by Objectors

Environmental Health

- The proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety.

Local Residents

- One resident had maintained representation on the grounds of the Prevention of Public Nuisance and the Prevention of Crime and Disorder.
- Two local residents had written in support of the Application on the basis it provided a good offer to the locality.

Policy Conditions

SCZ1

In addition to meeting the other policies within the Statement, applications within a designated Special Consideration Zone should demonstrate that they have taken account of the issues particular to the Zone identified within the 2020 Cumulative Impact Assessment and should set out any proposed mitigation measures in relation to those issues within their operating schedule.

HRS1

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

RTN1

Applications 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 being within the Council's Core Hours Policy HRS1.
3. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.

SUBMISSIONS AND REASONS

Mr Kevin Jackaman outlined the application to the Sub-Committee. He advised that this was a new premise license for the supply of alcohol (on sales) and following consultation the Applicant had reduced the hours on Sunday to be within core hours. He advised that representations had been received from Environmental Health and three interested parties Mr Richard Brown of Citizens Advice Westminster was representing one of the residents. He confirmed that the additional submissions from the Applicant and the Interested Parties had been circulated.

Mr Joseph Abou-Khalil, Applicant outlined the application for the Sub-Committee and advised that the company had existed for the last ten years and moved to their current unit which was adjacent to the original location in the last year. He informed the Sub-Committee that they operate as a small family business for breakfast and lunches and would like to develop the business to open in the evenings and wish to offer alcohol for this. Mr Abou-Khali has been a resident of the area for the last 25 years and commented that he was aware of concerns raised by residents which include criminal activity on the streets. He informed the Sub-Committee that the restaurant has a capacity of 30 people over the basement and ground floor with three tables outside the front and a garden at the back which can hold eight to ten people.

In response to questions, Mr Abou-Khalil confirmed that the license would be for on-sales only and the Premise offers substantial food throughout the day with full English breakfasts and lunch salads, quiches and lasagnes served by waitress services to those seated. This will be extended to the evenings. He informed the Sub-Committee that they would like the flexibility to serve a customer a glass of wine without food but understand if the Sub-Committee does not grant that. He also informed the Sub-Committee that he was flexible with the hours requested for the outside areas at the front and the back. He would prefer for the three tables out front on Warwick Way to be permitted until 22:00Hrs and informed that the garden would be closed to smokers after the licensable hours.

In response to additional questions, Mr Abou-Khalil, confirmed that the back garden would be open all year if the weather permits it, but he would manage the noise emanating from this vicinity as there would be no music playing outside, patrons would be requested not to cause any nuisance and also be no cooking outside. He informed the Sub-Committee that he would prefer for this area to be opened until 20:00Hrs. In response to questions Mr Abou-Khalil confirmed he would personally ensure that customers do not engage in any anti-social behaviour on Warwick Way. This would include being present at the Premises, discouraging begging and using CCTV for both inside and outside the Premise. He advised that intoxicated individuals would not be permitted access to the Premises or be served and that free drinking water would be placed on tables. The Sub-Committee was advised that experienced staff would be hired and would be trained. He informed the Sub-Committee that between five to six staff were employed and that during weekends this would increase by two or three if the License was granted. He confirmed that other restaurants on Warwick Way had external tables and operated until 23:00hrs.

Ms Sally Fabbicatore, Environmental Health advised that the Premises was a family run business who sought to serve alcohol in the evenings. She informed the Sub-Committee that the Application was not contentious, was situated in the special

consideration zone and its operations were within the core hours. She informed the Sub-Committee that she had maintained representations to be of assistance. She advised that the outside use of the garden until 20:00Hrs or 21:00hrs was reasonable as no music would be played and patrons would be seated at all times. For the tables at the front of the property, 22:00Hrs was also viewed as a suitable time for tables and chairs to be rendered. In response to questions Ms Fabbricatore confirmed that there was no history of noise disturbance from the Premises and while it was near residential properties the amount of noise outside created by 8 to 10 patrons should not amount to a statutory nuisance.

Mr Richard Brown, Citizens Advice Westminster representing a local resident informed the Sub-Committee that the residents main concern was the use of the rear garden. Mr Brown advised that the resident lived in her property for 20 years with her family. He informed the Sub-Committee that during and post covid individuals were increasingly working from home. Mr Brown advised that residents would be disturbed from noise emanating from the rear garden. He informed the Sub-Committee that residents' concerns were similar to issues found in the Special Consideration Zone and in particular regarding crime in the local area. He advised that concerns would be exasperated with an additional license premises in the area. He commented about the associated risks involved with extended the Premises opening hours and usage of the rear garden.

Mr Brown informed that the Premise had had an alcohol license and previously did not use the rear garden. Mr Brown highlighted to the Sub-Committee the concerns of an alcohol license being granted during the extended hours and without it being ancillary to food and suggested an earlier terminal hour be imposed. He suggested that a Condition which requires alcohol to be ancillary to food be included and informed that use of the rear garden should be prohibited as it was surrounded by residential buildings and noise was reported to 'echo up' in this area. He informed the Sub-Committee that there was a clear distinction of disturbance between residents using their own garden on occasions and the restaurant using this area during their operations throughout the week. He also informed the Sub-Committee that Model Conditions 12 and 23 should be imposed if the use of the rear external garden is permitted.

In response to questions, Ms Fabbricatore confirmed that Environmental Health did not include a works condition as the Premises are already in operation, and no further work is needed. She also confirmed that the capacity condition on the basement was added due to public safety. Ms Fabbricatore in response to questions on capacity for the basement condition agreed that this should include the garden. The following wording for the Condition was proposed

"The number of persons permitted in the Basement (including the rear courtyard) at any one time (excluding staff) shall not exceed 14 persons (this includes a maximum capacity of 10 persons in the rear courtyard)."

In summing up Mr Brown requested the Sub-Committee, considers reducing the operational hours for the use of the rear garden and its capacity. He advised that resident were concerned about the noise emanating from this area. He also informed the Sub-Committee that it was preferred for alcohol to be ancillary to food as it would protect residents during future use. He advised that Model Condition 38 would be sufficient.

In summing up, Mr Abou-Khalil informed the Sub-Committee that no complaints have been received by the immediate neighbours and the objector could not see the courtyard from their window and there was uncertainty on noise from this area would cause a nuisance. He commented concerns of residents were understood.

The Legal Adviser went through the suggested Conditions with Mr Abou-Khalil to ensure he understood their requirements. These included Model Conditions 12, 24, 34, 38 and 42.

Conclusion

The Sub-Committee noted that it had a duty to consider each application on its individual merits and did so for the purposes of this application. It was noted by the Sub-Committee that the Metropolitan Police Service and Licensing Authority had not made representations against the Application. The only remaining representations were from Environmental Health and a local resident.

The Sub-Committee considered the evidence before it and the arguments advanced by Mr Abou-Khalil in his submissions. The Sub-Committee considered D56 of the Statement of Licensing Policy (SLP) and all other relevant parts of the SLP. Having carefully considered the matter and the need to promote the licensing objectives, the Sub-Committee decided to grant the New Premises Licence under the Licensing Act 2003. The Sub-Committee was satisfied that the application met the policy requirements under the SLP. The Sub-Committee has considered it to be appropriate and proportionate to impose the Conditions agreed by all parties on the licence accordingly.

The Sub-Committee concluded that Paragraph D56 of the Policy had been met by the Applicant on the basis that this was an application for a current business which is wanting to expand and not a new business. There had also been no Police representations on this Application.

Having taken into account all the evidence and the individual circumstances of this case the Sub-Committee decided to grant the Application. The Sub-Committee considered the Conditions were proportionate and appropriate to ensure that the licence promoted the licensing objectives. The Sub-Committee arrived at this decision based upon the merits of the application and the operational model of the business for the past 10 years. The Sub-Committee noted that there was no history of complaints and that the Applicant was a good operator. The Sub-Committee considered that the Applicant will uphold the promotion of the licensing objectives.

In reaching its decision, the Sub-Committee concluded that the conditions attached to the licence would alleviate Environmental Health and residents' concerns, were appropriate and would promote the licencing objectives.

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

1. To grant permission for the **Sale by Retail of Alcohol (On Sales)** Monday to Sunday 10:00 to 22:30 hours.

Seasonal Variations: None

2. To grant permission for the **Opening Hours for the Premises** Monday to Sunday 08:00 to 22:30 hours.

Seasonal Variations: None

3. That the Licence is subject to any relevant mandatory conditions.
4. That the Licence is subject to the following conditions imposed by the Sub-Committee which are considered appropriate and proportionate to promote the licensing objectives.

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

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. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
12. 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.

13. The tables and chairs at the front of the premises shall be rendered unusable by 23.00 hours each day.
14. The tables and chairs at the rear courtyard shall be rendered unusable by 20:30 hours each day.
15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
16. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
17. The number of persons permitted in the Basement (including the rear courtyard) at any one time (excluding staff) shall not exceed 14 persons (this includes a maximum capacity of 10 persons in the rear courtyard).
18. 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.
19. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 hours and 08.00 hours on the following day.
20. 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.
21. 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.
22. No deliveries to the premises shall take place between 23.00 hours and 08.00 hours on the following day.
23. The supply of alcohol at the premises shall only be to a person seated at a table.
24. The supply of alcohol shall be by waiter or waitress service only.
25. 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.
26. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

27. 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.
28. A direct telephone number of 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.

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

**The Licensing Sub-Committee
4 May 2023**

The Meeting ended at 2.30 pm