



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (6)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** held on **Thursday 16th February, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Maggie Carman (Chair), Iman Less and Melvyn Caplan

1. MEMBERSHIP

1.1 There were no changes to the Membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. STREET TRADING - ISOLATED PITCH 1717, NEW BOND STREET

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

Thursday 16th February 2023

Membership: Councillor Maggie Carman (Chair),
Councillor Iman Less and Councillor Melvyn Caplan

Officer Support:	Legal Adviser:	Michael Carson
	Policy Officer:	Daisy Gadd
	Committee Officer:	Georgina Wills
	Presenting Officer:	Sana Butt

Application to vary the designation resolution passed by the Council on 25 July 1990 to rescind the designation of Pitch 1717 New Bond Street

FULL DECISION

Pitch Designation

New Bond Street east footway, 4' 6" from pedestrian cross push button pole, 18" from kerb edge.

Applicant

Westminster City Council's Licensing Street Trading Team

Interested Parties

Victoria Munro Licence Holder, Wally Watson West End Street Trading Association, Nichola Kerr West End Street Trading Association and David Chambers West End Street Trading Association.

Ward

West End

Summary of Application

The Licensing Sub-Committee is asked to rescind the designating resolution for street trading Pitch 1717 New Bond Street as recommended by officers.

Representations Received

Three representations were received in support of the application (The Licence Holder, West End Street Trading Association and Highways Planning)

Policy Considerations

1. Street Trading Policy

- a) Policy ST5 within the City of Westminster Statement of Street Licensing Policy relates to the designation and de-designation of street trading pitches. However, the Licensing Service requests that the committee consider this application as an exception to this policy.

Designation and De-designation- Policy ST5

- (i) The Licensing authority will designate specific resolution for licensed street trading.*
- (ii) The Licensing authority may de-designate pitches that are no longer suitable for licensed street trading.*
- (iii) The Licensing authority will not designate any new isolated street trading pitches, apart from in exceptional circumstances.*

Policy ST5(2) states that the Licensing authority may, subject to the appropriate consultation and notification procedures, de-designate street trading pitches where in the opinion of the licensing authority, they are no

longer suitable for street trading. The circumstances under which a location may be considered not suitable include:

- (a) It has not been used for trading for a period of greater than six months;*
- (b) There has been altered circumstances due to the increased pedestrian footfall resulting from altered highways layouts, public realms improvements or construction projects;*
- (c) Where there is new development and the siting and operation of the trading pitch would adversely affect local pedestrian flow or cause congestion, including close to the transport stops or stations.*

SUBMISSIONS AND REASONS

Ms Sana Butt, the Presenting Officer, introduced the application. She advised that the Licence Holder, the West End Street Trading Association and Highways Planning were in support of the application.

Mr David Chambers, West End Street Trading Association, briefly outlined the history of the designation of this particular pitch. He confirmed that the West End Street Trading Association supported the application to vary the designation resolution passed by the Council on 25 July 1990 to rescind the designation of Pitch 1717 New Bond Street. The Sub-Committee noted that there were no objections to the application.

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 circumstances of this application that **approval** be given that the designation resolution passed by the Council on 25 July 1990 be varied to rescind the designation of street trading pitch 1717 New Bond Street.

This is the Full Decision of the Licensing Sub-Committee which takes effect forth with

**The Licensing Sub-Committee
16th February 2023**

2. STREET TRADING - ISOLATED PITCHES 1612 AND 1736 VILLIERS STREET

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

Thursday 16th February 2023

Membership: Councillor Maggie Carman (Chair),
Councillor Iman Less and Councillor Melvyn Caplan

Officer Support:	Legal Adviser:	Michael Carson
	Policy Officer:	Daisy Gadd
	Committee Officer:	Georgina Wills
	Presenting Officer:	Sana Butt

Application to vary the designation resolution passed by the Council on 25 July 1990 to rescind the designation of Pitch 1736 and vary the designation of Pitch 1612 Villiers Street

FULL DECISION

Pitch Designation

On the west side near the junction with the Strand 32' from back of Strand footway commencing L20' x W: 9' (L: 6.1m x W: 2.7m).

Applicant

Westminster City Council's Licensing Street Trading Team

Interested Parties

Albert Palmer Licence Holder for Pitch 1736, Terry Palmer – Licence Holder for Pitch 1612, Wally Watson West End Street Trading Association, Nichola Kerr West End Street Trading Association and David Chambers West End Street Trading Association.

Ward

St James

Summary of Application

The Licensing Sub-Committee is asked to rescind the designating resolution for street trading Pitch 1736 on Villiers Street and vary the designating resolution for Pitch 1612 on Villiers Street as recommended by officers.

Representations Received

Three representations were received in support of the application
(The Licence Holder, West End Street Trading Association and Highways Planning)

Policy Considerations

1. Street Trading Policy

- a) Policy ST5 within the City of Westminster Statement of Street Licensing Policy relates to the designation and de-designation of street trading pitches. However, the Licensing Service requests that the committee consider this application as an exception to this policy.

Designation and De-designation- Policy ST5

- (i) The Licensing authority will designate specific resolution for licensed street trading.*
- (ii) The Licensing authority may de-designate pitches that are no longer suitable for licensed street trading.*
- (iii) The Licensing authority will not designate any new isolated street trading pitches, apart from in exceptional circumstances.*

Policy ST5(2) states that the Licensing authority may, subject to the appropriate consultation and notification procedures, de-designate street trading pitches where in the opinion of the licensing authority, they are no longer suitable for street trading. The circumstances under which a location may be considered not suitable include:

- (a) It has not been used for trading for a period of greater than six months;*
- (b) There has been altered circumstances due to the increased pedestrian footfall resulting from altered highways layouts, public realms improvements or construction projects;*
- (c) Where there is new development and the siting and operation of the trading pitch would adversely affect local pedestrian flow or cause congestion, including close to the transport stops or stations.*

SUBMISSIONS AND REASONS

Ms Sana Butt, the Presenting Officer, introduced the application. She advised that the Licence Holder, the West End Street Trading Association and Highways Planning were in support of the application.

Mr David Chambers, West End Street Trading Association, briefly outlined the history of the designation of this particular pitch. He confirmed that the West End Street Trading Association supported the application to vary the designation resolution passed by the Council on 25 July 1990 to rescind the designation of Pitch

1736 on Villiers Street and vary the designating resolution for Pitch 1612 on Villiers Street. The Sub-Committee noted that there were no objections to the application.

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 circumstances of this application that **approval** be given that the designation resolution passed by the Council on 25 July 1990 be varied to rescind the designation of street trading Pitch 1736 Villiers Street and vary the designation of street trading Pitch 1612 Villiers Street.

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

The Licensing Sub-Committee
16th February 2023

3. **YOLE ICE CREAM, GROUND FLOOR, 74 SHAFTESBURY AVENUE, W1D 6NB**

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

Thursday 16th February 2023

Membership: Councillor Maggie Carman (Chair),
Councillor Iman Less and Councillor Melvyn Caplan

Officer Support: Legal Adviser: Steve Burnett
Policy Officer: Daisy Gadd
Committee Officer: Georgina Wills
Presenting Officer: Kevin Jackaman

Other Parties: Mr Shamim Mia (the Applicant)
Mr Abudulla Fasall (The Premises Manager)

Environmental Health Service (Sally Fabbricatore)
Licensing Authority (Karyn Abbott)

Application for a New Premises Licence - Yole Ice Cream, Ground Floor, 74 Shaftesbury Avenue, London W1D 6NB – 22/11453/LIPN

FULL DECISION

Premises:

Yole Ice Cream,
Ground Floor,
74 Shaftesbury Avenue,
London
W1D 6NB

Applicant

Mr Shamim Mia

Ward

St. James's Ward

Cumulative Impact Area (CIA)

West End

Special Consideration Zone

N/A

Proposed Licensable Activities and Hours

Late Night Refreshment (Indoors)

Monday to Sunday: 23.00 to 01.00 hours

Hours Premises are open to the Public

Monday to Sunday: 11.00 to 01.00 hours

Summary of Application

This is an application for a new premises licence under the Licensing Act 2003 ("The Act"). The application seeks to permit the premises to sell low sugar ice cream and frozen yogurt treats to eat in or take out. The premises will only sell hot drinks and hot waffles and there will be no deliveries.

There is a presumption to refuse the application unless an exception to policy is made and the Applicant shows that the application will not add to the cumulative effect in the area.

There is a resident count of 98.

Representations Received

- Environmental Health Service (Sally Fabbriatore)
- Licensing Authority (Karyn Abbott)

The Environmental Health Service (EHO) objects as the granting of the Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the CIA and may impact on Public Safety.

The Licensing Authority note the premises is located within the West End CIA and as such various policy points must be considered, namely CIP1, HSR1 and FFP1.

Policy Considerations

Due to the nature of the premises this application falls within Westminster's **FFP1 (b, c, d)** Policy that states.

B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:

1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1, and/or,

2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.

C. The applications referred to in Clause B1 and B2 will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.

2. The operation of any delivery services for alcohol and/or late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

3. The application and operation of the venue continuing to meet the definition of a Fast-Food Premises in Clause D.

D. For the purposes of this policy a Fast-Food Premises is defined as:

1. A premises that provides late night refreshment, either by way of fast food over a counter, via a self-seating basis or take away for immediate consumption.

2. Food and drink are:

a. Available on the premises for self-selection.

b. Prepared on the premises.

c. Cooked or produced off the premises but brought to that premises in advance of its sale to customers.

3. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption.

4. A fast-food premises can provide a delivery service as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.

SUBMISSIONS AND REASONS

Mr Jackaman outlined the application to the Committee. He noted that representations had been received from the Environmental Health Service and the Licensing Authority.

Mr Jackaman advised following consultation the applicant amended the hours for Late Night Refreshment from 23:00 to 02:00 to 23:00 to 01:00 Monday – Sunday. Mr Jackaman outlined that the Premises was located within the St James's Ward and in the West End CIA.

The Committee noted that the Premises was located within the St James's Ward and in the West End CIA. The matter will be assessed on its individual merits having regard to the evidence before the LSC and the promotion of the licensing objectives.

Mr Shamim Mia (the Applicant) addressed the Committee and stated that this was a small premises serving low sugar ice cream and frozen yogurt currently operating until 23:00. The Applicant explained he was applying for the new Premises so that he could serve a small selection of hot refreshments such as hot coffees, hot chocolate and hot waffles from 23:00 until 01:00. Mr Mia confirmed there will be no introduction of alcohol.

In response to questions from the Committee, Mr Mia confirmed currently there are 2 members of staff on site, and this will increase to 3 during the busier summer months. He advised that there had never been any incidents/disturbances in the premises and reassured the Committee that the staff will be proactive in dealing with any issues if they were to arise.

Ms Sally Fabbriatore on behalf of Environmental Health Service informed the Committee that the Environmental Health Service had maintained their representations as the Premises is situated within the West End CIA and as the hours sought were outside the Council's core hours policy.

Ms Fabbriatore noted that this application is different to your regular late-night refreshment premises as there is a minimal offer of hot refreshments being offered. She confirmed she had visited the Premises and several conditions had been agreed with the Applicant that not only suit their proposed operation but also future proofing the premises licence.

In response to questions from the Committee, Ms Fabbriatore confirmed that there had been no reported complaints or issues reported to the Environmental Health Service.

Ms Karyn Abbott representing the Licensing Authority advised the Committee that the Licensing Authority had maintained their representation as the Premises was within the CIA and the application should be considered under Fast Food Premise Policy FFP1.

She advised that there was still a concern despite the Applicant reducing the terminal hour to 01:00. She raised concerns about the future proofing of the premises and stated, if Members were minded granting this application, the LA would like an additional condition to personalise the premises licence. Ms Abbott said that it was for the Committee to be satisfied whether the Applicant has demonstrated that the Premises would not add to the CIA.

Mr Burnett, Legal Adviser suggested to the Committee that a suitable form of words for a condition could be -

‘The Licensable activities provided at the Premises shall be ancillary to the main function of the premises as a cold food/ice cream parlour’.

The ramifications of imposing this condition were explained to the Applicant by the Committee's Legal Adviser and the Applicant confirmed he was satisfied with the wording of the proposed condition and consented to it being added to the premises licence if granted.

Decision

The Committee has determined an application for a grant of a New Premises Licence under the Licensing Act 2003. The Committee is aware that it has a duty to consider each application on its individual merits and did so when determining this application.

In reaching their decision, the Committee took into account all the committee papers, supplementary submissions made by the Applicant, and the oral evidence given by all parties during the hearing.

In reaching its decision, the Committee took into consideration that the Applicant had agreed conditions with the Licensing Authority and Environmental Health Office.

The Committee took comfort from the fact the Applicant agreed to the additional condition in that the Premises would operate first and foremost as a cold food and ice cream parlour with the late-night refreshment being an ancillary element. The Committee was satisfied that this was an exceptional reason as to why the Committee could depart from Westminster's Cumulative Impact policy and the presumption to refuse the application.

Due to the nature of the operation, the agreed proposed conditions, the limited opening times during which the applicant confirmed that he would sell waffles, coffee, hot chocolate and such like and that there have been no reported incidents emanating from the operation of the Premises, the Committee decided that the granting of the application would not adversely affect the Licensing Objectives.

The Committee was satisfied that, in accordance with the Licensing Act 2003, Home Office Guidance, Westminster's Statement of Licensing Policy and on the evidence before it, it was appropriate and proportionate, in all the circumstances, to **GRANT** the application.

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

1. To grant permission for:

1. Late Night Refreshment (Indoors)

- Monday to Sunday: 23.00 to 01.00 hours

2. Hours Premises are open to the Public

- Monday to Sunday: 11.00 to 01.00 hours

-

2. Relevant Mandatory Conditions to apply

3. Conditions consistent with the operating schedule:

1. There shall be no consumption of late-night refreshment on the premises after midnight.
2. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed 10 persons.
3. 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
4. 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.
5. No deliveries to the premises shall take place between (23.00) and (08.00) hours on the following day.
6. No deliveries from the premises, either by the licensee or a third party shall take place between (23.00) and (08.00) hours on the following day.
7. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
8. 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.
9. (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.

(b) All entry and exit points shall be covered enabling frontal identification of every person entering in any light condition.

(c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and shall include the external area immediately outside the premises entrance.

(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.

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

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 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.

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

11. The licensable activities provided at the premises shall be ancillary to the main function of the premises as a cold food/ ice cream parlour.

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

**The Licensing Sub-Committee
16 February 2023**

CIZ or SCZ

None

Summary of Application

This is an application for a variation of premises licence under the Licensing Act 2003 ("The Act").

The application seeks to amend the layout on the current approved plans and to insert the new plan number in an existing condition:

9. Save for the Bar area (as shown on the plan, **9962LIREV2, dated 15.06.2010**) alcohol shall only be served to persons seated at tables and the service of alcohol shall be by way of waitress/waiter service only and ancillary to a table meal.

To:

9. Save for the Bar area (as shown on the plan, **PMC P101 P1, dated 31/01/2023**) alcohol shall only be served to persons seated at tables and the service of alcohol shall be by way of waitress/waiter service only and ancillary to a table meal.

There is a resident count of 172.

The matter was assessed on its individual merits having regard to the evidence before the Licensing Sub-Committee and the promotion of the licensing objectives.

Issues raised by Objectors

The original application sought an extension of hours and increase seating. This attracted a substantial number of local residents' representations. This aspect of the application was subsequently withdrawn.

There remain objections to the plan changes on the basis of the premises being now presented as a bar which conflicts with the basis on which the Licensing Sub-Committee originally granted the Premises Licence.

Policy Considerations

None

SUBMISSIONS AND REASONS

Mr Thomas on behalf of the Applicant informed the Committee that the Applicant altered the layout of the Premises and believed the changes had been approved.

The changes consist of the relocation of a bar servery and reception desk, and to amend a condition to detail the new plan number if the application is granted. The changes have been in place for 10 years.

There have been issues at the Premises which are part of separate discussions.

Mr Brown on behalf of the residents confirmed to the Committee that prior to 2014 the premises was rarely problematic, and they worked with the operator. The residents state that since the unauthorised change to the layout in 2014, there have been issues. This can only be attributed to the increase the area around the bar making it a focal point, and hence causing noise nuisance from customers.

The Residents went on to state to the Committee that they believe alcohol is supplied to customers without food and in breach of the terms on their Premises Licence. This has a cumulative adverse effect on residents, many who are long term residents.

They believe the premises is trading as a bar and is out of control with customers shouting, vomiting, and creating a nuisance. Council officers have been called and have witnessed this behaviour. Staff are arrogant and rude and not responsive. The residents have documentary and photographic evidence to prove their assertions. The residents confirmed that they are moving towards applying for a Review.

DECISION

This is an application to regulate plans at the Premises to reflect the actual layout of the Premises which has traded since or around October 2014. The Premises are located outside of the Cumulative Impact Area and all Special Consideration Zones.

There are no changes to capacity, hours or licensable and there are no representations from the Responsible Authorities. However, there are representations from local residents.

The Committee have heard concerning evidence about the effect of operation of the premises on residents. It is not accepted that these representations do not relate to the application as amended, as asserted by the Applicant.

However, it is accepted that this is not a Review of the Premises Licence, but the Committee must carry out its functions under the Act with a view to promoting the licensing objectives.

The Applicant has undertaken to hatch the areas on the plan used as a bar/bar lounge area.

The regularisation to the plans is not a material change to the Premises Licence and the relocation of a bar and reception point, without increases in capacity and hours are in themselves, unlikely to adversely affect the Licensing Objectives.

The residents' complaints relate to alleged breaches of conditions on the Premises Licence which are matters for discussion with the operators, the Relevant Authorities or ultimately a Review.

The Committee has determined an application for a grant of a variation of a Premises Licence under the Licensing Act 2003.

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

1. To grant permission for:

The Change of the current approved plans to PMC P101 P1 to include the bar seating area and the bar lounge as a hatched area, dated 31/01/2023).

2. Relevant existing Mandatory Conditions to apply

3. Existing conditions to apply save for current condition 9 in Annex 3, which shall be replaced with:

Conditions attached after a hearing by the licensing authority

9. Save for the Bar area (as shown the plan, PMC P101 P1, dated 31/01/2023) alcohol shall only be served to persons seated at tables and the service of alcohol shall be by way of waitress/waiter service only and ancillary to a table meal.

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

Informative

- 1) Mr Thomas undertook to update the plans to show the bar area/ lounge as hatched areas on the plan.
- 2) The Committee were concerned about the issues residents faced as a result of the Premises operation. They hope that there will be constructive discussions between the residents and Premises Licence Holder. Failing this the residents are reminded of their option to apply for a Review of the Premises Licence.

**The Licensing Sub-Committee
16 February 2023**

Summary of Application

This is an application for a new premises licence under the Licensing Act 2003 ("The Act"). The application seeks to permit the sale of alcohol on 5th & 6th Floor of 64 North Row, London.

They provide a dedicated onsite support team, a full concierge service and bespoke spaces tailored to clients. They include a VIP Lounge Area, multiple boardrooms and kitchen / cafe area.

The Premises is located within the West End Ward, but not within the Special Consideration Zone or a Cumulative Impact Zone.

There is a resident count of 176.

The matter was assessed on its individual merits having regard to the evidence before the Licensing Sub-Committee and the promotion of the licensing objectives.

Proposed Licensable Activities and Hours

Sale of Alcohol (on)

Monday to Sunday 08:00 to 22:00 hours

Hours Premises are open to the Public

N/A

Representations Received

- **Environmental Health:** Maxwell Koduah
- **New Hereford House Residents Association:** Mike Dunn
- **Residents**
 - Charles Godwin
 - Toral Odedra
 - Raj Odedra
 - Karen Mawson

Issues raised by Objectors

EHO states: As presented, the application would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the Edgware Cumulative Impact area.

New Hereford House Residents' Association states: Objecting on the grounds of nuisance, specifically light pollution.

Residents state: concerned about privacy (windows at 64 do not all have blinds), and noise, mostly when people leave 64 by North Row exit.

The office already leaves the lights on all night which is disturbing.

There will be lights on at the site which will affect them until late in the night. Light pollution is a big problem from the site. People in the building will be able to look directly into their flat. The proposed site is an office building and a license for serving alcohol is completely inappropriate and I hope the council will reject it.

Policy Considerations

PB1

A. Applications outside the West End Cumulative Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities being within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has taken account of the Special Consideration Zones policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meet the definition of a Public House or Bar in Clause D.

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

Paragraph F103.

The provision of a bar within a workplace solely for the use of those working there, and their invited guests, will generally be regarded as an exception to the policy not to grant new bars in the Cumulative Impact Areas. Regard will be had to other policies in this Statement and the hours of operation of the workplace, the hours and extent of the use of the bar and the effect on cumulative impact in the West End Cumulative Impact Zone.

SUBMISSIONS AND REASONS

Mr Thomas on behalf of the Applicant informed the Committee that the application is for serviced offices with a concierge service. They were advised by Mr Keegan, Westminster City Council Inspectors to obtain a premises licence.

There have been discussions with Mr Nevitt and Mr Dunn, to address the issues raised by the residents and to agree appropriate and proportionate conditions.

There is no strobe lighting at the premises and relevant planning permission has been granted for the premises to operate as offices, lighting in the areas to be licensed is nothing above what is normally permitted.

The EHO proposed conditions are accepted and no conditions relating to light are required.

In response to questions from the Committee, Mr Thomas confirmed there would be no pay/cash bars. The premises licence is required for small infrequent events.

He also confirmed that all persons entering the building must sign in at reception on the ground floor. The total capacity for the licensed areas would be approximately 90 persons.

Mr Nevitt reviewed with the Committee, the proposed conditions which were felt to be appropriate and proportionate.

He also explained that if lighting at the premises were strobe, flashing or flood lights then this could be classed as a nuisance, but this is not the case at this premises and therefore it would be impossible to enforce any condition which sought to restrict lighting at the premises.

Mr Dunn on behalf of New Hereford House Residents' Association advised the Committee that the issues were narrowed down to light issues, and he referred the Committee to photographic evidence in the papers. Mr Dunn was hopeful they could agree an Operating Plan which dealt with lighting, curtains and blinds when licensable activities were taking place.

Mr Brown referred the Committee to Policy PN1 paragraph C12 of Westminster's Statement of Licensing Policy (SoLP), which was considered.

In response to questions from the Committee, Mr Thomas explained that the operators have had dialog with the residents and if there are issues evidenced in the future, then they can return to the Committee under the provisions of a Review process.

Mr Nevitt confirmed to the Committee that the accepted conditions were sufficient as it is difficult to regulate light.

DECISION

The Committee has determined an application for a grant of a New Premises Licence under the Licensing Act 2003.

The Committee notes that the application relates to serviced offices where intermittent events will take place. The premises, however, is not open to the public all tenants and their bona fide guests will have to be registered on the ground floor and there is a concierge facility in place.

It is accepted that the events are likely to be controlled office events regulated by tenants of the premises licence holder.

There is light exposure from windows of only two of the areas to be licensed. These are not strobe, flashing of flood lights and therefore Mr Nevitt's assertions were compelling.

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

1. To grant permission for:

Sale of Alcohol (on)

Monday to Sunday 08:00 to 22:00 hours

Hours Premises are open to the Public

N/A

2. Relevant Mandatory Conditions to apply

3. Conditions consistent with the operating schedule:

9. The licensable activities provided at the premises shall be ancillary to the main function of the premises as offices.

10. The premises shall not open to the public.

11. The sale of alcohol shall only be to the One Avenue group of companies (tenants) and their employees or their bona fide guests.

12. Outside of the hours authorised for the sale of alcohol and whilst the premises are open, the licence holder shall ensure that all alcohol within the premises which is dispensed by the licence holder is secured so as to prevent access to alcohol by both members and staff.

13. The premises shall install and maintain a comprehensive CCTV system.

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

15. 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.

16. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and shall 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.

17. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

18. There shall be no consumption of alcohol after 22:30

19. The Designated Premises Supervisor/nominated Manager responsible for the premises shall ensure that the area of the premises where alcohol is supplied under this licence shall be regularly patrolled during the hours that supply of alcohol is permitted to ensure compliance with the Licensing Act 2003

20. 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.

21. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team.

22. 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.
23. All windows and external doors shall be kept closed after **21:00** hours except for the immediate access and egress of persons
24. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
25. 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
26. 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
27. No deliveries to the premises shall take place between **23.00** and **08.00** hours on the following day
28. 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
29. 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
30. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means
31. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device
32. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public

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

33. A direct telephone number for the manager at the premises shall be publicly available when the licensed areas of premises are trading.

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

**The Licensing Sub-Committee
16 February 2023**

Ward

Hyde Park

Cumulative Impact Zone

None

Special Consideration Zone

None

Summary of Application

This is an application for a variation of a premises licence under the Licensing Act 2003 ("The Act"). The Premises operates as a public house and restaurant and has the benefit of an existing Premises Licence. (Page 140 of the Committee main bundle)

This variation application seeks to permit the following:

1. Remove Condition 46 below

No licensable activities shall take place at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.

2. Amend condition 21 to Patrons permitted to temporarily leave and re-enter the premises shall be limited to 20 persons with a maximum of 10 persons each in two separate designated smoking areas.

3. Amend condition 47 to The consumption of alcohol outside the building will be restricted to customers who are seated.

The Premises are located within the Hyde Park Ward but not within the Special Consideration Zone or Cumulative Impact Zone.

There is a resident count of 98.

The matter was assessed on its individual merits having regard to the evidence before the Licensing Sub-Committee and the promotion of the licensing objectives.

Proposed Variation

1. Delete Condition 46 on the existing Premises Licence, namely:

No licensable activities shall take place at the premises until the capacity of the premises has been determined by the Environmental

Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.

2. Amend condition 21 on the existing Premises Licence from:

21. Patrons permitted to temporarily leave and then re-enter the premises shall be limited to 10 persons and those wishing to smoke shall be directed to the designated smoking area defined on the licence plan

To: *Patrons permitted to temporarily leave and re-enter the premises shall be limited to 20 persons with a maximum of 10 persons each in two separate designated smoking areas.*

3. Amend condition 47 from:

47. The sale and supply of alcohol outside the premises building shall be restricted to alcohol consumed at the outside tables and chairs shown on the licence plan, shall be by waiter or waitress service, served only to a person seated taking a substantial meal there and for consumption by such a person ancillary to their meal.

To:

The consumption of alcohol outside the building will be restricted to customers who are seated.

Representations Received

- Environmental Health Service (Ayesha Bolton)
- Michael Clarke – Resident
- Elizabeth Virgo – PWMVS Amenity Society.
- John Zamit – SEBRA
- Cllr Paul Dimoldenberg – Hyde Park Ward

Issues raised by Objectors

EHO states: The amendments to the conditions as presented would have the likely effect of causing an increase in Public Nuisance and impact on public safety

Michael Clarke states: the "likely effect" of the variation will be an increase in public nuisance including noise and anti-social behaviour in this essentially residential area.

Elizabeth Virgo: There is no objection to the removal of condition 46, however the amending of the other two conditions effectively, does not protect local residents who live in very close proximity above the premises.

John Zamit: Consider that the proposed rewording of the two Condition will cause a substantial nuisance to occupants of the surrounding properties and to the general area in and around Merchant Square.

Cllr Paul Dimoldenberg: Objects to changes proposed to Conditions Nos 21 & 47 but have no objection to remove condition No 46. The proposed rewording of the two Conditions will cause a substantial nuisance to occupants of the surrounding properties and to the general area in and around Merchant Square.

Policy Considerations

PB1

A. Applications outside the West End Cumulative Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities being within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has taken account of the Special Consideration Zones policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meet the definition of a Public House or Bar in Clause D.

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

SUBMISSIONS AND REASONS

Mr Anderson on behalf of the Applicant confirmed that the application to amend condition 21 which relates to the number of smokers is now withdrawn.

Mr Anderson then informed the Committee that the Premises was purchased in 2016 and although trade inside is not an issue, trade in the outside area is problematic. The vista from the outside area is good but patrons cannot sit in the outside area without having a meal. This is difficult to manage because although people can drink inside without a meal, but as soon as they go to the outside area, they are required to eat. Inside trade is less restrictive than the outside trade.

The Committee was informed that the operators are willing to have customers seated in the outside area but they would like to remove the restriction compelling everyone in that area to have a meal.

There are a number of conditions on the Premises Licence which are far more restrictive than on premises licence for other similar venues in the immediate vicinity.

In response to questions from the Members, Mr Anderson stated that staff would be managing the outside and that he understood the requirement to protect residents from nuisance, especially those living above the premises. He stated that the condition is an inconvenience for the Applicant but other pubs in the area have less conditions. Mr Anderson was reminded that the premises is located in a residential area.

Mr Anderson confirmed that in the summer months when the area is busier, the operator will increase staffing levels and he did not feel that by amending the condition, there would be an increase in public nuisance.

The Applicant has a good track record, and the premises currently operate well. This is a hybrid premises providing food and drinks and not a strict restaurant. He asked the Committee to note that there is only one residential objector.

The Committee was informed that the operator has integrated with the local residents and community, spent £15K on sound proofing and £5K on a resident's windows.

The Applicant was referred to a picture in the Agenda, of customers using the outside area in breach of conditions on the Premises Licence for which the operators apologise.

The Applicant explained to the Committee that this is a relatively new site, and they became aware that a side outside area was not productive.

Mr Nevitt, (EHO) confirmed that he was satisfied with the works condition 46 being removed. He then went on to explain to the Committee that use of outside areas usually causes issues when people are standing, blocking boundaries, operated late hours and had unregulated numbers. In this case customers must be seated, the area closes at 22.00 and the numbers are limited to 24.

There is also a 'overhang' preventing direct sight from the resident's accommodation above.

Mr Nevitt suggested the unused side area could be removed from the plans to reduce the outside area and in his view, this is sufficient enough to ensure the Licensing Objectives are promoted.

Mr Anderson on behalf of the Applicant agreed to this.

Mr Brown on behalf of the residents, SEBRA and PWMVS, stated that the removal of the side area will not make a difference to the nuisance residents above the Premises will endure.

He explained to the Committee that the Premises Licence was previously amended, and the restrictions imposed because the operators held the venue out to be food led. The Committee were referred to the comments in the Decision of the Committee

which sat July 2016. The Decision identifies that the area is a sensitive residential area, and the operation of the outside area should be restricted to a food led trade.

Mr Brown informed the Committee that the resident, Dr Clarke's experience of noise is not an isolated occurrence. This was not the first incident. This shows that the management of the outside area is lacking

The Committee was advised by Mr Brown that Dr Clarke lives above the Premises and relaxing the use of the outside area will increase alcohol consumption in the area and therefore cause more customer noise.

Mr Kaner of SEBRA stated to the Committee that the Applicant is a good operator, and he has confidence that the outside area will be well managed. He lives near to another of the Applicants' premises, and it is managed well.

He informed the Committee that he is aware that there is always the Review procedures if there are issues but he has confidence that the Applicant will operate the outside area well.

DECISION

The Committee has determined an application for a grant of a variation of a Premises Licence under the Licensing Act 2003.

The Committee noted that the Applicants have a good track record of trade in London. However, the area in which the Premises is located is a residentially sensitive area.

The Committee note that previous Licensing Sub-Committee had recognised this and restrict the area to a food led operation.

The Committee recognised that the different styles of trade inside and outside the premises, dictated by the conditions on the existing Premises Licence is difficult to manage.

However, some comfort must be given to the residents in light of the allegations that use of the outside area in breach of the Premises Licence conditions is not a 'one off' occurrence. It was decided that regular monitoring and control of the outside area should be provided by waiter/waitress service to the area and the number of patrons using the area should be restricted to 24 persons.

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

To grant the Application to:

1. Delete Condition 46 on the existing Premises Licence
2. Delete condition 47 on the existing Premises Licence.

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

3. Replace conditions 46 and 47 on the existing Premises Licence with the following conditions

46. The consumption of alcohol outside the building shall only be to a maximum of 24 persons who are seated at tables in the external area shown on the approved plan.

47. The supply of alcohol in the external area shown on the approved plan, shall only be by waiter/waitress service.

1. **Relevant existing Mandatory Conditions to apply**
2. **All other existing conditions to apply:**

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

Informative:

- 1) The Committee having heard the evidence would strongly request that the Applicant displays notices in the outside area instructing patrons to be mindful of residents living above the Premises.
- 2) The Committee having heard the evidence would strongly request that the Applicant displays notices in the outside area notifying patrons to remain seated.
- 3) Mr Anderson on behalf of the Applicant has provided an undertaking to the Committee that he will supply the Licensing Authority with amended Licence Plans showing the removal of the outside area to the side of the Premises which is rarely used by patrons.

**The Licensing Sub-Committee
16 February 2023**

The Meeting ended at 3.16 pm