



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 21st September, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Robert Eagleton (Chair), Concia Albert and Jacqui Wilkinson

1. MEMBERSHIP

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

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. MANZIS, BASEMENT NORTH, 1-8 BATEMAN'S BUILDINGS, W1D 3EN

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

Thursday 21 September 2023

Membership: Councillor Robert Eagleton (Chair) Councillor Concia Albert and Councillor Jacqui Wilkinson

Officer Support Legal Adviser: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Jack Robinson-Young
Presenting Officer: Roxsana Haq

Application for a Variation of a Premises Licence in respect of Manzis, Basement North, 1-8 Bateman's Buildings, London, W1D 3EN 23/03996/LIPV

Other parties present: Saba Naqshbandi, Counsel (3 Raymond Buildings) Daniel Craig (General Manager & DPS), Simon King (General Manager) Torben Anderson (RBA Acoustics), Marina Tempia (The Soho Society), Neil McCann (Local resident),

Caroline Conaty (Hazlitts Hotel), Richard Brown representing the Soho Society, Sally Fabricatore (Environmental Health Service), PC Reaz Guerra (Metropolitan Police Service).

Full Decision

Premises

Manzis Basement North
1-8 Bateman's Buildings
London
W1D 3EN

Premises Licence Holder (PLH)

The Wolseley Hospitality Group Ltd

Cumulative Impact Area

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

Ward

West End

Special Consideration Zone

N/A

Summary of Application

The Sub-Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act") in respect of Manzis Basement North 1-8 Bateman's Buildings London W1D 3EN ("The Premises"). The Premises currently operates as a seafood and fish restaurant and has had the benefit of a premises licence since 2019. The Premises Licence Holder is The Wolseley Hospitality Group Ltd ("PLH").

The current premises licence (23/04980/LIPRW) can be viewed at **Appendix 1** of the agenda report. A full licence history for the Premises appears at **Appendix 2**.

The PLH has provided at **Appendix 3** the following additional submissions:-

- Operational Management Policy.
- Dispersal Policy.
- Photos of the location of the CCTV cameras.
- Photos of the terrace area.
- Composite list of additional conditions.
- Plan showing the smoking area hatched black.
- RBA Acoustic Report dated 18th July 2023

The Premises are located both within the West End Ward and West End CIZ. There is no policy presumption to refuse applications inside the West End CIZ for restaurant premises provided they do not add to negative cumulative impact in the West End CIZ and subject to the promotion of the licensing objectives and other policies.

The variation seeks the following:-

To extend opening hours and the hours for the sale of alcohol and late night refreshment on Thursday, Friday, Saturday and Sundays by 1.5 hours and 2 hours. All other days will remain as existing on the premises licence. The PLH also proposes to add conditions to the premises licence which can be seen at Section 1D of the report.

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.

Representations were received from the Licensing Authority, EHS, MPS, two local residents, one business owner and the Soho Society citing concerns regarding public nuisance and crime and disorder.

There is a resident count of 73.

Representations received

- The Licensing Authority (Jessica Donovan)
- The Environmental Health Service (Sally Fabbriatore) (EHS)
- The Metropolitan Police Service (PC Reaz Guerra) (MPS)
- 2 Local residents
- 1 Local business (Hazlitts Hotel)
- 1 Residents association (The Soho Society)

Summary of issues raised by objectors

To add four additional conditions to the premises licence as follows:

- *At least 2 SIA licensed door supervisors shall be on duty at the entrance of the premises from 21.00 hours when the premises operate up to 01.00 hours and they must correctly display their SIA licence when on duty so as to be visible.*
- *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.*
- *All windows and external doors shall be kept closed after 23.00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.*
- *There shall be a personal licence holder on duty on the premises from 21.00 hours when the premises operate up to 01.00 hours for the sale of alcohol.*
- *The Licensing Authority encourages the applicant to provide further submissions as to how the increase the hours will not add to cumulative impact in the West End cumulative impact area, in accordance with policy CIP1.*

- *I am writing to inform you that the Metropolitan Police, as a Responsible Authority, are objecting to this application as it is our belief that if granted the application would undermine the Licensing Objectives. The premises are situated within the West End Cumulative Impact Area. There is insufficient detail contained within the operating schedule to promote the licensing objectives. The hours sought exceed Westminster's Core Hours Policy. It is for these reasons that we object to this application.*
- *The extension of hours for the Supply of Alcohol may cause an increase in Public Nuisance in the cumulative impact zone.*
- *The extension of hours for Late Night Refreshment may cause an increase in Public Nuisance in the cumulative impact zone.*
- *The extension of hours for the Supply of Alcohol may cause an increase in Public Nuisance in the cumulative impact zone.*
- *The granting of the variation Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the cumulative impact zone.*
- *I object to Manzi's application for a license extension as outlined in 22/06638/LIPCH in the strongest terms. The saturation point has been reached for late night drinking in Bateman Street and Greek Street, as has been well documented in the press. It has led to serious violent crime and drug dealing. The noise of inebriated people shouting outside in the street plague us most nights. Our lives are being blighted and we feel unsafe in our own neighbourhood. Enough is enough -every premises has an alcohol license around here and those not already opening beyond normal licence hours are seeking later licenses. Is drinking really the only business this part of Soho can offer?*
- *I write to you as a concerned neighbour, sternly object about Manzi's proposed extended operational hours at 1-8 Bateman's Building. Manzi directly backs onto our residential dwellings (59 Greek St). Notably, Manzi's first floor overlooks residential bedrooms, creating a potential privacy concern with extended operational hours.*
- *Furthermore, the increased late-night activity would create a nuisance and disrupt sleep (the construction and sound testing have already had this effect over the last six months).*
- *Extending the hours of operations would further increase the likelihood of disturbance and nuisance. Our bedroom is the only non-road-facing room in our apartment and provides us with the quiet to ensure that our quality of sleep is not as affected as the Greek St side (impacted by Louche, Simmons and other late-night establishments). I respectfully ask you to reject the proposed extension and look into the noise impact of 1-8 Batemans will have on the residents of 59 Greek Street.*
- *We request Councillor's on the panel to carefully consider our concerns about this application to extend the existing licence until 1.30am in a heavily residential area which includes social housing, where crime rates are rising and where residents have made 19 noise complaints over the past two years. As the Committee are aware the onus is on the applicant to demonstrate they will not increase cumulative impact and will promote the licensing objectives.*
- *This is an application to extend a restaurant licence outside of the Core Hours Policy HRS1 with a capacity of 280 in the West End Cumulative Impact Zone. The onus is on the applicant to demonstrate they will not add to cumulative*

impact and will promote the licensing objectives, in our view they have failed to do so. We respectfully ask the Committee to refuse this application.

Policy Position

Policies CIP1, RNT1 and HRS1 apply under the City Council's Statement of Licensing Policy apply (SLP).

Policy CIP1

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

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

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

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

Policy HRS1

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

B. 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. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.
3. 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.
4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.
5. The proposed hours when any music, including incidental music, will be played.
6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.
7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.
8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.
9. The capacity of the premises.
10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than

theatres, cinemas and other cultural and sporting venues due to the nature of the operation.

11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.

12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.

13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.

14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.

C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:

6. Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday:

Midday to Midnight.

D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.

Policy RNT1

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

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

2. The hours for licensable activities 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 meeting the definition of a restaurant as per Clause C.

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

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

SUBMISSIONS AND REASONS

The Presenting Officer Ms Roxsana Haq introduced the application to the Sub-Committee. She advised this was an application for a variation of a premises licence regarding the Premises Manzis Basement North, 1-8 Bateman's Buildings, London, W1D 3EN. The PLH is The Wolseley Hospitality Group Ltd represented today by Ms Saba Naqshbandi of 3 Raymond Buildings. The PLH is seeking to extend opening hours and the hours for the sale of alcohol and late night refreshment on Thursday, Friday, Saturday and Sundays by 1.5 hours and 2 hours together with additional conditions. Representations have been received from the Licensing Authority, EHS, MPS, two local residents, one business owner and the Soho Society.

Ms Saba Naqshbandi Counsel for the PLH began by outlining the application to the Sub-Committee. Ms Naqshbandi spoke to the long-standing experience of the operators and how no prior complaints had been received. Ms Naqshbandi said there had been a constructive dialogue with all of the Responsible Authorities and that the parent group operates many high-end establishments within the City of Westminster, with Manzi's being the newest addition to this portfolio.

Ms Naqshbandi spoke to the fact that this restaurant was bound by restaurant policy including for patrons to be seated with music being at a background level only. She advised that there had already been 9 weeks of trading with no evidence of complaints submitted to them or to the MPS.

Ms Naqshbandi said for all of these reasons she was confident that the Premises would not add to cumulative impact in the wider area and added that further conditions had been agreed in consultation with the MPS.

Ms Naqshbandi said that there was a designated smoking area and lobby doors, again proving how this was a venue that the PLH had taken a responsible approach to the management of the Premises. She said that by extending these hours, with no changes to conditions, would only allow for more people to egress the Premises in a gradual manner.

Ms Naqshbandi referred to the alleyway area that was previously dirty and dingy which had now been transformed and was to be cleaned twice daily. She advised that the Wolseley Group instructed acoustic consultants who confirmed that music

and dispersal would not impact the local community through noise escaping. There would be two SIA door supervisors located on the entrance door and this would be conditioned accordingly.

In answer to questions from the Sub-Committee the PLH Mr Simon King, the Operations Director on behalf of the PLH confirmed why the extension of hours was being sought. He said that during the 9-week period of trading they have found that there is a large egress of people at the same time. He said that this extension of hours would allow egress to be more gradual.

Ms Naqshbandi advised that the smoking area for customers would be located towards the Soho Square end of the Premises and that smokers would not be allowed to take drinks with them as per the proposed condition. In relation to deliveries these would be between 07:00 to 11:00.

Mr King advised the Sub-Committee that the sale of alcohol was being requested early on Sunday because this falls in line with the Premises opening hours. The Sub-Committee queried why the PLH thought representations had been maintained if so much had been done to alleviate their concerns. Ms Naqshbandi said that there was a policy here of which they were trying to prove exception to, but could understand why any application in this area may cause concerns. She said there had been communication on the application with local residents and Responsible Authorities and that this would continue.

Ms Jessica Donovan appearing on behalf of the Licensing Authority addressed the Sub-Committee. She advised that a representation had been made given the location of the Premises within the West End CIZ. However, the dispersal plan was welcomed and that the Licensing Authority had had positive dialogue with the PLH. PC Reaz Guerra appearing on behalf of the MPS addressed the Sub-Committee. He said that the MPS's representation was for similar reasons to the Licensing Authority as the hours requested are outside the core hours policy. In answer to questions from the Sub-Committee PC Guerra said that the alleyway has been improved, this was now near a bright fronted building and was a significant improvement.

Ms Sally Fabbricatore appearing on behalf of the EHS addressed the Sub-Committee. She advised that she had attended a site visit which confirmed the Premises to be operating as a restaurant with no reported issues to the Council but given this was an Applicant asking for an exception to policy, they had maintained their representation. In answer to questions from the Sub-Committee Ms Fabbricatore advised that in relation to the potential for a sound limiter, this is something the EHS has not proposed but if the Premises were to offer it then they would work with them.

Mr Neil McCann, local resident, addressed the Sub-Committee outlining his concerns mainly around the noise from smokers and the noise from patrons leaving the Premises. Mr McCann stated that he did not object to the application for core hours or the planning application with regards to the alleyway.

Mr McCann said he had been in contact with the Premises regarding a complaint from staff making noise which was dealt with by the PLH and that he was appreciative of this. Mr McCann spoke to the background of the parent company and

changes in personnel to which he thought meant the Sub-Committee could not rely on the reputation of the parent company group. He said that during conversations with the PLH, he was informed that there may be private parties which caused him concern.

Mr McCann stated that the acoustic reports taken, were not taken from the bedroom's closest to the Premises and therefore in his view was not an accurate reading of the noise coming from the Premises.

Mr McCann said that if the Sub-Committee were minded granting the application, SIAs should be mandated to closing hours, not to the terminal hour for the sale of alcohol. He said that it was to be expected that this area would have noise until around midnight, but not afterwards.

Mr McCann said he would rather have seen the Premises work past the Christmas period to then be reviewed in the New Year as this is still a bedding in period for the Premises.

In answer to questions from the Sub-Committee Mr McCann confirmed that his concerns had been taken on board by the PLH and that there had been good communication in that respect but with the change in personnel that communication had reduced somewhat.

Ms Caroline Conaty from neighbouring Hazlitts Hotel addressed the Sub-Committee and said that the two closest rooms have been out of service due to refurbishment, meaning there has been no guests in those particular rooms.

Mr Richard Brown appearing on behalf of the Soho Society addressed the Sub-Committee. He advised that there had been communication with the PLH expressing various concerns. He said that like Hazlitts Hotel, he and the Soho Society did not object to the initial application that was for core hours. However, it was the timing of the application compared to the 9 weeks operating time was not enough to properly consider an application of this nature.

Mr Brown said this time period was too short over a summer that had had bad weather meaning the area was quieter than normal. Mr Brown said that this application must prove that there is absolutely no addition to cumulative impact, not that there will only be a small addition to cumulative impact.

Mr Brown said that this was a hotspot for crime and crime was higher than pre-Covid. He gave the example of say 300 people leaving the Premises between Midnight and 01:00 creating noise and could easily allow for crime to take place as there is an increased chance of crime occurring within this timeframe.

Ms Marina Tempia appearing on behalf of the Soho Society addressed the Sub-Committee. She advised that the number of patrons until 01:00 could not be seen as an exception to cumulative impact and local residents from the dispersal of these people on to Bateman Street.

Ms Tempia said the PLH cannot force people to leave via Soho Square, people will leave at the most convenient route possible, which could include Bateman Steet and Greek Street. She advised that Greek Street in particular was a crime hotspot and more people on that street would almost certainly increase the occurrence of crime.

The Sub-Committee queried about the SIA's remaining on the Premises until the closing time and not until the terminal hour of alcohol sales, and this was agreed to by the PLH.

Mr King advised that the outside terrace closes at 23:00 which would be a reduction in capacity of 56 seats, leaving only 174 inside the Premises. Ms Naqshbandi spoke to the policy which accepts that people do not leave restaurants all at the same time, they tend to filter out and therefore a gradual dispersal.

The Sub-Committee asked about the later hours, if there was any potential for compromise on the timings requested. Ms Naqshbandi said that in practical terms, reducing the request by 30 minutes would not make a difference. She said that the kitchen will not be staying open past 23:00 and these hours were to allow people to leave over a longer period of time. Mr King said that last entry to the Premises was midnight, but at this time you would not be able to order food.

The Sub-Committee asked about the mention of a DJ and for more information regarding this event that was held at the Premises. In reply, Mr King said this was on their opening night which was a charity fundraiser.

The Sub-Committee asked if something could be done to ensure that patron's egress through the lobby doors rather than the single door at the other end of the venue. Mr King said that operationally, this can be agreed to if it is a major concern. The Sub-Committee asked how the closure of the terrace at 23:00 would be effectively managed. Mr Craig said that the terrace was not bookable, and towards the end of the evening they manage this until 22:00 when they tell patrons that they must sit inside in order to eat.

In summing up the Licensing Authority and EHS had nothing further to add.

In summing up the MPS spoke to Mr Browns submission and agreed that there is crime and disorder in this area.

In summing up Mr McCann said that he was chiefly concerned with the way the Premises would run for example during the Christmas period as it would operate completely different to the way it is at present.

Mr McCann said that after the Christmas period more time would have passed in order to evaluate how the Premises works and if this were to be positive, then he would work with the Premises on application to vary their licence. Mr McCann said that the kitchen closing at 23:00 and last entry time being Midnight was confusing and this should be brought down to 23:00.

In summing up Mr Brown said that the Sunday morning hours was not of concern to him, but the evening hours were. He said that this area had high levels of crime, especially in Greek Street. He also referred to other venues operated by the parent company, and none of these had their kitchen open past 23:00.

In summing up Ms Naqshbandi said that the presumption to grant the application then leading to others applying (due to the short time frame the PLH has been operating) for later hours using this case as potential precedent is incorrect because all applications are heard on their merit.

Ms Naqshbandi said that this was a responsible operator with a proven track record. They were not talking about hundreds of people coming into the restaurant during these hours, and they estimated it would only be at 30% capacity. Speaking to the summer, Ms Naqshbandi said they had been busy and this was a fair reflection of what the business would be like in future weeks and during the Christmas period.

Ms Naqshbandi said that the alleyway had been transformed and that this venue has already changed the local area for the better. She said that she accepted there has been some noise issues but stressed that this was dealt with immediately. For all of the reasons previously mentioned, Ms Naqshbandi said that she felt confident that this variation to the licence, if granted, would not add to cumulative impact.

Conclusion

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining the variation application for a restaurant premises. There was no policy presumption to refuse the application under Policy RNT1 provided that the granting of it will not lead to negative cumulative impact in the West End CIZ, so the test was whether the licensing objectives are to be promoted.

In deciding the application, the Sub-Committee took into account the Sub-Committee papers, the requirements of the Act and the promotion of the licensing objectives.

The Sub-Committee did not accept the arguments advanced by the parties that because the Premises had only been operating for a period of some 9 weeks this was insufficient time for the PLH to effectively prove whether they are a competent operator because other relevant factors are required to be taken into account. Moreover, if problems are experienced regarding the running of the Premises the review mechanism under the Act can always be invoked by any of the parties.

Ultimately the Sub-Committee has to be satisfied whether the licensing objectives are to be promoted based on the evidence before it and that is the correct test to be applied. There was no such evidence indicating that the licensing objectives will not be promoted or non-compliance with licensing conditions already imposed on the licence and those subsequently added by way of additional conditions.

The primary concern for the Sub-Committee was the global effect granting such an application would have on cumulative impact in the West End CIZ and the promotion of the licensing objectives, however, a balance must be struck when considering the needs of the operator, local business and residents.

The Sub-Committee considers that the right balance has been struck here given the various undertakings given by the PLH in his submissions to the Sub-Committee when considering the daily management of the Premises and the implementation of the operational management plan and dispersal policies the PLH are now bound by that will inter alia, include the management of the terrace area, patrons leaving the Premises upon dispersal at the terminal hour as well as smoking by way of a designated area, and the provision for SIA licensed door staff to be on duty at the entrance of the Premises from 21:00 hours when it operates up to 01:00 hours so as

not to cause nuisance to local residents. All in all, these measures will help promote the public nuisance licensing objective in particular.

The Sub-Committee concluded based on the evidence that the Premises Licence Holder would promote the licensing objectives with the offered conditions.

In terms of the conditions these are all the conditions as stated at pages 66-70 of the report with the inclusion of Model Condition 67 requiring a designated smoking area. The Sub-Committee did consider imposing a noise limiter condition based on the PLH's undertaking that music played would be background only.

The Sub-Committee would also like to point out that the PLH is to ensure that the "alternative door" is used by patrons after 23:00 so that guests at the nearby Hazlitts Hotel are not disturbed unnecessarily by nuisance.

The Sub-Committee concluded that the licensing objectives will be promoted in light of the ongoing commitment by the PLH to work with local residents, the measures it has in place when it came to the management of the Premises for the additional hours sought and therefore decided to **GRANT IN PART** the variation application meaning that in terms of the hours for the licensable activities these are Thursday to Saturday until 00:30. In terms of the opening hours these are Thursday to Saturday until 01:00. For Sunday the Sub-Committee decided that the start time of 10:00 applied for was agreed.

The Sub-Committee concluded that the conditions imposed on the Premises Licence will mitigate the concerns of those parties who had objected to the application and have the desired effect of promoting the licensing objectives.

Going forward the Sub-Committee would welcome that the PLH maintains a fruitful dialogue with those who had objected to the application to ensure the smooth running of the Premises and the promotion of the licensing objectives.

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

1. That the hours for **Late Night Refreshment (Indoors)** are varied Thursday to Saturday until 00:30.
2. That the hours for **the Sale by Retail of Alcohol (On and Off the Premises)** are varied Thursday to Saturday until 00:30.
3. That the **Opening Hours** are varied Thursday to Saturday until 01:00. Sunday 10:00 to 22:30.
4. That the Licence is subject to any relevant mandatory conditions.
5. That the existing conditions on the licence shall remain in full force and effect save as otherwise varied by the addition of seven new conditions as specified below and numbered 6-29.

Conditions imposed by the Committee after a hearing with agreement of the Premises Licence Holder:-

6. 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. 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.
7. 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.
8. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system or searching equipment or ID scanning equipment
 - (f) all seizures of drugs or offensive weapons
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
9. The premises shall only operate as a restaurant
 - (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - (iv) which do not provide any take away service of food or drink for immediate consumption,
 - (v) which do not provide any take away service of food or drink after 23.00, and
 - (vi) 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.

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

10. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
11. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
12. All tables and chairs shall be removed from the outside area or rendered unusable by (23.00) each day.
13. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
14. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
15. 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.
16. The number of persons permitted in the premises at any one time (including staff) shall not exceed (X) persons.
17. 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.
18. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
19. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
20. 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.
21. No deliveries to the premises shall take place between (23.00) and (07.00) on the following day.
22. Ground Floor 140 persons excluding staff. First Floor 140 persons excluding staff. No more than 300 persons excluding staff (including the outside area) in total at any one time at the premises.

23. At least 2 SIA licensed door supervisors shall be on duty at the entrance of the premises from 21:00 hours when the premises operate up to 01:00 hours and they must correctly display their SIA licence when on duty so as to be visible.
24. 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.
25. All windows and external doors shall be kept closed after 23.00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
26. There shall be a personal licence holder on duty on the premises from 21.00 hours when the premises operate up to 01.00 hours for the sale of alcohol.
27. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area on the terrace shown hatched black on the Premises Licence Plan.
28. Patrons permitted to temporarily leave and then re-enter the premise after 22:00 hours Monday to Sunday, e.g. to smoke or make a phone call, shall be limited to 10 persons at any one time.
29. There shall be no admittance or re-admittance to the premises after 00:00 hours except for patrons permitted to temporarily leave the premises (e.g. to smoke, make a phone call).

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

**The Licensing Sub-Committee
21 September 2023**

2. KU BAR, BASEMENT TO FIRST FLOOR, 25 FRITH STREET, W1D 5LB

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

Thursday 21 September 2023

Membership: Councillor Robert Eagleton (Chair) Councillor Concia Albert and
Councillor Jacqui Wilkinson

Officer Support: Legal Adviser: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Jack Robinson-Young
Presenting Officer: Jessica Donovan

**Application for a Variation of a Premises Licence in respect of Ku Bar,
Basement to First Floor, 25 Frith Street, London W1D 5LB 23/03511/LIPV**

Other parties present: Jack Spiegler (Thomas & Thomas), Gary Henshaw (Applicant), Marina Tempia (Soho Society), Richard Brown (Westminster Licensing Project representing the Soho Society), Tim Lord (Chair of the Soho Society) Jessica Donovan (Licensing Authority), PC Steve Muldoon (Metropolitan Police Service), Darren Murphy (Local resident), Lloyd Dixon (Local resident), Patrick Lilley (Councillor).

FULL DECISION

Premises

Ku Bar
Basement to First Floor
25 Firth Street
London
W1D 5LB

Premises Licence Holder

Allied Promotions Limited

Cumulative Impact Area

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

Ward

West End

Special Consideration Zone

N/A

Summary of Application

The Sub-Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 (“The Act”) in respect of Ku Bar Basement to First Floor, 25 Frith Street, London W1D 5LB (“The Premises”). The Premises currently operates as a Bar and has had the benefit of a premises licence since August 2005. The Premises Licence Holder is Allied Promotions Limited (“PLH”).

The current premises licence (18/09821/LIPCH) can be viewed at **Appendix 4** of the agenda report. A full licence and TENS history for the Premises appears at **Appendix 5**.

The PLH has provided at **Appendix 1** the following additional submissions:-

- PLH’s submissions.
- Ku Group: Introduction, Business, Culture & Diversity.
- Ku Identity Presentation.
- Safeguarding Policy.
- Gay Times Amy Lane Article.
- Frith Street Dispersal Policy.
- Frith Street TEN Schedule 2015- 2023.

The Premises are located both within the West End Ward and West End CIZ. There is a policy presumption to refuse applications inside the West End CIZ for a bar. The application will only be granted subject to exceptional circumstances being proven. The PLH has cited policy CCS0S1 in their submissions in that the Premises should also be considered as a cultural venue.

The variation seeks the following:-

To make permanent the current time limited extension of the terminal hour for all licensable activities and opening hours from Core Hours to 01:00 the following day on Monday to Saturday and Sundays immediately before Bank Holiday Mondays. The application proposes to replace existing licence conditions 29 to 32 with the following:

- **The permitted extended terminal hours beyond Core Hours shall only apply when the Premises are operated by Allied Promotions Limited as a LGBTQ+ Venue.**
- **At least 2 SIA licensed door supervisors shall be on duty during the extended hours beyond Core Hours.**
- **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.**

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.

There is a resident count of 87.

Representations were received from the Licensing Authority, EHS, MPS, two local residents, one business owner and the Soho Society citing concerns regarding public nuisance and crime and disorder.

Representations received

- Metropolitan Police Service (PC Steve Muldoon) (MPS)
- Environmental Health Service (Maxwell Koduah) (EHS)
- The Licensing Authority (Roxsana Haq)
- 24 Local residents
- 6 Residents associations
- 1 Publication (Attitude Magazine)
- 1 Local Councillor (Patrick Lilley)
- London Night Czar (Amy Lame)

Summary of issues raised by objectors

- *The application proposes to make permanent the current time limited extension of the terminal hour for licensable activities and opening hours from Core Hours to 1am (the following day) on Monday to Saturday and Sunday's immediately before Bank Holiday Monday.*
- *The Licensing Authority note that within the application the applicant has made reference to Policy CCSOS1.*
- *The applicant is therefore required to make further submissions in respect of the operation of the premises and why Policy CCSOS1 would be applicable in assessing the application? The Licensing Authority's policies, in relation to the Cumulative Impact Areas, are directed at the global and cumulative effects of licences on the area as a whole. The Licensing Authority encourages the applicant to provide further submissions as to how the premises will not add to cumulative impact in the cumulative impact area, as per policy CIP1 and PB1. It will be for Licensing Sub-Committee Members to determine this application, given its location within the West End Cumulative Impact area and the proposed hours of operation.*
- *The Metropolitan Police Service (**MPS**) objects to this application as it is likely that if the application were to be granted, the premise would undermine the following licensing objective/s: the Prevention of Crime and Disorder.*
- *The venue is located within the West End cumulative impact area and as such is in an extremely high crime area with crime levels likely to be some of the highest in the country. Crime levels are increasing with the peak times being between 23:00 – 03:00.*
- *The venue was given the times as part of a temporary extension due to covid. When this was granted crime levels were significantly lower, the country had not returned to normal and foot-fall was clearly down. This is not the case now.*
- *The hours requested to permanently exhibition films may have the likely effect of causing an increase in Public Nuisance within the Cumulative Impact area.*
- *The hours requested to permanently play recorded music may have the likely effect of causing an increase in Public Nuisance within the Cumulative Impact area.*

- *The hours requested to permanently provide late-night refreshment may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the Cumulative Impact area.*
- *The permanent supply of alcohol and the hours requested may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the Cumulative Impact area.*
- *The changes in conditions as requested may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the Cumulative Impact area.*
- *As presented, the application would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the Cumulative Impact area.*
- *The granting of the application as presented would have the likely effect of causing an increase in Public Nuisance and may impact on Public Safety within the area.*
- *I am writing to the committee in support of this application. I am both a West End Councillor and this venue is in the West End ward and I am the lead Member for Soho and also the LGBTQIA Champion for Westminster.*
- *Firstly, I have never written in support of any license application, so this is an exception, and a first because of the key role of LGBTQIA venues to the heritage and future of Soho. Soho has been a beacon for freedom and toleration and a safer area for the LGBTQIA to socialise, make friends and build resilience due to the concentration of gay bars in and around Old Compton Street. I recently attended the Soho Pub Bombing Memorial it was moving and underlined the important of gay venues remaining. Whenever the community is in crisis it comes together in Soho, on or near Old Compton Street often at the junction of Old Compton St and Frith.*
- *There are only 3 gay owned gay bars in Soho and Ku Bar on Frith Street is a vital one. I am aware that trading has not returned to pre Covid levels and we need to keep gay run venues in Soho trading. Making permanent the license is one step towards this. Arguments about cumulative impact may be persuasive generally but I don't believe that Soho gay bars really contribute to anti-social behaviour or crime. I would also point out that Ku is also home to She Bar Soho's only gay girls' venue. It is absolutely vital that She Bar succeeds. In my experience the operator Mr Henshaw is well known and professional as are his team of managers and there are many conditions on their licence to ensure the noise and disruption from the bar is successfully minimised. I think the temporary extension is enjoy should be made permanent and I support it.*
- *I made comments on the above application, which I'm not sure got through to the appropriate place. Just in case they didn't, my comments were in general that I opposed this licence, as there are issues with noise, it's against the council's policy, within the cumulative impact zone. There are too many licences (some going to 3 am), with far too many people in the area, very high crime rates. If my comments didn't get through via the website, I asked for register and submit, but they wanted me to update my details (which are the same), and that was the last I saw of the rep. If it didn't get through, would you take this as my objection. Also, could you acknowledge safe receipt.*
- *Please consider my (and my neighbours) support for the late opening of Ku & She Bar. This little corner is a refuge for women, and anyone seeking a safe*

space after dark. It's a tough little neighbourhood, and when crossing after work, which might often be after midnight, it's a great route home for me. The sanctuary provided by the excellent door staff and welcoming patrons make this a safe way home and help to keep the streets safer for women like myself.

- She bar is also the only place where women can go and not be hassled by men. It's a place with no fear of rape, molestation or other terrible things that often happen to women when out. It's a great place to go and have a quiet chat, or a loud drink and a dance if the mood takes one, without any fear. This is a rare and wonderful place, and a sanctuary in Soho.*
- My name is Paul Burston. I'm a gay author and journalist, and founder of Polari LGBT literary salon and the Polari Book Prize for LGBT writing. I've worked with Ku/She many times, running creative writing courses and hosting Polari live literary events. The venue provides a much needed LGBT community space at a time when so many of our bars and clubs have closed or are struggling to survive. I wrote about this recently for Openly. The venue is a strong supporter of cultural events, such as those I run, and is therefore more than simply a bar - it's a vital cultural community resource. The venue is well run by a highly professional management team.*
- I'm the owner of G-A-Y & Heaven & have known & worked with Gary for over 25 years Supporting this application, signifies the importance of LGBTQ+ venues working together even though we compete, it's so important in the present climate & for the long term future of independent businesses for us to support each other. There are several reasons to support this application. The recovery from Covid is still on going for Hospitality, G-A-Y is probably the most famous LGBTQ+ brand across the world, if we are struggling in the recovery, then so is everyone else. We have noticed in the last 6 months, that the cost of living crisis is now really hitting hospitality, even venues at capacity are struggling, we have noticed that the spend per head has dramatically dropped, so the image of a sell out night, doesn't tell the true picture of the effects on night time venues, even as a competitor to Ku, knowing the effects of the drop in spend per head, extra hours are now a lifeline for hospitality. Like G-A-Y, Ku is one of the few venues who believe our venues are more than a business, it's about being part of a community and providing a much need safe space. As Hate crime goes up, the need for safe spaces is needed more than ever. What you have with Ku, is unique, like G-A-Y, you have owners who care, which is gold dust, because if there's an issue, we take it personally and we act on it, unlike corporate hospitality, G-A-Y & Ku are owned by people who care which means managers have to work harder to protect the reputations of our venues.*
- Both me and my restaurant teams (c 100 team members in total across both restaurants) fully supported the application for variation of hours for the above in 2021 to 1am. I/we now fully support making this extension of hours permanent. It has been a huge success over the last 2 years in providing a safe and inclusive space for us to use post work when we close at 11pm. This extension allows my LGBTQI+ team members in particular to have a well run bar to use for c an hour post work in order to unwind and spend time with their friends and community. It is bars like these that make Soho special and world famous and we must absolutely continue to promote Soho as a welcoming, inclusive and safe place for all of our LGBTQI+ community.*

- *The two year variation they have had has allowed them to demonstrably show how well they run their business and I strongly support this becoming a permanent extension. I firmly believe that their clientele have a positive impact on the West End, indeed I feel that more LGBTQ visibility has a positive impact on an area. This extension should reduce crime and public safety in the area with the added vitality and control they bring, and should not lead to any change in disorder or noise complaints.*
- *I am a Soho resident and would like to counter the often promoted myth that all residents are anti the night time economy. It is actually precisely because of the vibrant, inclusive and diverse cafe, bar and club culture that I have chosen Soho to be my home. I have been a customer of the Ku Group of venues for over twenty years and have watched them grow and build a community of family and friends within the LGBTQ+ community. I have seen the hospitality sector struggle through the pandemic and now the threat of rising inflation, soaring fuel prices and the cost of living crises has continued to provide difficulties to many.*
- *I am the founder and lead organiser of Gay Social, a non-profit venture providing social and recreational events for London's gay and wider LGBTQ+ community. We run the world's best attended LGBTQ-category group on Meetup.com. Our membership on this platform alone is more than 10,500 people strong. We have been running for just over seven years. Whilst the events we run are pan-London, the vast majority of them take place in the City of Westminster.*
- *We work with most of the gay/LGBT+ bars in Westminster, but can honestly say that Ku Bar is one of our most-preferred venues to work with. This is because it is managed exceptionally well, the venue staff (including security) are always polite and professional, and the feedback from our members is that it is genuinely a very safe space for all members of the LGBT+ community.*
- *In the last five years we have never had a single issue of concern with Ku bar. Please understand this in a context where our events usually take place on a Friday night in the West End, when it is extremely busy. Ku bar are one of only to LGBT+ bars in the West End where I have complete confidence in the venue to always provide a friendly and professional style of on-the-night management that I consider exemplary and something many other venues could learn from.*
- *She Soho is also a much-loved venue, as it is the only bar solely focussed on serving the needs of female members of the LGBT+ community. From what I have personally witnessed whilst running community events at the venue, and from what I know of the management at Ku/She bars, I genuinely believe that the small extension in hours will not result in any crime, disorder, noise complaints or compromise public safety in any way at all.*
- *I am convinced that Ku/She bars are clearly committed to providing a safe space for London's LGBT+ community, and believe that continuing the 1am licence will only have a positive impact in the West End and for London's LGBT+ community.*
- *I am writing to support the 1am extension for Ku Bar and Little Ku/She. I have known the owner, Gary Henshaw, for over 20 years and have always found him to be a responsible, conscientious person and business owner. His bars provide vital social venues for the LGBT+ community in London, at a time*

when many LGBT+ venues have closed. They are well run and trouble-free - and have done commendable charitable fundraising for community organisations and projects. They are an asset to the LGBT+ community and the West End. There is interest in the LGBT+ community for a late night venue. The management, staff and customers are well behaved. There is no evidence that the proposed slight extension in hours will result in crime, disorder, noise complaints or compromise public safety. I ask you to grant the 1am extension.

- *Please consider my support for the Ku Bar and She Bar application to open later. I live extremely close to the bars at (replace with address). My neighbours and I choose to live in Soho to be amongst welcoming venues like Ku/She, as well as Soho's other pubs, bars and restaurants that make the area so special.*
- *I have lived in Soho for many years. I have always noted that Ku/She stands out as one of Soho's better operators and a very professional outfit indeed. I have no concerns whatsoever about the permanent extension of hours adversely affecting me as a local resident and ask you to kindly grant the application.*
- *I am the editor in chief at Attitude magazine, the UK's most popular LGBTQ+ magazine, as well as Rolling Stone UK, the UK edition of the world's foremost music, film and culture magazine. Previously to this, I was editor at QX magazine, the premier gay guide to London's queer scene. I have been actively involved in the community for over twenty years, often campaigning for better access to gay men's health and wellbeing services, greater equal rights for all, and the protection of safe spaces for the LGBTQ+ community. I would like to voice my support for an extension to the KU Bar/She Bar license to 1am. This would allow LGBTQ+ people a safe space to gather, particularly allowing them to avoid the rush that often happens when neighbouring (majority straight) local bars and pubs close around midnight. I do not believe an extension of these opening times will result in crime, disorder, noise complaints or compromise public safety. I have been a patron of the Ku Bar for nearly thirty years, and have found them to consistently be operated to the highest standard, from its bar staff and management to security. The bars are a haven for queer people that must be protected. The bars are also incredibly community minded having raised tens (if not hundreds) of thousands of pounds over the years for good causes in its long history.*
- *I am writing in support of the licensing extension request of Ku Bar/She Soho. I have worked for the Ku Bar Group for 20 years, as a DJ and Drag Entertainer. I help organise Cabaret events for the company and also run Bombshell at Ku Bar, the only weekly dedicated safe-space night in the area for members of the Trans+ Community. I support the proposal to make the 1am licence extension permanent as it has had a noticeable impact on the success of the events I host and an increase in the resources we can provide, including well paid work for members of the Trans+ community who so often struggle to find credible work.*
- *I'm writing in support of the applications to make the current operating hours at Ku Lisle Street and Ku/She Frith Street permanent. London's LGBTQ+ spaces are a vital resource to the community. They are the heart of London's open, welcoming and inclusive culture, offering safe havens where people are free to express themselves without fear. After losing 62% of venues in a*

decade, the Mayor committed to supporting these spaces, to protect existing infrastructure and encourage the opening of new venues COVID-19 had a severe impact on our LGBTQ+ venues. The Mayor and I were proud to play our part in providing dedicated funding and support to ensure they were able to survive the pandemic. But since then, venues have been hampered by a series unforeseen challenges, including the cost of living and doing business crises, high inflation and rising energy and supply costs.

- *We object to this application for a permanent extension of this bar on the grounds it will fail to promote the licensing objectives and increase cumulative impact in the West End Cumulative Impact Zone. This an application for a permanent extension in hours until 1am with a capacity of 160 of a bar in the West End Cumulative Impact Zone, it is contrary to policy and any increase in the number of people drinking for longer hours in this area will fail to promote the licensing objectives and increase cumulative impact.*

Policy Position

Policies CIP1, HRS1 and PB1 apply under the City Council's Statement of Licensing Policy apply (SLP).

Policy CIP1

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

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

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

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

Policy HRS1

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

B. 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. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.

3. 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.
 4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.
 5. The proposed hours when any music, including incidental music, will be played.
 6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.
 7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.
 8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.
 9. The capacity of the premises.
 10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.
 11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.
 12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.
 13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.
 14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.
- C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:
6. Pubs and bars, Fast Food and Music and Dance venues
Monday to Thursday: 10am to 11.30pm.
Friday and Saturday: 10am to Midnight.
Sunday: Midday to 10.30pm.
Sundays immediately prior to a bank holiday:
Midday to Midnight.
- D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.
- E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.
- Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.

Policy 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 latenight 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.

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.
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, and/or,
2. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
3. The application and operation of the venue continuing to meet the definition of a Public House or Bar in Clause D.

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

SUBMISSIONS AND REASONS

The Sub-Committee noted that two applications had been submitted by the PLH. Application 1 is in respect of Ku Bar 25 Frith Street London W1D 5LB and Application 2 in respect of Ku Bar, 29-30 Lisle Street, London, WC2H 7BA ("The Applications").

The Applications seek authorisation to extend the terminal hour for all licensable activities from Core Hours to 01:00 Monday to Saturday at Ku/She Frith Street and on the ground floor and first floor of Ku Lisle Street (with no change to the existing 03.00 terminal hour in the Ku Lisle Street basement).

The Applications have been submitted in similar vein with mutatis mutandis arguments having been made by the PLH's legal representatives particularly in relation to policy and the Council's Section 149 PSED under the Equality Act 2010.

In July 2021 during the Covid-19 pandemic the Licensing Sub-Committee granted similar applications, albeit on a two year time limited basis until 31 May 2023. The Applications seek to make the 01:00 terminal hour permanent.

The Sub-Committee confirmed that it will produce two separate Decision Notices giving its reasoning for both Decisions and this approach was accepted by the parties in attendance. It was also accepted that the majority of the submissions made by the parties would be covered in respect of Application 1 so there would be no need to repeat them verbatim for the purposes of the second hearing and the Full written Decision in order to avoid unnecessary duplication.

For the sake of completeness, a copy of this Full Decision has been annexed to the Full Decision relating to Application 2 detailing the submissions by all parties.

The Presenting Officer Ms Jessica Donovan introduced the application to the Sub-Committee in respect of the Premises Ku Bar, Basement to First Floor, 25 Frith Street, London W1D 5LB.

Mr Jack Spiegler, Solicitor acting on behalf of the PLH introduced the application to the Sub-Committee and spoke to agenda items 2 and 3 but understood that this hearing was for agenda item 2 and agenda item 3 would be heard afterwards. Mr Spiegler spoke to the additional submissions from the MPS. Mr Spiegler said that Mr Gary Henshaw who is the operator said he has taken the concerns of the MPS seriously.

Mr Spiegler said that Mr Henshaw recently had a cancer diagnosis and was currently in recovery. Mr Spiegler drew attention to Mr Henshaw's health because during this period, there were unfortunate lapses regarding the daily management of the Premises which caused concerns for the MPS. Mr Spiegler advised that the manager at the time of these incidents has since been removed with the SIA company having also been changed.

Mr Spiegler said that PC Muldoon had previously said he was content with the issues the MPS had raised having been resolved. Mr Spiegler then spoke to the concerns raised by the MPS and said this was strange to him, as for the previous agenda item at this Sub-Committee, there was no such concerns raised.

Mr Spiegler said that this venue was the only dedicated lesbian venue in London and that well managed 2SLGBTQIA+ venues on the whole do not add to cumulative impact. He said that these are not in line with policies CIP1 and PB1 but contended that Policy CCSOS1 was more in line with the Premises and the presumption under that said policy was not to refuse the application.

Mr Spiegler spoke to Mr Henshaw's experience and track record of being Westminster's longest standing 2SLGBTQIA+ operator and having London's only dedicated Lesbian venue combined with a 62% decline over ten years for premises of this social infrastructure. Mr Spiegler said this venue had a strong record of self-policing as this was a venue where the gay and wider community come to feel safe. Mr Spiegler said that the overwhelming level of support from the community expressing their confidence at Mr Henshaw to meet all four licensing objectives

showed the belief in him as an experienced operator. Mr Spiegler said that as the time of today's hearing, there was only one objection which had been maintained. Mr Spiegler said the policy admits that there may be wider exceptions to policy as not directly laid out in policy.

Ms Roxsana Haq appearing on behalf of the Licensing Authority addressed the Sub-Committee. She advised that it was the opinion of the Licensing Authority that this was an application that should be considered under Policy PB1 and an exception to hours must be demonstrated for the Sub-Committee to grant this application.

Mr Maxwell Koduah appearing on behalf of the EHS addressed the Sub-Committee. Mr Koduah spoke to the residents' complaints that had been withdrawn following consultation with the operator.

Mr James Rankin, Counsel appearing on behalf of the MPS addressed the Sub-Committee. Mr Rankin said he wanted to pick up on the point Mr Spiegler made when he said that Mr Henshaw had felt pressured by the MPS and was unsure why this was the case.

Mr Rankin said that during the submissions from Mr Spiegler he maintained that this Premises was a "cultural venue" which would be an exception, but this is not a CCSOS1 policy case as its primary use is not as a cultural venue and as a result should be properly considered under Policy PB1.

Mr Rankin said that this was not a question of granting this application as a temporary one was granted before, because it was temporary by nature, he said that this was supposed to end.

Mr Rankin said that had the City Council wanted this to have been permanent, they would have done so at the time. Mr Rankin said that in the total notifiable offences, there were 45,000 offences last year which has increased to over 60,000 this year. He said that granting extensions to premises, despite their positive attributes, can only increase these levels of crime.

Mr Rankin said that given the temporary licence has now ceased, this application must be viewed as a new licence and the potential increase to the West End CIZ and viewed as such. Mr Rankin referred to the venues listed in the application pack, some of which had been closed for a significant period of time of which Mr Spiegler used to enable him to ask for longer hours to prevent another closure.

Mr Rankin said that this was not a reason to make these temporary hours permanent. He said that it was incumbent for any PLH coming to the Sub-Committee should do so with "clean hands" meaning that the Sub-Committee should be aware of the issues of Ku Bar despite the previous health issues of Mr Henshaw.

Mr Rankin said that the Lyall Street premises had two action plans set by the MPS, one in October 2022 as a result of incidents with the security and inside the Premises and then again in March 2023.

Mr Richard Brown appearing on behalf of the Soho Society addressed the Sub-Committee. Mr Brown stated that the increase of people in this location, being a PB1

premises, is not appropriate and that there is a presumption that it should be refused.

Mr Brown said that the policy does not directly define what an exception is. He said that he did not believe people would fall out of this venue and commit crime, but that the reality is crime would be attracted to this area. Mr Brown said they do value the 2SLGBTQIA+ venues in the area and that their objection to the application today came with a heavy heart. Mr Brown said that this application was to help the premises continue to generate revenue but extending hours was not the only way to do this and should not be seen as the only way to do this.

Mr Tim Lord Chair of the Soho Society and local resident addressed the Sub-Committee. He said that he has no personal issues with Mr Henshaw and does agree that venues of this type are important to the area. Mr Lord agreed that there are not many lesbian venues in the area and welcomed Mr Henshaw's work on having a dedicated lesbian bar. However, Soho changes drastically after midnight because of the extension of hours until as far as 03:00 and 04:00 which has led to an increase in organised crime in the area. Mr Lord said that the current crime situation in Soho was such that any addition to persons in the area would undoubtedly increase the level of serious crime and this was happening after midnight.

Ms Jane Doyle local resident addressed the Sub-Committee. Ms Doyle advised that she lived directly opposite to the venue on Firth Street. She felt that the crime figures spoke strongly to the reason to refuse the application.

Mr Lloyd Dixon who was a DJ at the Lyall Street venue addressed the Sub-Committee and said that the venue has acts and performances in the upper bar which provides drag acts regularly. Mr Dixon said that his acts had moved from venue to venue, being forced to move due to closures. Mr Dixon said that he was now working at Ku Bar because so many other venues had been closed down.

Mr Darren Murphy, a local resident addressed the Sub-Committee and informed those present how Mr Henshaw had worked with him to support queer artists and said that Mr Henshaw as an operator goes above and beyond to support those in the community. He said that the Premises helped generate continuity of employment for the LGBTQ+ community and making the extension of hours would strengthen employment opportunities for the community.

Councillor Patrick Lilley addressed the Sub-Committee and outlined how nervous he was about speaking of safe spaces. Councillor Lilley said that there has been progress on gay rights but there was still considerable work to be done particularly with the MPS who in his view was institutionally homophobic. Councillor Lilley said that the additional hour requested was not trivial, and would generate a large amount of income for the Premises itself and would be of benefit overall.

Councillor Lilley spoke to testimony from a young woman who said she felt safest in gay venues such as this. Councillor Lilley said this hour would not affect crime in the area and that the heatmap presented was nuanced and not properly reflective. Councillor Lilley said that there has been almost no incidents over the two years while this venue has been operating with additional hours and accordingly this should be considered as part of the evidence as a positive indicator.

Mr Horatio Chance, the Legal Advisor to the Sub-Committee advised that regarding the section 149 Public Sector Equality Duty (“PSED”) aspect all licensing applications are considered with the s.149 PSED in mind, however, this venue did not fall within Policy CCSOS1 Policy but admitted according to the evidence that cultural type events do take place at the Premises. Mr Chance requested Mr Spiegler to confirm why in his opinion the application should be considered under Policy CCSOS1 as opposed to Policy PB1 where exceptional reasons would need to be given. In reply, Mr Spiegler said that under the former the City Council seeks to promote venues of a cultural benefit.

In summing up both the Licensing Authority and EHS had nothing further to add.

In summing up Mr Rankin said that some level of order needed to be reintroduced and the granting of these hours would go against this. He said that even if the application were to be considered under Policy CCSOS1 as a cultural venue, the hours would only run up until midnight, but stressed for the reasons given earlier in his submission that the Premises was not a cultural venue and should not be judged as such. Mr Rankin said that the MPS did not accept the comment made by Councillor Lilley that the MPS are institutionally homophobic.

In summing up Mr Brown said that it was difficult to object to this licence but that this area has changed recently in a negative fashion. He said because of the current climate, these hours should be rejected.

In summing up Mr Lord said that he accepted the arguments on financial difficulties, and that he understood how much value these venues gave to the area, but that the levels of crime outweighed this and longer hours did not need to be the solution.

In summing up Mr Murphy said that the support from Mr Henshaw was extraordinary and that this level of support was extremely rare to come by. He went on further to say that Mr Henshaw had always gone out of his way to offer help and support to up and coming artists from the community.

In summing up Mr Dixon said that Mr Henshaw had allowed him to pay his rent, and the support he had offered to him as a member of staff was unparalleled. Mr Dixon spoke about the difficult for artists such as him to find work, and Mr Henshaw enables this to him and many others.

In summing up Mr Spiegler said that Mr Henshaw had addressed concerns from the MPS. Mr Spiegler asked the Sub-Committee to consider the fact that the peak periods of crime as outlined by the MPS were far beyond the hours requested by the PLH and therefore not directly relevant.

Mr Spiegler asked the Sub-Committee to ensure that they would not be looking at another closure of such a prominent venue. Turning to the incident involving an SIA, Mr Spiegler said that Mr Henshaw was extremely disturbed that this had taken place and understood this was completely wrong.

In summing up Mr Henshaw advised that he has worked in London for some 30 and opened the largest gay bar in Westminster. He said that in his first venue, the

Village, he opened the space up and filled it with windows. He pointed out this was in direct opposition to most gay bars at the time that were dark and closed.

Mr Henshaw said that in his view he felt as though the MPS had presented a very and unnecessarily strong application against him, despite having worked with them on the incidents that had occurred. Mr Henshaw said that these premises he ran were a safe place and not a standard corner bar which was his life's passion. He said that he regularly raises money for charities to give back to the community. Mr Henshaw said that we were living in a post-Covid world but that landscape had changed and things had not gone back to the way they were pre-Covid.

Conclusion

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

In deciding the application, the Sub-Committee took into account the Sub-Committee papers, the requirements of the Act and the promotion of the licensing objectives.

The Sub-Committee noted that the Premises operates as a bar and is located within the West End CIZ and that Policies HRS1, CIP1 and PB1 apply so exceptionality must be proven.

The Sub-Committee did not share the same view with the PLH that Policy CCS0S1 was engaged because the primary purpose of the Premises is that of a drink led bar when looking at the style, nature and character of the Premises. However, the Sub-Committee noted that the Premises does undertake LGBTQ+ cultural type of events for its patrons and therefore considered the application on this basis i.e., that exceptional reasons must be made and proven under the aforementioned policies.

The Sub-Committee concluded that exceptional reasons had been proven and decided to **Grant** the variation application as applied for meaning that the time limited licence granted in 2021 during the Covid-19 pandemic is now made permanent for the terminal hour for all licensable activities and opening hours from Core Hours to 01:00 the following day on Monday to Saturday and Sundays immediately before Bank Holiday Mondays. Conditions 29 to 32 are now deleted from the licence with three new additional conditions imposed as specified below and numbered 26-28.

The Sub-Committee noted the concerns of those who had objected (including the wealth of support) to the application particularly the MPS and the Soho Society however, this was not a problem Premises in terms of crime and disorder and so the role of the Sub-Committee is to consider the evidence before it.

The Sub-Committee concluded based on the evidence that the PLH would promote the licensing objectives with the offered conditions.

In terms of the conditions these are all the conditions as stated at pages 234-239 of the report as varied.

The Sub-Committee had sympathy with Mr Henshaw's health issues and wishes him well in that regard. However, if in the future there are problems experienced regarding management, he should alert the Responsible Authorities at the earliest opportunity with a view to resolving those issues quickly.

As with all applications for licensed premises the Sub-Committee had due regard to its PSED contained under section 149 of the Equality Act 2010 when determining the matter. The test under the Licensing Act 2003 is whether the licensing objectives are to be promoted and in the grant of this variation application the Sub-Committee considered that the licensing objectives would ultimately be promoted in the granting of the application.

The Sub-Committee concluded that the conditions imposed on the Premises Licence will help mitigate the concerns of those parties that had objected in the negative to the application and have the desired effect of promoting the licensing objectives.

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

1. That the terminal hour for all licensable activities are now varied from Core Hours to 01:00 ***the following day on Monday to Saturday and Sundays immediately before Bank Holiday Mondays.***
2. That the **Opening Hours** are varied from Core Hours to 01:00 ***the following day on Monday to Saturday and Sundays immediately before Bank Holiday Mondays.***
3. That Conditions 29, 30, 31 and 32 are hereby removed from the Premises Licence and cease to have effect.
4. That the Licence is subject to any relevant mandatory conditions.
5. That the existing conditions on the licence shall remain in full force and effect save as otherwise varied by the addition of three new conditions as specified below and numbered 6-28.

Conditions imposed by the Committee after a hearing with agreement of the Premises Licence Holder:-

6. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.
7. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

Conditions reproducing the effect of conditions subject to which the relevant existing licences have effect.

Conditions for Sale of Alcohol

8. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
9. No striptease, no nudity and all persons on the premises to be decently attired.
10. There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.
11. There shall be no gaming on the premises, other than machines authorised by Part III of the Gaming Act 1968 or by the Licensing Justices in accordance with Section 6 of the Gaming Act 1968.
12. A closed circuit television shall be installed, maintained and operated correctly as specified by the Metropolitan Police Crime prevention officer.

Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified enactment.

13. On New Year's Eve: from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).
14. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:
 - (a) He is the child of the holder of the premises licence.
 - (b) He resides in the premises, but is not employed there.
 - (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
 - (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

15. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
16. The number of persons accommodated at the premises shall be:-
First Floor - 40 persons excluding staff.

Ground Floor - 40 persons excluding staff.

Basement - 80 persons excluding staff.

17. External patrols shall be undertaken to monitor noise escape from the premises.
18. Notices shall be displayed at exits asking patrons to disperse quietly and respect neighbours.
19. Loudspeakers shall not be placed in the entrance lobbies or emergency escape route staircases.
20. The door at the bottom of the emergency escape staircase leading to Old Compton Street shall be kept closed at all times except for the immediate access or egress of persons.
21. The premises will maintain a comprehensive CCTV system that ensures all areas of the licensed premises are monitored including all entry points and which enable frontal identification of every person entering in any light condition. All cameras shall continually record whilst the premises are open to the public and the recordings shall be kept available for a minimum of 31 days with time and date stamping. Recordings shall be made available to an authorised officer or a police officer together with facilities for viewing. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hour's notice. (Subject to the Data Protection Act 2018).
22. The means of escape in emergency provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified.
23. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
24. All windows shall be kept closed after 21.00 hours.
25. All waste to be properly presented and placed out for collection no earlier than 30 minutes before the schedule collection times.
26. The permitted extended terminal hours beyond Core Hours shall only apply when the Premises are operated by Allied Promotions Limited as a LGBTQ+ Venue.
27. At least 2 SIA licensed door supervisors shall be on duty during the extended hours beyond Core Hours.
28. 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.

If problems are experienced at the Premises, then a Review of the licence can be made under the provisions of the Act.

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

**The Licensing Sub-Committee
21 September 2023**

3. KU BAR, 29-30 LISLE STREET, WC2H 7BA

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

21 September 2023

Membership: Councillor Robert Eagleton (Chair) Councillor Concia Albert and
Councillor Jacqui Wilkinson

Officer Support Legal Adviser: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Jack Robinson-Young
Presenting Officer: Roxsana Haq

**Application for a Variation of a Premises Licence in respect of Ku Bar, 29-30
Lisle Street, London, WC2H 7BA 23/03512/LIPV**

Other parties present: Jack Spiegler (Thomas & Thomas), Gary Henshaw (Applicant), Roxsana Haq (Licensing Authority), PC Steve Muldoon (Metropolitan Police), Darren Murphy (Local resident), Lloyd Dixon (Local resident), Patrick Lilley (Councillor).

FULL DECISION

Premises

Ku Bar
29-30 Lisle Street
London
WC2H 7BA

Premises Licence Holder

Allied Promotions

Cumulative Impact Area

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

Ward

St James's

Special Consideration Zone

N/A

Summary of Application

The Sub-Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act") in respect of Ku Bar 29-30 Lisle Street London WC2H 7BA ("The Premises"). The Premises currently operates as a Bar and has had the benefit of a premises licence since August 2005.

The current premises licence (18/09821/LIPCH) can be viewed at **Appendix 1** of agenda report. A full licence and TENS history for the Premises appears at **Appendix 5**.

The PLH has provided at **Appendix 3** the following additional submissions:-

- PLH's submissions.
- Ku Group: Introduction, Business, Culture & Diversity.
- Ku Identity Presentation.
- Safeguarding Policy.
- Gay Times Amy Lane Article.
- Lisle Street Dispersal Policy.
- Lisle Street TEN Schedule 2015- 2023.

The Premises are located within the St James's Ward and West End CIZ. There is a policy presumption to refuse applications inside the West End CIZ for a bar. The application will only be granted subject to exceptional circumstances being proven. The PLH has cited policy CCS0S1 in their submissions in that the Premises should also be considered as a cultural venue.

The variation seeks the following:-

To make permanent the current time limited extension of the terminal hour for licensable activities and opening hours on the ground and first floors from Core Hours to 01:00 the following day on Monday to Saturday and Sundays immediately before Bank Holiday Mondays. The hours relating to the basement remain unchanged. The application proposes to replace existing Premises Licence conditions 34 to 38 with the following:

- ***The permitted extended terminal hours beyond Core Hours shall on the ground and first floors shall only apply when the Premises are operated by Allied Promotions Limited as a LGBTQ+ Venue.***
- ***At least 2 SIA licensed door supervisors shall be on duty during the extended hours beyond Core Hours.***

- ***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.***
- ***Customers on the ground and first floor shall vacate the Premises by 01:00 Monday Saturday and Sunday immediately prior to Bank Holidays and 22:50 on Sunday.***

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

There is a resident count of 213.

Representations received

- Metropolitan Police (PC Steve Muldoon) (MPS)
- Environmental Health Service (Maxwell Koduah) (EHS)
- The Licensing Authority (Roxsana Haq)
- London Night Czar (Amy Lame)
- 1 Publication
- 7 Residents Association
- 21 Local residents
- 1 Local Councillor (Patrick Lilley)

Summary of issues raised by objectors

- *The Licensing Authority encourages the applicant to provide further submissions as to how the premises will not add to cumulative impact in the cumulative impact area, as per policy CIP1 and PB1. It will be for Licensing Sub-Committee Members to determine this application, given its location within the West End Cumulative Impact area and the proposed hours of operation. The Licensing Authority looks forward to receiving further submissions from the applicant in due course.*
- *The Metropolitan Police Service (**MPS**) objects to this application as it is likely that if the application were to be granted, the premise would undermine the following licensing objective/s: the Prevention of Crime and Disorder.*
- *The venue is located within the West End cumulative impact area and as such is in an extremely high crime area with crime levels likely to be some of the highest in the country. Crime levels are increasing with the peak times being between 23:00 – 03:00.*
- *The venue was given the times as part of a temporary extension due to covid. When this was granted crime levels were significantly lower, the country had not returned to normal and footfall was clearly down. This is not the case now.*
- *The hours requested to permanently exhibition films may have the likely effect of causing an increase in Public Nuisance within the Cumulative Impact area.*
- *The hours requested to permanently provide late-night refreshment may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the Cumulative Impact area.*

- *The permanent supply of alcohol and the hours requested may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the Cumulative Impact area.*
- *As presented, the application would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the Cumulative Impact area.*
- *The granting of the application as presented would have the likely effect of causing an increase in Public Nuisance and may impact on Public Safety within the area.*
- *I am writing to the committee in support of this application. I am both a West End Councillor and this venue is in the West End ward and I am the lead Member for Soho and also the LGBTQIA Champion for Westminster.*
- *Ku on Lisle Street does enjoy a certain amount of outdoor seating but am unaware of any complaints as a result. I believe that Ku Lisle street is home to a diverse clientele within the spectrum of L G B T Q I A and their friends and allies. I am supporting this application because I want to sustain gay run venues in the West End and Soho, and I believe next to zero negatives exist if this extension continues permanently. Few things add to the uniqueness of Soho like gay bars and in my experience LGBT venues are the anti-dote to crime and antisocial behaviour.*
- *My name is Paul Burston. I'm a gay author and journalist, and founder of Polari LGBT literary salon and the Polari Book Prize for LGBT writing. I've worked with Ku/She many times, running creative writing courses and hosting Polari live literary events. The venue provides a much needed LGBT community space at a time when so many of our bars and clubs have closed or are struggling to survive. I wrote about this recently for Openly. The venue is a strong supporter of cultural events, such as those I run, and is therefore more than simply a bar - it's a vital cultural community resource. The venue is well run by a highly professional management team.*
- *I'm the owner of G-A-Y & Heaven & have known & worked with Gary for over 25 years Supporting this application, signifies the importance of LGBTQ+ venues working together even though we compete, it's so important in the present climate & for the long term future of independent businesses for us to support each other. There are several reasons to support this application. The recovery from Covid is still on going for Hospitality, G-A-Y is probably the most famous LGBTQ+ brand across the world, if we are struggling in the recovery, then so is everyone else. We have noticed in the last 6 months, that the cost of living crisis is now really hitting hospitality, even venues at capacity are struggling, we have noticed that the spend per head has dramatically dropped, so the image of a sell out night, doesn't tell the true picture of the affects on night time venues, even as a competitor to Ku, knowing the effects of the drop in spend per head, extra hours are now a lifeline for hospitality. Like G-A-Y, Ku is one of the few venues who believe our venues are more than a business, it's about being part of a community and providing a much need safe space. As Hate crime goes up, the need for safe spaces is needed more than ever. What you have with Ku, is unique, like G-A-Y, you have owners who care, which is gold dust, because if there's an issue, we take it personally and we act on it, unlike corporate hospitality, G-A-Y & Ku are owned by people who care which means managers have to work harder to protect the reputations of our venues.*

- *Both me and my restaurant teams (c 100 team members in total across both restaurants) fully supported the application for variation of hours for the above in 2021 to 1am. I/we now fully support making this extension of hours permanent. It has been a huge success over the last 2 years in providing a safe and inclusive space for us to use post work when we close at 11pm. This extension allows my LGBTQI+ team members in particular to have a well run bar to use for c an hour post work in order to unwind and spend time with their friends and community. It is bars like these that make Soho special and world famous and we must absolutely continue to promote Soho as a welcoming, inclusive and safe place for all of our LGBTQI+ community.*
- *The two year variation they have had has allowed them to demonstrably show how well they run their business and I strongly support this becoming a permanent extension. I firmly believe that their clientele have a positive impact on the West End, indeed I feel that more LGBTQ visibility has a positive impact on an area. This extension should reduce crime and public safety in the area with the added vitality and control they bring, and should not lead to any change in disorder or noise complaints.*
- *I am a Soho resident and would like to counter the often promoted myth that all residents are anti the night time economy. It is actually precisely because of the vibrant, inclusive and diverse cafe, bar and club culture that I have chosen Soho to be my home. I have been a customer of the Ku Group of venues for over twenty years and have watched them grow and build a community of family and friends within the LGBTQ+ community. I have seen the hospitality sector struggle through the pandemic and now the threat of rising inflation, soaring fuel prices and the cost of living crises has continued to provide difficulties to many.*
- *I am the founder and lead organiser of Gay Social, a non-profit venture providing social and recreational events for London's gay and wider LGBTQ+ community. We run the world's best attended LGBTQ-category group on Meetup.com. Our membership on this platform alone is more than 10,500 people strong. We have been running for just over seven years. Whilst the events we run are pan-London, the vast majority of them take place in the City of Westminster.*
- *We work with most of the gay/LGBT+ bars in Westminster, but can honestly say that Ku Bar is one of our most-preferred venues to work with. This is because it is managed exceptionally well, the venue staff (including security) are always polite and professional, and the feedback from our members is that it is genuinely a very safe space for all members of the LGBT+ community.*
- *In the last five years we have never had a single issue of concern with Ku bar. Please understand this in a context where our events usually take place on a Friday night in the West End, when it is extremely busy. Ku bar are one of only to LGBT+ bars in the West End where I have complete confidence in the venue to always provide a friendly and professional style of on-the-night management that I consider exemplary and something many other venues could learn from.*
- *I am writing to support the 1am extension for Ku Bar and Little Ku/She. I have known the owner, Gary Henshaw, for over 20 years and have always found him to be a responsible, conscientious person and business owner. His bars provide vital social venues for the LGBT+ community in London, at a time when many LGBT+ venues have closed. They are well run and trouble-free -*

and have done commendable charitable fundraising for community organisations and projects. They are an asset to the LGBT+ community and the West End. There is interest in the LGBT+ community for a late night venue. The management, staff and customers are well behaved. There is no evidence that the proposed slight extension in hours will result in crime, disorder, noise complaints or compromise public safety. I ask you to grant the 1am extension.

- I am the editor in chief at Attitude magazine, the UK's most popular LGBTQ+ magazine, as well as Rolling Stone UK, the UK edition of the world's foremost music, film and culture magazine. Previously to this, I was editor at QX magazine, the premier gay guide to London's queer scene. I have been actively involved in the community for over twenty years, often campaigning for better access to gay men's health and wellbeing services, greater equal rights for all, and the protection of safe spaces for the LGBTQ+ community. I would like to voice my support for an extension to the KU Bar/She Bar license to 1am. This would allow LGBTQ+ people a safe space to gather, particularly allowing them to avoid the rush that often happens when neighbouring (majority straight) local bars and pubs close around midnight. I do not believe an extension of these opening times will result in crime, disorder, noise complaints or compromise public safety. I have been a patron of the Ku Bar for nearly thirty years, and have found them to consistently be operated to the highest standard, from its bar staff and management to security. The bars are a haven for queer people that must be protected. The bars are also incredibly community minded having raised tens (if not hundreds) of thousands of pounds over the years for good causes in its long history.*
- I'm writing in support of the applications to make the current operating hours at Ku Lisle Street and Ku/She Frith Street permanent. London's LGBTQ+ spaces are a vital resource to the community. They are the heart of London's open, welcoming and inclusive culture, offering safe havens where people are free to express themselves without fear. After losing 62% of venues in a decade, the Mayor committed to supporting these spaces, to protect existing infrastructure and encourage the opening of new venues COVID-19 had a severe impact on our LGBTQ+ venues. The Mayor and I were proud to play our part in providing dedicated funding and support to ensure they were able to survive the pandemic. But since then, venues have been hampered by a series unforeseen challenges, including the cost of living and doing business crises, high inflation and rising energy and supply costs.*
- Both me and my restaurant teams (c 100 team members in total across both restaurants) fully supported the application for variation of hours for the above in 2021 to 1am. I/we now fully support making this extension of hours permanent. It has been a huge success over the last 2 years in providing a safe and inclusive space for us to use post work when we close at 11pm. This extension allows my LGBTQI+ team members in particular to have a well run bar to use for c an hour post work in order to unwind and spend time with their friends and community. It is bars like these that make Soho special and world famous and we must absolutely continue to promote Soho as a welcoming, inclusive and safe place for all of our LGBTQI+ community. Gary and his teams at Ku and Little Ku/She lead the way in Soho in having the best run LGBTQI+ bars in Soho and it is for this reason that I/we fully support this application in full as it supports all 4 licensing objectives completely. It will not lead to any additional disruption or disorder in any way. In fact, these venues*

provide an essential safe environment for their clientele. I have cc'd some of my team at Kiln and Mountain who are also fully supportive of this application/variation.

- I am aware that the Ku Bar is applying to permanently extend their opening hours to 1am Monday to Saturday. The two year variation they have had has allowed them to demonstrably show how well they run their business and I strongly support this becoming a permanent extension. I firmly believe that their clientele have a positive impact on the West End, indeed I feel that more LGBTQ visibility has a positive impact on an area. This extension should reduce crime and public safety in the area with the added vitality and control they bring, and should not lead to any change in disorder or noise complaints. As one of their immediate neighbours we have one of the most objective viewpoints on the KU bar. They are a great neighbour, adding both to the vitality and diversity of the area, but also to the quality and safety of the area, giving a well run, safe space for the local community. I am delighted to support their application for a permanent extension of their operating hours.*

Policy Position

Policies CIP1, HRS1 and PB1(B) apply under the City Council's Statement of Licensing Policy apply (SLP).

Policy CIP1

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

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

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

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

Policy HRS1

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

B. 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. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.

3. 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.

4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.

5. The proposed hours when any music, including incidental music, will be played.

6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.

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

8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.

9. The capacity of the premises.

10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.

11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.

12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.

13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.

14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.

C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:

6. Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday:

Midday to Midnight.

D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

Note: The core hours are for all licensable activities but if an application includes late night refreshment, then the starting time for that licensable activity will be 11pm.

Policy 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 latenight 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.

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.
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, and/or,
2. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
3. The application and operation of the venue continuing to meet the definition of a Public House or Bar in Clause D.

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

SUBMISSIONS AND REASONS

The Sub-Committee noted that two applications had been submitted by the PLH. Application 1 is in respect of Ku Bar 25 Frith Street London W1D 5LB and Application 2 in respect of Ku Bar, 29-30 Lisle Street, London, WC2H 7BA ("The Applications").

The Applications seek authorisation to extend the terminal hour for all licensable activities from Core Hours to 01:00 Monday to Saturday at Ku/She Frith Street and on the ground floor and first floor of Ku Lisle Street (with no change to the existing 03.00 terminal hour in the Ku Lisle Street basement).

The Applications have been submitted in similar vein with mutatis mutandis arguments having been made by the PLH's legal representatives particularly in relation to policy and the Council's Section 149 PSED under the Equality Act 2010.

In July 2021 during the Covid-19 pandemic the Licensing Sub-Committee granted similar applications, albeit on a two year time limited basis until 31 May 2023. The Applications seek to make the 01:00 terminal hour permanent.

The Sub-Committee confirmed that it will produce two separate Decision Notices giving its reasoning for both Decisions and this approach was accepted by the parties in attendance. It was also accepted that the majority of the submissions made by the parties would be covered in respect of Application 1 so there would be no need to repeat them verbatim for the purposes of the second hearing and this Full written Decision in order to avoid unnecessary duplication.

However, a copy of the Full Decision relating to Application 1 is annexed for reference and attention is drawn to those submissions made by all of the parties in that Decision as they should for the sake of completeness be read in conjunction with the comments made in this Decision, save for the slight variations specified below.

The Presenting Officer Ms Jessica Donovan introduced the application to the Sub-Committee in respect of the Premises Ku Bar, 29-30 Lisle Street, London, WC2H 7BA.

Mr Jack Spiegler introduced the Application stating that he reiterated everything he had said for Application 1. Mr Spiegler said there had been no resident or resident associations objecting to this application.

Ms Roxsana Haq from the Licensing Authority addressed the Sub-Committee and said the application should be considered under PB1 and at the time of writing their report there were breaches of conditions which have now been resolved to the satisfaction of all parties.

Mr Maxwell Koduah from the EHS said that if the Sub-Committee were minded granting the application, that Condition 30 may need to be removed as it is made redundant in light of Condition 37.

Mr James Rankin Counsel representing the MPS said to the Sub-Committee that he would not repeat all of his submission made in respect of Application 1 save for the fact that these particular premises were triple the size of frith street.

Mr Lloyd Dixon reiterated his previous submission, as did Mr Darren Murphy. Councillor Patrick Lilley said that it was vital to have an ecology that worked for residents and businesses.

There was no summing up from any party except Mr Henshaw who said he will endeavour to have a positive working relationship with the MPS going forward.

Conclusion

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

In deciding the application, the Sub-Committee took into account the Sub-Committee papers, the requirements of the Act and the promotion of the licensing objectives.

The Sub-Committee noted that the Premises operates as a bar and is located within the West End CIZ and that Policies HRS1, CIP1 and PB1 apply so exceptionality must be proven.

The Sub-Committee did not share the same view with the PLH that Policy CCS0S1 was engaged because the primary purpose of the Premises is that of a drink led bar when looking at the style, nature and character of the Premises. However, the Sub-Committee noted that the Premises does undertake LGBTQ+ cultural type of events for its patrons and therefore considered the application on this basis i.e., that exceptional reasons must be made and proven under the aforementioned policies.

The Sub-Committee concluded that exceptional reasons had been proven and decided to **Grant** the variation application as applied for meaning that the time limited licence granted in 2021 during the Covid-19 pandemic is now made permanent for the terminal hour for all licensable activities and opening hours from Core Hours to 01:00 the following day on Monday to Saturday and Sundays immediately before Bank Holiday Mondays. Conditions 34 to 38 are now deleted from the licence with four new additional conditions imposed as specified below and numbered 30-33.

The Sub-Committee noted the concerns of those who had objected (including the wealth of support) to the application particularly the MPS and the Soho Society however, this was not a problem Premises in terms of crime and disorder and so the role of the Sub-Committee is to consider the evidence before it.

The Sub-Committee concluded based on the evidence that the PLH would promote the licensing objectives with the offered conditions.

The concerns of the MPS were noted with the Premises having a large capacity but there was no evidence to suggest that the Premises would not be managed well to give a cause for concern and undermine the crime and disorder licensing objective. In terms of the conditions these are all the conditions as stated at pages 416-424 of the report as varied.

The Sub-Committee had sympathy with Mr Henshaw's health issues and wishes him well in that regard. However, if in the future there are problems experienced regarding management, he should alert the Responsible Authorities at the earliest opportunity with a view to resolving those issues quickly.

As with all applications for licensed premises the Sub-Committee had due regard to its PSED contained under section 149 of the Equality Act 2010 when determining the matter. The test under the Licensing Act 2003 is whether the licensing objectives are to be promoted and in the grant of this variation application the Sub-Committee considered that the licensing objectives would ultimately be promoted in the granting of the application.

The Sub-Committee concluded that the conditions imposed on the Premises Licence will help mitigate the concerns of those parties that had objected in the negative to the application and have the desired effect of promoting the licensing objectives.

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

1. That the terminal hour for all licensable activities on the ground and first floors are now varied from Core Hours to 01:00 ***the following day on Monday to Saturday and Sundays immediately before Bank Holiday Mondays.***
2. That the **Opening Hours** on the ground and first floors are varied from Core Hours to 01:00 the ***following day on Monday to Saturday and Sundays immediately before Bank Holiday Mondays.***
3. That Conditions 34, 35, 36, 37 and 38 are hereby removed from the Premises Licence and cease to have effect.
4. That the Licence is subject to any relevant mandatory conditions.
5. That the existing conditions on the licence shall remain in full force and effect save as otherwise varied by the addition of four new conditions as specified below and numbered 6-33.

Conditions imposed by the Committee after a hearing with agreement of the Premises Licence Holder:-

Conditions reproducing the effect of conditions subject to which the relevant existing licences have effect.

Conditions relating to regulated entertainment: Basement Floor

6. This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.
7. Notwithstanding the provisions of Rule of Management No. 6 the premises may remain open for the purposes of this licence from 23:00 on each of the days Monday to Saturday to 03:00 on the day following and from 23:00 to midnight Sundays.
8. The sound system(s) used or installed on the premises shall not be operated without being set and governed to the satisfaction of an authorised officer from the Environmental Health Department.
9. No alteration or modification to any existing sound system should be effected without prior knowledge of the Environmental Health Department.

10. No doors giving access/egress to the premises shall be fixed open after 11pm unless the sound limiter has been set with the doors open.
11. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

All Floors:

12. The exhibition of films is restricted to films not involving the use of real film (e.g. Video) where exhibitions are incidental or subsidiary to the main use of the premises.

Conditions for Sale of Alcohol

13. On any event where the premises or part of the premises are open for the purpose of Music and Dancing and a Special Hours Certificate is being operated, intoxicating liquor shall not be sold or supplied after 22:30, to persons entering that part of the premises except:
 - a) persons who have paid or had paid on their behalf, a minimum admission fee, such fee to be specified when the Special Hours Certificate is granted, and such fee not to be credited against intoxicating liquor or consumables; or
 - b) artistes or persons employed at premises; or
 - c) persons attending a private function on the premises.
14. No striptease, no nudity and all persons on the premises to be decently attired.
15. There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.
16. Substantial food and non-intoxicating beverages shall be equally available throughout the permitted hours.

Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified enactments.

For the Basement Floor:

17. (a) Subject to the following paragraphs, the permitted hours on weekdays shall commence at 10.00 (12.00 on Christmas Day and Good Friday) and extend until 03.00 on the morning following, except that:
 - (i) the permitted hours shall end at 00.00 midnight on any day on which music and dancing is not provided after midnight; and
 - (ii) on any day that music and dancing between 00.00 midnight and 03.00, the permitted hours shall end when the music and dancing end;
- (b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect.
 - (i) with the substitution of references to 04.00 for references to 03.00
 - (ii) Except on Sundays immediately before bank holidays (apart from Easter Sunday), the permitted hours on Sundays shall commence at 12.00 and extend until 00.00 on the morning following, except that –

(iii) the permitted hours shall end at 00:30 on those days where there are private functions.

(c) On Sundays immediately before bank holidays (other than Easter Sunday), the permitted hours shall commence at 12.00 and extend until 03.00 on the morning following, except that –

(i) the permitted hours shall end at 00.00 midnight on any Sunday on which music and dancing is not provided after 00.00 midnight;

(ii) where music and dancing end between 00.00 midnight on any Sunday and 03.00, the permitted hours on that Sunday shall end when the music and dancing end.

(d) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.

(e) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00.00 on New Year's Eve.

NOTE: The above restrictions do not prohibit:

(a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;

(b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

(c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;

(d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;

(f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of her Majesty's naval, military or air forces;

(g) the taking of alcohol from the premises by a person residing there;

(h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;

(i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises. In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

18. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of this premises licence / club premises certificate:

(a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,

- (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
- (c) to take all other reasonable precautions for the safety of the children.
19. This licence (or certificate) will be subject to any restrictions imposed on the use of the Regulations 1955 as amended by the Cinematograph (Safety) Regulations 1958, the Cinematograph (Safety) Regulations 1965, the Cinematograph (Safety) (Amendment) Regulations 1976, the Cinematograph (Safety) (Amendment) Regulations 1982 and the Cinematograph (Safety) (Amendment) Regulations 2002.
 20. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
 21. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
 22. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
 23. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - a) all crimes reported to the venue
 - b) all ejections of patrons
 - c) any complaints received
 - d) any incidents of disorder
 - e) any faults in the CCTV system or searching equipment or scanning equipment
 - f) any refusal of the sale of alcohol
 - g) any visit by a relevant authority or emergency service.
 24. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed the following:
Basement: 150 persons
Ground Floor: 200 persons
First Floor: 100 persons
 25. Ground and First Floors: Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.
In this condition, permitted hours means:
(a) Monday to Thursday 10.00 to 23.30.

- (b) Friday to Saturday 10:00 to 00:00.
- (c) Sundays 12.00 to 22.30.
- (d) Sundays immediately prior to Bank Holidays 12:00 to 00:00
- (e) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00.00 midnight on 31st December).

NOTE - The above restrictions do not prohibit:

- a) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- c) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- e) the taking of alcohol from the premises by a person residing there;
- f) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- g) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

- 26. On the Ground and First Floors, customers to be off the premises by 23:30 Monday to Thursday, 00:00 Friday and Saturday, 22:50 on Sunday and 00:00 on Sunday immediately prior to Bank Holidays.
- 27. On the Basement Floor, customers to be off the premises by 03:30 Monday to Saturday and 00:30 on Sunday.
- 28. Credit card sales to be allowed, subject to the proviso that customers are to be presented with an itemised bill.
- 29. All persons under the age of 14 shall be accompanied at all times by an adult. No person under 14 shall be allowed to remain in the bar area after 21:00 (21:30 if taking a table meal accompanied by an adult).
- 30. The permitted extended terminal hours beyond Core Hours on the ground and first floors shall only apply when the Premises are operated by Allied Promotions Limited as a LGBTQ+ Venue.

31. At least 2 SIA licensed door supervisors shall be on duty during the extended hours beyond Core Hours.
32. 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.
33. Customers on the ground and first floor shall vacate the Premises by 01:00 Monday Saturday and on Sunday immediately prior to Bank Holidays and 22:50 on Sunday.

If problems are experienced at the Premises, then a Review of the licence can be made under the provisions of the Act.

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

**Licensing Sub-Committee
21 September 2023**

APPENDIX 1

- Full Decision dated 21 September 2023 in respect of Ku Bar 25 Frith Street London W1D 5LB **23/03511/LIPV**.

4. 55 FRITH STREET, LONDON, W1D 4SJ

WCC LICENSING SUB-COMMITTEE NO. 3

("The Committee")

Thursday 21 September 2023

Membership: Councillor Robert Eagleton (Chair) Councillor Concia Albert and Councillor Jacqui Wilkinson

Officer Support: Legal Adviser: Horatio Chance
Policy Officer: Aaron Hardy
Committee Officer: Jack Robinson-Young
Presenting Officer: Jessica Donovan

Other Parties: PC Steve Muldoon Metropolitan Police Service (MPS)

Premises User: Mr Gavin Venamore (**Not Present**)

Application for a Temporary Event Notice ("TEN") in respect of Canwood55, 55 Frith Street London W1D 4SJ 23/05866LITENN ("The Premises")

Full Decision

Premises

55 Frith Street
London
W1D 4SJ

Premises Licence Holder (“PLH”)

8UERTE Limited

Ward

West End

Cumulative Impact Area

West End CIZ

Summary of Application

The Sub-Committee has determined an application for a TEN in respect of the above premises under the Licensing Act 2003 (“The Act”). The Premises currently operates as a restaurant and bar and has had the benefit of a premises licence since 2017.

The application was made by Mr Gavin Venamore (“Premises User”) who applied for a TEN to cover an event in order to hold a private party, the details of which are as follows:-

Event Period: 00:00 24 September 2023 to 02:30 24 September 2023

Times when licensable activities will be carried out:-

00:00 24 September 2023 to 02:30 24 September 2023

According to the application the number of Attendees attending the private party event is said to be 50. The Premises Licence Holder is 8UERTE Limited.

The Premises has the benefit of a **Premises Licence (23/03488/LIPDPS)**. A copy of the premises licence can be found at **Appendix B** of the agenda report. An application to Review the premises licence was received by the Licensing Authority on the 13 September 2023. The Premises are situated both within the West End Ward and West End CIZ.

There is a resident count of 112.

Representations Received

- Metropolitan Police Service (PC Reaz Guerra) (MPS)

Summary of Representations

- The MPS object to the above TEN(s) on the grounds of the prevention of crime and disorder and the protection of children from harm.
- There are insufficient details describing the event in question.
- The Premises User has provided insufficient undertakings to promote the licensing objectives.
- Correspondence between the MPS and the Premises User can be found at Appendix A1 of the agenda report.

Policy Considerations

Paragraphs H1-H6 on Page 120 of the City Council's Statement of Licensing Policy ("SLP").

SUBMISSIONS AND REASONS

Ms Jessica Donovan the Presenting Officer outlined the application to the Sub-Committee. She advised that the Premises User Mr Gavin Venamore, had applied for a TEN to cover an event in order to hold a private party on the 24 September 2023 between 00:00 to 02:30 for 2.5 hours with the authorised licensable activity of selling alcohol as per the premises licence. Representation had been made by the MPS who objected to the TEN. The Premises are within the West End Ward and West End CIZ.

Submissions of the MPS

PC Steve Muldoon appearing on behalf of the MPS addressed the Sub-Committee. He advised that Mr Venamore had not been in contact despite several attempts to contact him. PC Muldoon said that he had concerns regarding the event because the application lacked any proper detail and so further information was required to conduct a proper assessment.

He said in the absence of receiving that further information the licensing objectives would be undermined and furthermore, given the current questionable practices of the management of the Premises which culminated in a visit to the Premises in April of this year and the fact that a recent application for a Review of the Premises were all factors noted by the Sub-Committee. That being the case PC Muldoon said that the TEN application should be rejected.

Reasons

The Sub-Committee has considered an objection from the MPS to a TEN which has been given by the Premises User for the Sale by Retail of Alcohol at the above Premises on 24 September 2023 between the hours *00:00 to 02:30 on Sunday 24 September 2023* being the "Event".

The Sub-Committee has considered the Committee papers and the submissions made by the parties, both orally and in writing. In reaching its decision the Sub-Committee has had regard to the Act, the s.182 Home Office Guidance ("the Guidance") and the Council's SLP.

In Summary, the Sub-Committee decided, after taking into account all the individual circumstances of the case and the Prevention of Crime and Disorder and Protection of Children from Harm licensing objectives:-

1. **To issue a Counter Notice** under section 105 of the Licensing Act 2003 for the Event. This notice means permission for the licensable activities requested in the TEN has not been approved.
2. The Sub-Committee decided that allowing the TEN would in this instance, undermine both the Prevention of Crime and Disorder and Protection of Children from Harm licensing objectives and it determined to issue a counter notice under section 105 of the Act.
3. The TEN was given by the Premises User who did not attend the hearing. After seeking confirmation from the Presenting Officer Ms Donovan that the committee papers had been sent to Mr Gavin Venamore, that several attempts had been made to call and email him advising him of the hearing date but he had not indicated whether he would attend the hearing. Even the MPS had attempted to make contact. Accordingly, the Sub-Committee took the view that the Licensing Authority and MPS had made all reasonable efforts to contact the Premises User right up to the date of the hearing and so decided that the hearing should proceed in his absence because the Premises User was not prejudiced and moreover the event date was fast approaching.
4. The Sub-Committee noted that the MPS had objected to the TEN on the grounds that the Event would undermine the prevention of crime and disorder and protection of children from harm licensing objectives.

Conclusions of the Sub-Committee

5. The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining the application.
6. The Sub-Committee had regard not only to the written and oral evidence but also to the Act, The Guidance issued under section 182 of the Act and the City Councils SLP.
7. In making its decision, the Sub-Committee has taken into account all relevant sections of the SLP (particularly paragraphs H1-H6 on page 120) and the Guidance (particularly paragraphs 1.17, 2.1, 7.33, 7.35, 9.37 and 13.10).
8. The Sub-Committee is entitled to and has taken into account local knowledge on reaching its decision.
9. The Sub-Committee agreed with the representation submitted by the MPS and considered that the prevention of crime and disorder and protection of children from harm licensing objectives would be undermined if this Event were to be allowed to go ahead particularly when considering the sale of alcohol.

10. Overall, the Sub-Committee considered the attendance of the Premises User to be material and of paramount importance to the decision-making process. Further information was required in respect of the Event and without the specific details. There were too many unknowns to the Sub-Committee, particularly as to how the Event was to be managed during the event period having regard to the promotion of the licensing objectives. Therefore, without sight of this further information and precise detail the Sub-Committee could not give such permission to authorise the Event. For the reasons stated above it decided that it was necessary to issue a counter-notice to uphold the promotion of the licensing objectives.

If the Applicant would like to appeal against this decision such appeal must be made to the Magistrates' court within 21 days from the date of notification of the full reasoned decision but in any event no later than 5 working days before the start of the proposed Event.

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

**The Licensing Sub-Committee
21 September 2023**

The Meeting ended at 5.15 pm