



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 7th September, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

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

1. MEMBERSHIP

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

2. DECLARATIONS OF INTEREST

2.1 It was noted that there were no declarations of interest.

1. JERU, 11 BERKELEY STREET, W1J 8DS

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

Thursday 7 September 2023

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

Officer Support:	Legal Adviser:	Michael Feeney
	Policy Officer:	Kerry Simpkin
	Committee Officer:	Sarah Craddock
	Presenting Officer:	Kevin Jackaman

Other Parties: Craig Baylis (Solicitor, Keystone Law, on behalf of the Applicant), Karyn Abbott (Licensing Authority), James Hayes (City Inspector) as a witness for the Licensing Authority, Anil Drayan (Environmental Health Service), Richard Brown (Solicitor, Licensing Advice Project, representing Mike Dunn and 17 Berkeley Street Resident's Association) and Dr Irena Timofeeva.

**Application for a New Premises Licence in respect of Jeru 11 Berkeley Street
London W1J 8DS 23/03922/LIPN**

Full Decision

Premises:

Jeru
11 Berkeley Street
London
W1J 8DS

Applicant

11 Berkeley Street Ltd

Ward

West End

Cumulative Impact

N/A

Special Consideration Zone

Mayfair

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence in respect of the above premises under the Licensing Act 2003 ("The Act"). The Premises currently operates under licence number 23/02945/LIPDPS on the basement and ground floor levels only. A copy of the current premises licence can be viewed at **Appendix 4** of the agenda report along with the Premises history at **Appendix 5**.

The Applicant has provided a supporting statement and training certificates for staff and management. These can be found at **Appendix 3** of the agenda report.

The Premises is situated within the West End Ward and the Mayfair Special Consideration Zone but not located in the West End Cumulative Impact Zone. There is no policy presumption to refuse the application.

The intended use of the Premises is a restaurant with an ancillary bar in the basement, ground and first floors plus a bakery/patisserie on the ground floor. The application seeks to add Live Music on Fridays and Saturdays until 01:00 and would extend the licensable activities to the first floor of the building as an extension to the restaurant area.

There is a resident count of 36.

The application seeks the following:

Hours Premises Are Open to the Public

Monday-Thursday: 07:00 to 23:30

Friday-Saturday: 07:00 to 01:00

Sunday: 07:00 to 22:30

Sundays before bank holidays 07:00 to midnight.

Live Music Indoors

Monday-Thursday: N/A

Friday-Saturday: 23:00 to 01:00

Sunday: N/A

Recorded Music Indoors

Monday-Thursday: 23:00 to 23:30

Friday-Saturday: 23:00 to 01:00

Sunday: N/A

Sundays before bank holidays 22:30 to midnight.

Late Night Refreshment Indoors

Monday-Thursday: 23:00 to 23:30

Friday-Saturday: 23:00 to 01:00

Sunday: N/A

Sundays before bank holidays 23:00 to midnight.

Sale by Retail of Alcohol On and Off Sales

Monday-Thursday: 10:00 to 23:30

Friday-Saturday: 10:00 to 01:00

Sunday: Noon to 22:30

Sundays before bank holidays noon to midnight.

Representations Received

- The Licensing Authority (Karyn Abbott)
- The Environmental Health Service (Anil Drayan) (EHS)
- The Metropolitan Police Service (Adam Deweltz) (MPS)- **Withdrawn**
- 17 Berkeley Street Residents Association
- Mike Dunn Flat 32 129 Park Street London W1K 7JB
- Ahmad Reza Salar-Boroumand 10 Berkeley Street London W1J 8DP
- Irena Timofeeva 10 Berkeley Street London W1J 8DP

Issues raised by Objectors

- The Premises is located within the Mayfair Special Consideration Zone and as such various policy points must be considered, namely HRS1, RNT1 and PB1.
- The Licensing Authority has serious concerns with the Application and the proposed addition of Live Music due to a recent promotional event that was held at the Premises on 4 May 2023. The event took place with no temporary event notice meaning the Premises breached the terms and conditions of its current premises licence. Westminster City's Inspector Martin Tuohy visited

the Premises and witnessed Live Music at 0040hrs. A witness statement from Martin Tuohy can be found at **Appendix 1** of the agenda report.

- The operating hours applied for on Fridays and Saturdays for licensable activities currently fall outside of Westminster's core hours, and the Licensing Authority encourages the Applicant to reduce the hours to be within Westminster's core hours under Policy HRS1.
- The Licensing Authority has concerns with the number of people (25) that have been suggested within the hatched areas of proposed condition 10 and asks the Applicant to provide further submissions on the proposed operation of the hatched bar area.
- The Licensing Authority proposes model condition 62 regarding the surrendering of the current premises licence.
- The provision of Live Music and for the hours requested may have the effecting of increasing public nuisance in the area and adversely impact on public safety.
- The provision of Recorded Music and for the hours requested may have the effect of increasing public nuisance in the area and adversely impact on public safety.
- The supply of alcohol 'on' and 'off' the premises and for the hours requested may have the effect of increasing public nuisance in the area.
- The provision of late-night refreshment may lead to an increase in public nuisance in the area.
- The conditions offered largely mirror those on the current premises licence. An indication of the proposed increase in capacity is requested, and a site visit for EHS is also requested.
- The hours requested for licensable activity (Friday and Saturday) are beyond Westminster's core hours policy and are likely to undermine the licensing objective of the prevention of crime and disorder. The Premises was recently visited by Westminster City Inspectors and the MPS support the Licensing Authority's objection to the Application. Following agreed conditions that no licensable activities shall take place until the current premises licence has been surrendered and is incapable of resurrection, the MPS withdrew this representation.
- Residents have been plagued by a huge increase in noise, nuisance, anti-social behaviour and other problems, caused by the number of late night licensed premises within a small area. Berkeley Street and its environs have been designated as a Special Consideration Zone. The extension of hours would act as an unfortunate precedent.
- It is not clear how the Application complies with the Special Consideration Zone policy, as there is no indication that the Applicant has considered the points listed in the policy.

- The Premises are in a Special Consideration Zone and any extension of area or time is likely to lead to an increase in nuisance unless grounds are shown to the contrary. We do not believe that such grounds have been demonstrated.
- Berkeley Street is saturated with restaurants, clubs, hotels and bars and there is no more room for an additional facility of this kind. Residents of 10 Berkeley Street do not get a good night sleep due to excessive noise from the customers of these facilities from shouting, their high-performance cars and cycle rickshaws not to mention intimidating (sic) drivers parking on the resident parking bays and undesirable people on the street.
- Approving this Application would make it unbearable for neighbours to maintain their peaceful existence. Jeru's direct connection to the residential building at 10 Berkeley Street means that the noise level from the Premises constantly disturbs the residents and extending the licence would only exacerbate the existing challenges. Jeru's previous late-night events have rendered it impossible to sleep. Jeru has violated construction timelines; their noise isolation measures fall short and Jeru's occupation of the pedestrian area on Berkeley Street contributes to further pollution. Granting an extension to the licence would encourage Jeru's behaviour and damage the community of Berkeley Street.

Policy Considerations

Policies SCZ1, HRS1 and RNT1 apply under the City Council's Statement of Licensing Policy ('SLP').

Policy SCZ1

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

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:

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

Restaurants

Monday to Thursday: 9am to 11:30pm

Friday and Saturday: 9am to Midnight

Sunday: 9am to 10:30pm

Sundays immediately prior to a bank holiday: 9am 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

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

- 1.The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
- 2.The hours for licensable activities are 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 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 by the Parties

Mr Kevin Jackaman, Senior Licensing Officer, introduced the application to the Sub-Committee. He advised that the Premises intends to operate on the basement, ground and first floor for restaurant use with ancillary bars and bakery/patisserie. He set out that representations had been received from the Environmental Health Service, Licensing Authority, 17 Berkeley Street Residents Association and three local residents. He confirmed that the Metropolitan Police Force had withdrawn their representation after conditions had been agreed with the Applicant. He advised that the Premises was within the West End Ward and in the Mayfair Special Consideration Zone but it was not within a Cumulative Impact Zone (CIZ).

Mr Craig Baylis, (Solicitor, Keystone Law, on behalf of the Applicant) outlined the application to the Sub Committee. He explained that the Applicant already traded on the basement and ground floors of the Premises and now had planning permission for an extension on the first floor. He advised that all works had been completed on the first floor and the Environmental Health Service had visited the Premises and

signed off the works. He outlined that the Applicant already had permission to play recorded music on the lower ground floor but was now seeking permission for Live Music for a solo performer for approximately two days per week. He confirmed that the Applicant did not wish to extend their hours of operation. He explained that the Premises had been trading for two years without difficulties apart from on the 4 May which he emphasised would never happen again.

Mr Baylis outlined that the Applicant could operate the first floor using the existing Premises Licence as it allowed 'off sales.' He advised that the Applicant could simply just take alcohol from the basement and ground floors and serve it on the first floor to customers, however, he considered that it would be more appropriate to get the floor properly regulated and included on a Premises Licence.

Mr Baylis referred to the incident on the 4 May when an event was held at the Premises without a Temporary Event Notice (TENs). He outlined how the management and DPS at the time had simply forgotten to apply for a TEN and that the manager had taken it upon himself to hold the event anyway without the knowledge of the owners of the property. He advised that there had been no noise complaints from residents, rather the City Inspectors had stumbled upon the event. He set out that the new management had complied fully with the Council's investigation process and confirmed that the Council had taken the view that it was not in the public interest to prosecute the Premises. It had been an isolated incident and immediate action had been taken by the owners of the property. He emphasised that the owners of the property had immediately dismissed the DPS and management, all staff had been retrained regarding their licensing responsibilities and that a TEN had been granted since 4 May.

In response to questions from the Sub Committee, Mr Baylis confirmed that the capacity was 90 patrons on the ground floor and 90 patrons on the basement (total 180 patrons) and that the current capacity condition attached to the Premises Licence was incorrect in that it said 175 patrons. The capacity on the first floor would be 150 persons. He outlined that the Premises did not currently operate at full capacity and that the first floor would primarily be used as an overflow area for the other two floors (however it was not anticipated that this would occur regularly) and for private functions operated by a third party independent company. He emphasised that there had been no noise complaints in the past two years, that most patrons arrived/left the premises via Ubers or taxis and that the security staff closely monitored the dispersal of patrons. He added that the Premises had a dispersal policy on site which the Applicant would forward to the Environmental Health Service.

Mr Baylis advised that the Applicant was happy to employ additional SIA staff for private functions held on the first floor. He outlined that there were holding bars on the basement and ground floors where patrons could have a drink before and after their meal but there was no holding bar on the first floor because it was primarily a function space. He advised that patrons could smoke on a small private external terrace and the Applicant was content to add a condition that stated that no more than 10 smokers could use the terrace at any one time. He confirmed that the Applicant was happy with condition 66 and condition 62 being attached to the Premises Licence. He advised that the Applicant wished to play Live Music on the lower ground floor only and that the Environmental Health Service had decided that it

was not necessary to have a condition for a noise limiter attached to the Premise Licence because the Live Music would be placed at a very low level and the Premises was fully sound proofed. He added that the Live Music would be kept at exactly the same level as the recorded music currently played at the Premises and there had never been any complaints regarding noise escape. He outlined that the first floor would probably be used around six times a month for private functions and that only a portion of the first floor was set up to accommodate an overflow from the other two floors. He advised how the whole Premises was sound proofed and that all windows had been double glazed so there was no possibility of noise breakout.

In response to questions from the Sub Committee about dispersal, Mr Bayliss referred to the dispersal policy and the fact that there are not multiple entrances or exits so access and egress is easy to control. He confirmed that the Applicant would be happy to keep people ordering cars and Ubers inside the premises.

Mr Bayliss emphasised that if the Premises Licence was not granted the Applicant could operate the space as a unlicensed facility by using the off sales facility on the current existing Premises Licence with staff simply taking alcohol up to the first floor. He emphasised, however, that the Applicant would prefer the first floor to be properly regulated and be included on a Premises Licence.

Ms Karyn Abbott (Licensing Authority) advised that the Licensing Authority have concerns in relation to how the Premises would promote the four Licensing Objectives. She advised that the Premises was located within the Mayfair Special Consideration Zone and as such various policy points must be considered, namely HRS1, RNT1 and PB1. She also advised that the operating hours applied for on Fridays and Saturdays for licensable activities fell outside of the Council's core hours.

She explained that the Premises currently benefited from a Premises Licence without the use of Live Music and how the Licensing Authority had serious concerns regarding the proposal to add Live Music due to a recent promotional event that was held at the premises on the 4 May 2023. The event took place with no Temporary Event Notice (TENs) meaning the terms and conditions of its current Premises Licence were breached by allowing this event to take place. She confirmed that the Live Music did not fall under the deregulation (deregulated is between the hours of 0800 and 2300 hours for a licensed Premises) as a visit was made to the Premises at 0040hrs where Live Music was witnessed by the City Inspectors.

Ms Abbott called Westminster's City Inspector James Hayes as a witness in relation to the event on 4 May 2023. Mr Hayes advised that although there had not been any complaints made regarding the event there could very well have been if the City Inspectors had not come across it during their general patrols of the area. He referred to the City Inspectors submission attached at **Appendix 1** of the agenda report and emphasised that the incident had been serious enough for officers to conduct a full investigation under Section 136 of the Licensing Act because it had undermined the licensing objectives of public nuisance and public safety requirements. He advised that the Inspectors were now at a point that they were probably not going to prosecute (although the decision could be revisited at any point for another year) however it was important the Sub Committee were made aware of the incident.

Mr Baylis advised that from a PR and commercial perspective the unauthorised event had been a disaster and such an event would not occur again at the Premises. He explained that the Premises operated as a high end restaurant and that the Council's model restaurant condition MC66 was attached to the Premises Licence so a Temporary Event Notice (TEN) application would need to be made for all events that alcohol was not going to be ancillary to a table meal. He added that all TENs were rigorously assessed by the Environmental Health Service and Metropolitan Police Force.

Mr Anil Drayan (Environmental Health Service, EHS) explained that the EHS was in attendance to assist the Sub Committee. He confirmed that he had visited the Premises, all works had now been signed off by the EHS and the works condition could now be removed and be replaced with a capacity condition. He further confirmed that the EHS had not received any noise complaints.

He advised that a lounge singer would not create any more noise than the recorded music that the Applicant already played on the lower ground floor. He confirmed that there was no room say for a band to play in the space and therefore the EHS had not felt that it was necessary to enforce the sound limiter condition attached to the Premises Licence. He outlined that residents could contact the EHS if there was noise escape/noise nuisance and how the EHS would tackle such a noise breakout. He considered that it was reasonable to limit the number of smokers to 10 persons on the private terrace.

Dr Irena Timofeeva, local resident, shared her personal experience of living on the lower ground floor of her building which was directly connected to Jeru. She outlined how the noise level from the Premises constantly disturbed the residents and that extending the Premises Licence would only exacerbate the existing challenges.

She outlined how Jeru had violated construction timelines and how their noise isolation measures fell short, allowing loud music and late night events which disturbed the neighbourhood. She further outlined how difficult it was to continually complain to the Council because once a complaint was made she had to stay up to wait for officers to arrive and she needed to be up in the morning for work. She advised that her window actually faced the lower ground floor and she could hear and feel the beats of the music so she always needed to use earplugs. She mentioned how narrow the street was at the entrance to the Premises and wondered how an additional 100 patrons could easily enter and leave without causing disturbance on the highway. She advised that she was very proud to be part of the community however being part of the community necessitates fostering mutual respect and Jeru, in her opinion, represented the opposite and prioritised their own interests damaging the tightly-knit community of Berkeley Street.

In response to questions from the Sub Committee, Mr Drayan confirmed that if EHS receives a call and cannot respond, the call is still recorded. Mr Drayan said that EHS had records of building works causing issues (which were responded to) but he did not have any records of calls being made about music noise.

Mr Richard Brown (Solicitor, Licensing Advice Project, representing Mike Dunn and 17 Berkeley Street Resident's Association) advised that there had been three or four applications submitted and then withdrawn to permit various variations to the Premises Licence. He advised that this application virtually doubled the capacity and these incremental increases were very concerning because the Premises was located within a Special Consideration Zone.

He agreed that the Applicant could use the off sales element of the current Premises Licence to provide alcohol to the first floor however there were limitations to this approach: for example, off-sales ended at 11pm. This was not a case of 'if you do not grant the licence we will do it anyway'. He concluded by saying that the combination of the increase in capacity and the terminal hour was very concerning for local residents.

Mr Feeney, Legal Advisor to the Committee, discussed the wording of the agreed proposed conditions (if the application were granted), with all parties. During summing up, Mr Craig Baylis emphasised that there had never been any noise complaints and that the Applicant could operate the first floor without this new Premises Licence but would prefer the area to be regulated for licensable activities in order to promote the licensing objectives. Mr Baylis also emphasised that the intended use was as a restaurant and not as anything else. He also encouraged any residents with complaints to speak to his client so that any issues could be addressed.

Reasons and Conclusion

The Sub-Committee has determined an application for a grant of a New Premises Licence under the Act. The Sub-Committee realises that it has a duty to consider each application on its individual merits when determining this application. 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 Council's SLP, in particular policies SCZ1, HRS1 and RNT1.

The Sub-Committee considers that the Applicant has demonstrated that the measures it proposes (as secured by conditions) would promote the four licensing objectives within the Special Consideration Zone. There is no history of noise complaints regarding the Premises, and EHS has approved the works at the Premises. Limiting the performance of live music to the lower ground floor will also help prevent noise breakout.

The Sub-Committee notes the serious concerns expressed by the Licensing Authority regarding the unauthorised event on 4 May 2023. There is no excuse for holding such an event without applying for a TEN. However, the Sub-Committee believes that the Applicant fully accepts the seriousness of the breach and has cooperated fully with the Council's investigation. Although the decision may later be reversed, the Sub-Committee also notes that the Council at the moment has decided not to prosecute under section 136 of the Act because it would not be in the public interest to do so. There is no evidence that the Premises has acted in breach of its current licence apart from this one isolated incident.

The Sub-Committee notes that the proposed hours are outside of core hours but considers that this is counterbalanced by the fact that the Premises already operates beyond core hours without undermining the licensing objectives.

Due to the evidence presented by local residents and by 17 Berkeley Street Residents' association, the Committee's main concerns relate to the dispersal of potentially an extra 150 people at 01:00 increasing public nuisance within the Special Consideration Zone. In order to address these concerns, the Sub-Committee considered it appropriate for the promotion of the licensing objectives to impose a condition limiting the capacity of the premises on Fridays and Saturdays from midnight until 01:00 and to impose a condition increasing the number of SIA licensed door supervisors whenever the first floor is in use. The capacity condition will help stagger dispersal, and the extra SIA licensed door supervisor will also be able to assist with dispersal of a larger number of patrons.

Finally, the Sub-Committee encourages residents to report instances of nuisance directly to the Council's noise team so that complaints are properly recorded. The Sub-Committee also hopes that the Premises Licence Holder works productively with residents to ensure a fruitful dialogue is maintained and notes the commitment given by the Applicant during the hearing in this respect.

The Sub-Committee, in its determination of the matter, concluded that the hours and the conditions it had imposed on the licence were appropriate and would promote the licensing objectives. Having carefully considered all the committee papers, submissions made by the Applicant and the oral evidence given by all parties during the hearing in its determination of the matter the Committee therefore decided, after taking into account all the individual circumstances of this application and the promotion of the four licensing objectives:-

1. To grant permission for:

Live Music Indoors

Monday-Thursday: N/A

Friday-Saturday: 23:00 to 01:00

Sunday: N/A

Live music permitted only on the lower ground floor- see condition 50.

Recorded Music Indoors

Monday-Thursday: 23:00 to 23:30

Friday-Saturday: 23:00 to 01:00

Sunday: N/A

Sundays before bank holidays: 22:30 to midnight

Late Night Refreshment Indoors

Monday-Thursday: 23:00 to 23:30

Friday-Saturday: 23:00 to 01:00

Sunday: N/A

Sundays before bank holidays: 23:00 to midnight.

Sale by Retail of Alcohol On and Off Sales

Monday-Thursday: 10:00 to 23:30

Friday-Saturday: 10:00 to 01:00
Sunday: Noon to 22:30
Sundays before bank holidays: Noon to midnight.
Off sales conditioned to cease at 23:00- see condition 16.

Hours Premises Are Open to the Public

Monday-Thursday: 07:00 to 23:30
Friday-Saturday: 07:00 to 01:00
Sunday: 07:00 to 22:30
Sundays before bank holidays: 07:00 to midnight.

2. That the Licence is subject to any relevant mandatory conditions.
3. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives:
 10. Except for the ground floor holding bar hatched area (the bakery/patisserie) the premises shall 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 takeaway service of food or drink for immediate consumption
 - v) Which do not provide any takeaway service of food or drink after 23:00
 - 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 a substantial table meal 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.
 11. Notwithstanding the above condition, alcohol may be sold to and consumed by up to a maximum of 25 persons in the holding bar areas hatched red on the plan, prior to and after their meal until 23:30 hours when the areas will become a holding area.
 12. The supply of alcohol for consumption on the premises within the holding areas shall only be to persons seated.
 13. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
 14. There shall be no sales of hot food or hot drink for consumption 'Off' the premises after 23:00 hours.

15. All sales of alcohol for consumption 'Off' the premises shall be in sealed containers only and shall not be consumed on the premises.
16. There shall be no supply of alcohol for consumption 'Off' the premises after 23:00 hours.
17. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.
18. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
19. A Challenge 21 or Challenge 25 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, military ID card, passport or proof of age card with the PASS hologram.
20. The smoking area for patrons shall be restricted to the private terrace shown on the plan. The capacity of the smoking area is limited to 10 persons.
21. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to the designated smoking area as defined on the plan.
22. Patrons permitted to temporarily leave and then re-enter the premises at ground floor level shall not be permitted to take drinks or glass containers with them.
23. There shall be no smoking on the street immediately outside the premises.
24. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance.
25. There shall be no admittance or re-admittance to the premises after 23:30 hours.

26. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
27. After 21:00 hours each day there shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
28. 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 crime reported to the venue (b) all ejections of patrons (c) any complaints received regarding crime and disorder (d) any incidents of disorder (e) any faults in the CCTV system (f) any refusal of the sale of alcohol (g) any visit by a relevant authority or emergency service
29. 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.
30. 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.
31. Loudspeakers shall not be located in the entrance lobby or outside the premises building, including any external terraces.
32. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
33. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
34. The approved arrangement at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

35. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
36. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
37. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
38. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
39. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and/or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
40. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
41. 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.
42. No collection of waste or recycling materials (including bottles) from the premises shall take place between 23:00 hours and 08:00 hours on the following day.
43. With the exception of fresh produce, deliveries to the premises shall only take place between the hours of 07:30 hours and 12:00 hours (midday) Monday to Saturday and between 09:00 hours and 12:00 hours Sundays and Bank Holidays.
44. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
45. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
46. The Premises Licence Holder shall facilitate a Dispersal Policy which shall include the following provisions: (a) staff and door supervisors to control a slow stream of customers and guests leaving the premises. (b) staff and door supervisors to encourage guests to leave the area quickly and quietly. (c) staff

to provide guests with details on transport options and directions for onward travel. (d) notices will be prominently displayed at exits requesting guests to respect the needs of local residents and to leave the area quietly, in a considerate manner, directing them towards Piccadilly. (e) staff and security will remain on duty at the premises until 30 minutes after closing time to assist with the safe dispersal of guests. (f) guests will be encouraged to remain inside the premises if waiting for taxis, Ubers or chauffeur cars.

47. 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 the Council.
48. No licensable activities shall take place at the premises until premises 23/02945/LIPDPS (or such other number subsequently issued for the premises) has been surrendered and is incapable of resurrection.
49. After 21:00 hours at least 1 SIA licensed door supervisor shall be on duty at the entrance of the premises at all times whilst it is open for business. At any time that the first floor is in use from 21:00 hours onwards, there shall be at least 1 additional SIA licensed door supervisor on duty at the premises.
50. Live music shall only be performed on the lower ground floor.
51. The number of persons permitted in the premises (excluding staff) on Monday-Thursday, Friday-Saturday until midnight and Sunday shall not exceed:
Ground Floor: 90 persons
Basement: 90 persons
First Floor: 150 persons
52. The number of persons permitted in the premises (excluding staff) on Friday-Saturday from midnight until 1am shall not exceed 180 persons.

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

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

2. 38 CURZON STREET, W1J 7TY

The application was withdrawn by the Applicant before the hearing.

3. 74 BROADWICK STREET, W1F 9QZ

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

Thursday 7 September 2023

Membership: Councillor Aziz Toki (Chair) and Councillor Iman Less

Officer Support: Legal Adviser: Michael Feeney
 Policy Officer: Kerry Simpkin
 Committee Officer: Sarah Craddock
 Presenting Officer: Kevin Jackaman

Other Parties: Alun Thomas (Solicitor, Thomas and Thomas Partners), George Hudson (Soho Live Venues Limited), Richard Vivian (Big Sky Acoustic) and Fred Nash (Ronnie Scott's Jazz Club) on behalf of the Applicant, Jennifer Slade (Shaftesbury Capital PLC), Rupert Power (Soho Business Society), Karyn Abbott and James Hayes (Licensing Authority), Anil Drayan (Environmental Health Service), James Rankin (Counsel, Francis Taylor Building) and PC Steve Muldoon on behalf of the Metropolitan Police Service, Richard Brown (Solicitor, Licensing Advice Project), Tim Lord, Marina Tempia and Andrew Bancroft on behalf of the Soho Society, Simon Osborne-Smith and Tim Barrett (Interested Parties).

Application for a New Premises Licence in respect of 74 Broadwick Street London W1F 9QZ 23/02674/LIPN

Full Decision

Premises:

74 Broadwick Street
London
W1F 9QZ

Applicant

Soho Live Venues Limited

Ward

West End

Cumulative Impact Area

West End

Special Consideration Zone

N/A

-

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence in respect of the above premises under the Licensing Act 2003 ("The Act"). The Premises intends to operate as a live music jazz venue and as a recording and production studio during the day, alongside occasional educational use. A copy of the Premises Plans can be viewed at **Appendix 1** of the agenda report, and a list of the conditions proposed as part of the Application can be viewed at **Appendix 4**. This is a new premises application and therefore no premises licence history exists.

The Applicant has provided supporting documents, including a crime analysis report, a letter of support, an acoustic report, a planning acoustic report, a copy of the Premises' planning permission, a dispersal policy and plans. These can be found at **Appendix 2** of the agenda report. A summary of proposals, a Noise Impact Assessment & Mitigation Strategy and appendices from the crime analysis report are included in the Additional Information Pack.

The Premises are situated within the West End Ward and within the West End Cumulative Impact Area. During the hearing, the Applicant amended the application so that the licensable activity of 'Performance of Dance' no longer formed part of the Application. On that basis, the Premises falls within the definition of 'cultural venue' as given in policy CCS0S1. Policy CIP1 states that applications for cultural venues within the West End Cumulative Impact Area 'will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.'

During the hearing, the Applicant also confirmed that the application was being amended to reduce the hours sought for sale by retail of alcohol by half an hour each day. During the hearing, the Applicant also proposed additional conditions, as set out in the Submissions section below.

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

There is a resident count of 105.

The application as amended during the hearing seeks the following:

Hours Premises Are Open to the Public

Monday-Tuesday: 09:00 to 00:00

Wednesday-Thursday: 09:00 to 01:00

Friday-Saturday: 09:00 to 02:00

Sunday: 09:00 to 23:00

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

Sundays before Bank Holidays until 02:00.

Plays Indoors

Monday-Tuesday: 09:00 to 00:00

Wednesday-Thursday: 09:00 to 01:00

Friday-Saturday: 09:00 to 02:00

Sunday: 09:00 to 23:00

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

Sundays before Bank Holidays until 02:00.

Live Music Indoors

Monday-Tuesday: 09:00 to 00:00

Wednesday-Thursday: 09:00 to 01:00

Friday-Saturday: 09:00 to 02:00

Sunday: 09:00 to 23:00

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

Sundays before Bank Holidays until 02:00

Recorded Music Indoors

Monday-Tuesday: 09:00 to 00:00

Wednesday-Thursday: 09:00 to 01:00

Friday-Saturday: 09:00 to 02:00

Sunday: 09:00 to 23:00

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

Sundays before Bank Holidays until 02:00

Anything of a Similar Description to That Falling Within Live Music or Recorded Music

Monday-Tuesday: 09:00 to 00:00

Wednesday-Thursday: 09:00 to 01:00

Friday-Saturday: 09:00 to 02:00

Sunday: 09:00 to 23:00

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

Sundays before Bank Holidays until 02:00

Late Night Refreshment

Monday-Tuesday: 23:00 to 00:00

Wednesday-Thursday: 23:00 to 01:00

Friday-Saturday: 23:00 to 02:00

Sunday: N/A

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

Sundays before Bank Holidays until 02:00

Sale by Retail of Alcohol On and Off Sales

Monday-Tuesday: 09:00 to 23:30

Wednesday-Thursday: 09am to 00:30

Friday-Saturday: 09:00 to 01:30

Sunday: 09:00 to 22:30

Off sales limited to Monday to Saturday 09:00 to 18:00 and 09:00 to 18:00 on

Sundays before Bank Holidays.

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

Sundays before Bank Holidays until 01:30

Representations Received

- The Licensing Authority (Angela Rowe)
- Environmental Health Service (Anil Drayan) (EHS)
- The Metropolitan Police Service (PC Steve Muldoon) (MPS)
- George Hudson 16 Carlisle Street Soho London W1D 3BT (in support)
- John Hendrickse 4 Patricia Close Slough SL1 5HU (in support)
- Simon Miller Flat 3 106 Berwick Street London (in support)
- Caroline Field 68 Waldron Road London (in support)
- Sonita Thompson Flat 5 Sycamore Court London SE10 8PD (in support)
- Natalie Oliveri 12 Castlevie Close London N4 2DJ (in support)
- Arran Kent 37 Sutton Land Adlington Chorley (in support)
- Liam Stevens 27a Fonthill Road London N4 3HY (in support)
- Fred Diacon Flat 56 The Exchange 6 Scarbrook Road Croydon (in support)
- Leo Sicouri Flat 7 74-76 Queens Drive London N4 2HW (in support)
- Harry Evans Flat 48 Gilbert House Mcmillan Street Deptford London (in support)
- Sian Kenyon Flat 6 Scott Court 4 Broome Way London (in support)
- Jordan Steer 15 Beezling Close Eaton Ford St Neots (in support)
- James Browne 77 Asylum Road London SE15 2 RJ (in support)
- Grace Borchers 363A Holloway Road London N7 0RN (in support)
- Arnout Willemsen Flat 1 3 Veronica Road London (in support)
- Nathan Britton 14 Grove Road Mitcham Surrey (in support)
- Serena Betti Flat 3 27 Gosfield Street London (in support)
- Jennifer Yard 108 Garendon Road Morden (in support)
- Steven Tagg-Randall Annex 28 Arundel Drive Harrow (in support)
- Radhika Aggarwal 8 Dickson House Philpot Street London (in support)
- Julie Russo 42 Dartmouth Road London NW2 4EX (in support)
- Ben Treacher 1 Talbot Yard Flat 3 London SE1 1YP (in support)
- Andy Davies Flat 5 Sycamore Court 81 Blackheath Road London (in support)
- Sophie Millar 21 Buckfast Road Morden SM4 5NA (in support)
- Oscar Cooper 48 Saop Road London E17 7HT (in support)
- Stephen Hudson Clear Insurance Management Ltd 1 Great Tower Street London (in support)
- Marguerite Hudson 16 Screen Limited 3rd Floor 16 Carlisle Street London (in support)
- Fabio Spinetti 61 New Road London N8 8TA (in support)
- Fredrik Korallus Sandiford Graemesdyke Road Berkhamsted (in support)
- Federico Schiocchet 29 Kenneth Crescent London NW24PP (in support)
- Tim Allwright 3 Hexham Road London SE27 9EF (in support)
- Charles Douglas-Osborn 1 Werneth Rise Hyde SL14 5NH (in support)
- Geoffrey Threadgold Flat 2 2 Kimberley Gardens London (in support)
- Carl Gorham 25 Kelling Road Holt NR25 6RT (in support)
- Iain Withers Apartment 31 82-84 Childers Street London (in support)
- Carol Victoria Flat 4 171 Castlenau Barnes London (in support)
- Anthony Thompson 34 Linden Road Gillingham Kent ME7 2PH (in support)
- Angela Fealy 16 Compton Street London W1D 4TL (in support)
- Amanda Payne 136 Gillingham Road Gillingham Kent (in support)
- Sarah Williams 6 Lancaster Road Hitchin SG5 1PE (in support)

- Jonathan Gwanzura 14 Constable Avenue Basildon SS14 3TN (in support)
- Jennie Thompson 34 Linden Road Gillingham Kent ME7 2PH (in support)
- April Lawless Garden Flat A 53A Sutherland Street Pimlico (in support)
- Matthew Lynn Tattlebury House Cranbrook Road Gourdhurst (in support)
- Laura Battisti 26 Wray Crescent London N4 3LP (in support)
- Nicholas Cox 6 The Granary Hoddesdon Road Stanstead Abbots Ware (in support)
- Will Dickenson 347 Earlsfield Road London SW18 3DG (in support)
- Vicki Johnson 94 Norfolk House Road Streatham SW16 1JH (in support)
- Jake Hatch 67 Malvern Road Leytonstone E11 3DG (in support)
- Carey Southward 32a Charleston Street London (in support)
- David Tompkins 1 Clover Court Debenham IP14 6SG (in support)
- Anne Tucjer 34 Linden Road Gillingham Kent (in support)
- Teresa D'Elia 41 King's Grove London SE15 2LY (in support)
- Scott Sullivan 10 Springfield Road London E17 8DB (in support)
- Christopher Hyde-Harrison Flat 2 Ashton Heights 51 Horniman Drive London (in support)
- Soho Business Alliance One Ropemaker Street London EC2Y 9AW (in support)
- Shatfesbury Capital PLC 22 Ganton Street London W1F 7FD (in support)
- Denis Coles 74 Greenshaw Brentwood CM14 4YH (in support)
- Siobhon Watson 7 Oakshott Court Polygon Road London (in support)
- Niall Lordan 48 Tierney Road Streatham SW5 1LN (in support)
- James Jarmack 115 Killester Avenue Gillingham ME7 2PH (in support)
- Lyn Eustance 8 Croft Avenue West Wickham BR4 0QJ (in support)
- Karen Willemsen Flat 1 3 Veronica Road London (in support)
- Sofia Pomeroy 167 Royal College Street London NW1 0SG (in support)
- Michelle Rea 13 Stockfield Road London SW16 2LU (in support)
- Robyn Martin 15 Aberford Gardens London SE18 4NZ (in support)
- Clare Coles 74 Greenshaw Brentwood CM14 4YH (in support)
- Anna Morsy Flat 1 Marshall House 49 Marshall Street London (opposed)
- Tim Barrett Flat 24 Marshall House 49 Marshall Street London (opposed)
- Brigitte Williams Flat 2 49 Marshall Street London (opposed)
- Belinda Denton Flatt 22 Marshall House London (opposed)
- Simon Osborne-Smith Flat 1 Marshall House 49 Marshall Street Soho London (opposed)
- Georgina and Ingrid Plumb 1-6 Dufours Place W1F 6SH (opposed)
- John Hamilton 11 Sandringham Court Dufours Place London W1F 7SL (opposed)
- Kelly Glyptis 49 Marshall Street Flat 15 W1F 9BE (opposed)
- Simon Osborne-Smith Marshall House Marshall Street London (opposed)
- Olidio Neto Flat 8 1-6 Dufours Place W1F 7SQ (opposed)
- Chris To Flat 64 1-6 Dufours Place London W1F 7SH (opposed)
- Alida Baxter Flat 48 1-6 Dufours Place London W1F 7SH (opposed)
- Graham Turnbull Sandringham Court Dufours Place London (opposed)
- The Soho Society (opposed)

Summary of Representations

The Licensing Authority stated:-

- The Premises is located within the West End Cumulative Impact Zone and as such various policy points must be considered, namely CIP1, HRS1 and MD1.

- The applicant is encouraged to provide a dispersal policy to demonstrate how conditions limiting the access from Ganton Street and the egress from Broadwick Street will operate.
- The applicant is encouraged to consider reducing their hours back to core hours.
- Following policy MD1, the applicant will be required to demonstrate how the proposal of the increase in hours will truly be an exception to policy. Exceptional circumstances are needed to depart from policy. The applicant is therefore encouraged to supply submissions on the operation of the live music and the timings that it will be played. Will customers be seated or will vertical drinking occur? Is all live music a ticketed event?
- The applicant is encouraged to explain how off sales of alcohol will be ancillary to the main function of the Premises as a Live Music entertainment venue. The applicant is encouraged to provide more details on deliveries.
- The applicant is encouraged to consider model condition 39.
- With regards to proposed condition 14, the applicant is encouraged to advise what type of private event would take place that requires admittance after midnight and how the bona-fide guests or patrons of the ticketed event will be recorded.
- The applicant is encouraged to reduce the terminal hours for the sale and supply of alcohol to allow for drink up time.

EHS stated:-

- The Regulated Entertainments sought and for the times requested may lead to an increase in Public Nuisance in the area and impact on Public Safety.
- The provision of Late-Night Refreshment for the times requested may lead to an increase in Public Nuisance in the area.
- The Supply of Alcohol and for the times requested may lead to an increase in Public Nuisance in the area and impact on Public Safety.
- The conditions proposed are being considered to see if they are sufficient to allay EHS concerns.
- The provision of sanitary accommodation must be at least in line with BS6465 for any proposed capacity.
- The sound insulation properties of the Premises must be at least in line with the standards as set out in Appendix 11 of Westminster's Statement of Licensing Policy.
- The Applicant is requested to contact EHS to arrange a site visit and to discuss EHS's representation.

MPS stated:-

- The proposal is likely to undermine the licensing objective of preventing crime and disorder.
- Crime levels in the West End CIZ are astronomically high. Maps and figures showing levels of crime within both the West End and the borough of Westminster for April and May and the yearly figures from 2018-2023 show that crime levels are higher now than they were prior to Covid.
- PC Muldoon met with the Applicant and was shown the venue and discussed the Application at length. Based on what was said about capacity and the

number of shows, it appears there would be approximately 500 people per night brought into the area that would not previously have been here. This would heavily add to the cumulative impact within the West End.

- The dispersal plans are to disperse customers onto Ganton Street after 10pm. PC Muldoon considers that Ganton Street (a relatively small street) is not suitable for 200 people potentially dispersing out onto it. There are already two late night bars/clubs on Ganton Street that close at 3am. 200 people per show dispersing at or near the same time is likely to have some serious impact no matter what side is used for dispersal.
- Queues later in the evening are likely to cause some disturbance for local residents.
- All but one of those supporting the venue are listed at addresses outside of Soho and outside the West End. The one person supporting the application with an address in Soho is the Applicant himself.

Interested Parties Opposed to the Application and the Soho Society stated:-

- Ganton Street is much more suited for queues and a smoking area. It is therefore requested as a condition that at all times of alcohol sales the Ganton Street entrance is to be used. Westminster increasing the number of licences in close proximity to our home has led to cumulative impact of increased noise. I would not feel safe on the street with drunk crowds from this venue.
- This area of Soho is primarily residential and a late night licence will negatively impact on residents' ability to sleep. There will be rowdy behaviour on leaving the premises and prior to entering the premises.
- I would like to reiterate my concerns about noise created by the large amount of expected visitors/clients, taxis, pedicabs collecting and various other vehicles. The end of Broadwick Street is narrow and the sound echoes. Smoking would cause distress, as well as drug use. Litter is also a concern.
- The location of the proposed venue is a residential area. Once intoxicated people have left in the early hours of the morning, they will roam, shout and scream. Taxis will hoot their horns and pedicabs will play loud music. Residents will be seriously affected by increased noise and anti-social behaviour. Westminster is already aware of the problem of cumulative impact.
- It is imperative that significant licensing conditions are put in place. The Premises will have loud music and customers influenced with alcohol will speak or shout. It is requested that the Premises have a marshal to direct smokers to Carnaby Street away from Marshall House. It is requested as a condition that an additional marshal from 5pm-12:30am monitor and prevent noise issues from taxis and pedicabs and to divert customers to the Ganton Street entrance from midnight. It is requested that signage be put at the exits of the club requesting clients to leave in a quiet manner and not to use pedicabs after 6pm. It is requested that the club provide comprehensive signage reminding customers that this is a residential area and not to be noisy. It is requested that the club provide CCTV monitoring and recording.
- The times stated in the application are unreasonable. We find it unacceptable to have noise after 11pm, especially during the week. At the moment we experience loud noises from another club. Participants leave drunk and then head towards Regent Street. Taxi bikes play loud music and arguments with partners/vomiting keep residents awake.

- This corner of Soho is the most densely residential populated. We have cars circling. Please do not lower the quality of life of residents.
- Marshall Street is one of the few streets in Soho that is quiet and relatively peaceful late at night. The addition of this venue would make the area incredibly noisy and a prime location for disorder and general drunken chaos.
- It is requested that internal and external noise monitoring and recording display monitors be installed at both entrances and that data be available to progress any complaint. Calibration and checking for tampering to be conducted randomly weekly. It is requested that there be a condition that the licence will be revoked if 30 or more noise complaints from local residents occur within any 30-day period. Smokers to be directed to Carnaby Street. Sale of alcohol permitted only when the customer has substantial food and no alcohol to be consumed external to the Premises.
- The area is now overcrowded with shoppers and tourists. People coming and going with late night traffic leads to noise. We already had many years of problems with a late-night venue in Ganton Street and this would add to the number of issues.
- There will be more disruption for all residents if another live music venue is allowed in this part of Soho. We already suffer late night disturbances and anti-social behaviour from the existing bars and clubs around Ganton Street. There will be increased traffic congestion. Men frequently urinate around the entrance on Dufours Place and this will happen even more. There are more intruders in our building dealing drugs and more will be drawn here to prey on the late night revellers from the venue.
- The location is overlooked by three large blocks of residential flats. Permitting live music to continue into the early hours, the coming and goings of people, the possibility of noisy queues or leaving drunk and noisy in the early hours is completely unacceptable and ignores the wellbeing of people in this particularly residential area.
- This is a residential area with flats directly in front of it, the times are antisocial, we already have high crime and anti-social behaviour. Has a noise evaluation and a crime and antisocial behaviour evaluation been done? There are no other live music venues in the immediate area. There is already a problem with people using Dufours Place as a WC. If the licence is granted I strongly request that the hours be considered to reflect a residential area where most people are asleep by 10pm.
- The Soho Society is a recognised amenity group that was formed to make Soho a better place to live, work or visit. The Premises is in the West End CIZ where crime rates are currently higher than at pre-Covid times. This is a high residential area already suffering from noise disturbance. The hours sought are contrary to the Core Hours policy. It is a large capacity of 295 and dispersal late at night will increase noise nuisance. Queuing outside the Premises will impact on residents. The Applicant has not provided information on the operation of the venue. This means that the full impact cannot be assessed. The Application fails the policy tests in Policy CCS01 and falls outside Core Hours. The proposed conditions fail to demonstrate that the Premises will not add to cumulative impact. Condition 9 on queuing does not say the number permitted to queue or where the queue will form. We are against any external queues. There is no designated space for smokers and no dispersal policy has been submitted. There is no mention of SIA support.

More licences have been granted in recent years and the Cumulative Impact Assessment 2020 provides evidence against granting such an application. Residents on Marshall Street have already raised noise complaints. The impact will also be felt outside the immediate vicinity. A sleep survey is included at Appendix 1. Soho is not safe at night and patrons leaving the Premises will be at high risk of becoming victims. Policies in relation to the cumulative impact zone are directed at cumulative effects, and this venue will have a negative impact on residents living nearby and also to those living in other parts of Soho. The addition of a 295 capacity venue operating into the night will increase noise disturbance, crime and disorder and cumulative impact.

- The Additional Information Pack also contains a video recorded on 3 September. This was submitted to give an idea of existing noise problems in the vicinity of the Premises.
- Additional representations submitted on 6 September stated that this area of Soho is primarily residential and a late night licence would impact on residents' ability to sleep. The licence would attract rowdy behaviour, loud pedicabs and Ubers honking their horns. The Geo-Fencing system designed to stop taxis from picking people up does not work. Noisy revellers being decanted onto the street will cause noise.
- Additional representations submitted on 6 September contained a video from August 2021 showing the noise on Marshall Street caused by customers leaving Le Cirque at 4:10am. The video was taken from Blake House.

Interested Parties in support stated:-

- Soho is in need of more cultural late cultural hotspots (sic).
- The Applicant has made significant contributions to the community by operating multiple jazz clubs. There has been meticulous planning which will ensure smooth ticketed shows with zero queues outside. The team supports over 200 independent musicians weekly, and they have deep respect for Soho's history and cultural heritage.
- The venue would have numerous benefits for the community, local economy and nightlife scene. It would provide a safe and controlled environment for people to enjoy themselves in. The venue would be a positive addition and a significant asset.
- The Applicant's venue on Berwick Street does not cause any problems with noise when their guests arrive or leave. The Applicant will reliably manage the premises.
- Initiatives like this are fundamental to achieving equality, diversity and inclusion.
- Music venues have been disappearing and I support the opening of a new music venue, especially one from the established experts in crafting world class live experience, Soho Live.
- Soho Live supports musicians and the jazz community in London.
- Jazz club will bring more people & culture to Soho.
- Live jazz doesn't attract loud and obnoxious clientele. Another venue run by the same outfit is one of the best spots in Soho and would be great to see it on a bigger scale.

- Jazz is a cultural highlight that is under-represented. I support promoting the arts and bringing visitors back to London.
- Keeping alive Soho and the jazz scene is so important and enjoyable too.
- There are multiple nearby bars already operating even later hours so there is no good reason for the application to be refused. A new venue such as this will provide economic opportunities.
- There should be more opportunities and venues for live music.
- Live music is an essential part of Soho and we need more venues offering more variety of live music.
- A very exciting project which is the perfect fit for the area.
- The Premises will be an invaluable hub for nurturing emerging talents and showcasing diverse musical genres.
- Great addition to the nightlife in the area.
- This new venue is essential for sustaining the cultural identity of London's live music scene. The Applicant is honouring Soho's historical significance, fostering creativity, supporting local artists, promoting diversity and inclusivity and contributing to a positive economic impact.
- I can confirm the quality of their existing venues and think this will be a great addition.
- Soho cultural landscape needs enhancing before it all turns into boutiques and luxury flats.
- The Soho Jazz Bar venues are filled with lovely staff, incredible food, strong cocktails and extremely talented artists. I cannot wait for their new venue to open.
- The Carnaby would be a great cultural and social addition to the area. The Applicant has a successful track record of producing great jazz nights and managing prestigious jazz venues to great effect.
- It is so important that the arts remain supported, particularly as so many venues are closing.
- The Soho Live Music Club venues are such wonderful places and it would be great to have another one on Carnaby Street.
- Soho Live have created some amazing spaces in London for the live music and jazz, their contribution to this music scene is evident.
- With over 10 years of managing licensed premises in the Soho area, the management for Soho Live Venues will have the knowledge and experience to continue to manage responsibly and to the satisfaction of all stakeholders.
- As a local business I fully support the opening of a new live jazz music venue. We need a smart new attraction as many of our famous names are disappearing or seriously struggling to survive. The operator will be a well-known and respected Soho resident.
- There is always a need for more live music venues. The Applicant already runs 2 great venues and the music offer is second to none in London.
- The application is accretive to the vibrancy of the community and supports the development of the area as one of the best social and entertainment areas of London.
- Soho Live are invigorating the music scene in Soho and across London.
- Have been a big fan of what this organisation has done on Carlisle Street- they've helped bring together amazing musicians and supporting the arts.

- Soho is always in need of exciting new businesses and music venues. A late licence for any venue will encourage people to Soho and enjoy what's on offer.
- The people behind the application are doing great things in supporting jazz in central London. It is vital for the soul of Soho that this kind of creative venture is given the chance to flourish.
- The Applicant runs several other successful venues in Soho already responsibly and is a great asset to the area both culturally and economically. Opening a late license venue would help maintain Soho as a nightlife destination.
- As a neighbour, they are a valued member of the community, they are inclusive and are also passionate about artists and their music.
- It is important to have venues like this in a city that is in dire need of a growing night life.
- A fantastic addition by a respected resident and business owner of Soho.
- London needs more jazz venues to support its musicians.
- A venue like this adds to the community like nothing else and helps revitalise the suffering live music scene. Especially the longer hours are a unique incentive that would drive trade and community, as it allows for the interaction of people who might not usually meet. It also enables Soho's community, much of which works evenings and nights until around 11pm to gather in a peaceful, sophisticated place of exchange and innovation.
- There are many hundreds of restaurants in Soho but relatively few live music venues. I would like to see more live music venues in Soho.
- I'd much rather the area had a classy jazz bar rather than a nightclub or a loud pub.
- We need more live music venues, places for Londoners and visitors to our city to come together and celebrate.
- The Carnaby will be a massive contribution to musicians and hospitality workers. It is set to bring together jazz lovers from all over the worlds, creating a unique and vibrant music scene.
- I support live music and anywhere that caters to this should be supported.
- Although I live a long way out, I love coming in to London to see live jazz. The team behind the Carnaby have done a fabulous job at their other venues in the area. There is a clearly a desire for live music. As well as providing entertainment for many, it provides jobs.
- Music venues are critically important to the improvement of our city.
- The staff is so kind and friendly, the musicians are very professional and the interior design is great. I love to go there every week.
- Essential for the area to continue the prosperity and cultural significance of Soho.
- The Soho Live Team have displayed immense passion, well-thought out management and ethical payment practices. They are one of the companies I most look forward to working with.
- A key focus of the Soho Business Alliance is the protection of Soho's reputation as a centre for world beating hospitality and night-time industries that contribute so much to the fabric of Westminster's culture and economy. This is recognised in Westminster's Statement of Licensing Policy. Live music venues are under threat and Soho needs more live music venues. This application is an archetype of what should constitute exceptional

circumstances. Venues like this will draw people to Soho who have an interest in the arts, which will stimulate demand for complementary businesses. The nature of the proposed use and comprehensive schedule of conditions means that the licensing objectives will be promoted. The premises are located below ground and the operator has experience in Soho.

- Shaftesbury Capital PLC is a Real Estate Investment Trust which invests in London's West End. The Application has been submitted by our proposed tenant. We carefully vetted the Applicant and entered into a lease because of the Applicant's professionalism and track record operating in Soho. It is a privilege to help facilitate the opening of a new live music venue when so many are closing in London and further afield. The Premises will provide an alternative evening that is not centred around alcohol. A customer evening focused on shopping, dining and cultural music entertainment cannot properly be linked to cumulative impact. The configuration, building qualities and location provide natural sound attenuation and there are arrival/dispersal options. This, together with fitted out premises and robust operational management controls, will ensure the promotion of all four licensing objectives.

Policy Considerations

Policies CIP1, HRS1 and CCSOS1 apply under the City Council's Statement of Licensing Policy ('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.

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

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:

Pubs and bars, Fast Food and Music and Dance venues

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Middday to 10.30pm.

Sundays immediately prior to a bank holiday: Midday to midnight

Cinemas, Cultural Venues and Live Sporting Premises

Monday to Sunday 9am 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 CCSOS1

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

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
3. The 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 demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
5. The applicant has clearly demonstrated that the sale by retail of alcohol and late-night refreshment will be ancillary to the venue's primary function as a cinema, cultural venue, live sporting premises or outdoor space.
6. The sale by retail of alcohol and/or late night refreshment after 11pm is limited to customers, patrons or members of the audience who will or have made use of the primary function of the venue as a cinema, cultural venue, live sporting premises or outdoor space.

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

- b. Performance venues: for a live performance in front of an audience which may include concert halls, comedy clubs or similar performance venues.

Submissions by the Parties

1. Mr Jackaman, Senior Licensing Officer, introduced the application to the Sub-Committee, including the activities and hours applied for. Mr Jackaman referred to the representations received from Responsible Authorities and 82 interested parties both in support of and opposed to the Application. Mr Jackaman stated that the Premises is within the West End Cumulative Impact Area.
2. Mr Thomas on behalf of the Applicant introduced Fred Nash of Ronnie Scott's. Mr Thomas stated that Ronnie Scott's was a competitor, that the late show was important and that Soho needed live music. Mr Nash said he was there to support the Application and that he was very familiar with what the Applicant wanted to do.
3. Mr Nash stated that the Application was the right thing for London, and it is good for Soho and the arts for general. Jazz clubs support musicians, sound engineers and the late-night economy. In relation to the late shows, these are important because they are a place for younger musicians to cut their teeth. They also allow jazz clubs to be accessible to all audiences at a price point that is affordable. The Application reminded Mr Nash of the people who opened Ronnie Scott's in the 1950s, and Mr Nash saw Mr Hudson as doing what they did and commended him for this.
4. Mr Thomas submitted that the Council's SLP is riddled with references to cultural venues and that the Council does not want only pubs and restaurants.

The Council wants diversity, but the Applicant needs a small leap of faith from the Committee to grant slightly beyond core hours for cultural venues. The main reason the Applicant was applying after core hours was because of the late show, the programming for which is in the dispersal policy. Mr Thomas referred to and quoted paragraph E9 on page 65 of the SLP. Mr Thomas submitted that paragraph E9 says that if you are a cultural venue the Committee will look at the application more sympathetically.

5. Mr Thomas advised that the environment of the Premises would be art-led and not drink-led. The entrance is at ground level, but the activity would be at basement where noise cannot escape. Mr Hudson has a stellar reputation for running jazz venues, and the Leveche Report shows that he has a faultless reputation. At Mr Hudson's other venues there have been no calls to police or evidence of nuisance. The Applicant received pre-application advice from Mr Drayan (EHS).
6. Mr Thomas advised that the Licensing Authority had asked for winding-up time and that the Applicant was prepared to agree to this. The Application was therefore amended to take off thirty minutes every day for sale of alcohol. On Monday to Tuesday 23:30 would be less than core hours for cultural venues. Mr Thomas explained that the music continues beyond the final time for the sale of alcohol because you do not want people to rush out, but the bar closes earlier to give people time to disperse safely and quietly.
7. Mr Thomas explained that there would be two live music shows every day and three on Wednesday-Saturday which is why the extra time is needed. The last show would start at 23:00 on Saturday.
8. Mr Thomas argued that Marshall Street will not be impacted as much as residents fear because all access will be via Ganton Street (rear entrance) after 23:00, and Ganton Street is on the opposite side of the building to where interested parties live. There is therefore no risk of people being affected after 23:00.
9. Mr Thomas added that dispersal also has to take place via Ganton Street from midnight. After midnight there will therefore be nobody coming or going by Broadwick Street or Marshall House. Mr Thomas noted that after the core hours for bars/restaurants, the maximum capacity would reduce to 150 because the late show is smaller. There would be fewer people leaving, and they would not be leaving via Broadwick Street.
10. Mr Thomas referred to the plans submitted, saying that for the small hatched area around the bar, alcohol would be provided only by table service. Mr Thomas referred to layout plans included in the agenda report, saying that the hatched area has 42 covers.
11. Mr Thomas advised that the hatched area is not going to be vertical drinking because patrons could be served by waiter/waitress service in the hatched area, and customers would have to be served by waiter/waitress service outside the hatched area. With regards to dispersal, there would be at least 2 SIA security on duty after 22:00. Dispersal would only be via Ganton Street,

and the Applicant would marshal and supervise customers from the point of exit towards Regent Street, where the cabs are. Mr Thomas said that the departure would take place before customers left Cirque Le Soir on Ganton Street, which closes at 03:00 onwards.

12. Mr Thomas asked for additional time to make his representations (approximately 10-15 minutes extra), and he appreciated that the other parties would have additional time as well. On this basis he was granted additional time.
13. Mr Thomas pointed out that planning permission had been granted. Mr Thomas argued that someone would be going to use the Premises as a live music venue, and the hope was that it would be George Hudson. With reference to Court of Appeal authority, Mr Thomas argued that significant weight should be placed on fact that planning permission had been granted.
14. Mr Thomas explained that the Premises would also provide Chinese food, which promotes the cultural use of Chinatown. Mr Thomas referred to the fact that the papers submitted demonstrated the loss of grassroots venues in the area. Mr Thomas submitted that the Hope and Glory case says the Sub-Committee must take a balance of benefits and downsides, and he asked the Sub-Committee to consider the weighting of competing considerations.
15. Mr Thomas argued that the reason this was a suitable venue is that Carnaby is not impacted by cumulative impact the same way as other parts of the West End. Shaftesbury PLC manage tenants, and they have CCTV and 24 hour security. When one looks at the reasons underlying the Cumulative Impact Policy, those factors are not present in Carnaby. There is high access to public transport, so customers are not retained within the West End. They go home, and there is no evidence that the Application would add to cumulative impact. The SLP makes it clear that cultural venues are considered differently, and customers will behave differently from customers at premises such as Cirque Le Soir.
16. Mr Hudson on behalf of the Applicant explained that he had been a resident of Soho for 12 years and that he employed residents of Soho and self-employed musicians. Mr Hudson said it was very important for him to work together with the local community. It was unfortunate that some residents had not enjoyed his hospitality, but the majority of them and everyone that he met was incredibly positive because the Applicant ran a grassroots venue. Mr Hudson explained that the late show is critically important for bringing up young talent and makes the operation financially viable.
17. Mr Hudson said that he had been running the late show in his other venue without any issues, and the late show is designed as a cabaret performance. This means there is no big finale or encore end. The late show finishes a good half hour before the end time anyway, and the breaks between sets get longer to encourage dispersal.
18. Mr Thomas submitted that the police crime figures were for the whole of the West End, but the heat maps in the police evidence are not around Carnaby.

This shows that there is less cumulative impact in Carnaby. In any event, the Leveche Report observed people going straight home.

19. Mr Thomas also argued that there was less cumulative impact because Shaftesbury curated the area. Mr Thomas added that the Premises was a cultural venue with Policy CCSOS1 and that applications will generally be granted provided that they will not add to cumulative impact (which the Applicant had demonstrated). Mr Thomas also said that Policy CCSOS1 does not mean that the Sub-Committee cannot grant an application outside core hours.
20. The Applicant did not need to demonstrate that the Application was an exception; the Applicant only needed to demonstrate that the Premises would not add to cumulative impact. Policy HRS1 recognises that some venues are more likely to impact the licensing objectives than others and that bars/restaurants are more likely to impact the licensing objectives than cultural venues.
21. Mr Thomas pointed out that there were no representations from Ganton Street, which would be the entrance after 23:00 and the exit after midnight. All the objections came from Marshall House, which would not be impacted. Even the representations that have been made recognised that Ganton Street would be a much better entrance.
22. Mr Thomas then asked Mr Vivian to answer some questions. Mr Vivian said that he did not agree with PC Muldoon that 200 people leaving would cause problems in Ganton Street because dispersal would be managed and gradual. People do not leave in one mass of 200, and they would disperse gradually in small groups. Mr Vivian added that the noise impact is smaller as people move down street, and the noise would be rapidly attenuated by distance. Mr Vivian confirmed that he did not think that there would be an increase in average noise level in the area such that the residents in Marshall Street/Broadwick Street would not be impacted.
23. In response to questions from the Sub-Committee, Mr Thomas explained that there were offices above the Premises. Mr Thomas said Ganton Street was pretty wide and pedestrianised as well; 295 people would not be coming out at one time. Mr Hudson added that in the walkway from Ganton Street you could fit 80 people coming from the exit of the Premises. The Applicant manages leaving time, and people leave in very little groups, generally couples. People generally leave over the course of 30-45 minutes and then there is an additional hour before the next show starts. The late show is designed not to have big end. Mr Thomas added that there would only be 150 people after bars/restaurants core hours and they would leave in dribs and drabs.
24. In response to further questions from the Sub-Committee, Mr Hudson explained that the early show and main show would run as 2 sets and usually people would stay for both acts, while the late show is more cabaret, hotel-style music. The late show also has bigger and bigger breaks between the sets. Very rarely would someone stay for the entirety of the late show. People

could stay for the whole time, but they generally do not. For the late show it is a rolling showcase of talent. Mr Thomas added that there was a cut off for entry. With regards to ticketing, Mr Hudson explained that all ticketing is mobile and even a member would have to register to ticket/registration beforehand, so there is a clear indication of how many people are in the building at any one time.

25. In relation to off-sales of alcohol, Mr Hudson explained that off-sales were being applied for because the Applicant had a large membership who love buying vinyls and alcohol to send as gifts at Christmas. Mr Thomas added that off-sales would be sold via the internet and sent out in the post, not via delivery bikes. Mr Thomas said the Applicant would be happy to accept a condition to that effect.
26. In response to further questions from the Sub-Committee, Mr Hudson explained that the holding area has 90 covers, so it can hold most of the audience. Unlike Ronnie's, which does sometimes have a queue, the Premises was designed from the beginning to make sure that everybody that arrives is within the front door within a minute. No tickets are purchased on the door, and patrons are sent down to the 'holding pen' where they can rest while others are leaving. On capacity, Mr Hudson said the main show would be at 50-80% capacity the majority of the time, and at Boulevard it would be 100% capacity on Fridays and Saturdays. There is a large appetite for this music at this price point.
27. In response to further questions from the Sub-Committee, Mr Hudson said that for the late show, branding and signage would be on the back of the Ganton Street entrance and that the marketing of the late show is connected to that entrance. At all times there would be people stationed on both sides, directing people round. Mobile ticketing is geo-located, and there would be a clear map on the ticket which points out which entrance is open when. Mr Hudson said that his other venue was next to a nightclub, and that a different type of customer went to nightclubs. This meant there had been no impact in the last 11 months.
28. After a discussion on ticketing and entry times, Mr Thomas suggested reflecting and coming back to the Sub-Committee with suggested conditions on ticketing and entry times. In response to a question from the Sub-Committee, Mr Thomas also added that the Applicant would be happy to accept a condition for the hatched area to have a minimum of 40 seats so that it did not become a drinking area.
29. Ms Slade on behalf of Shaftesbury Capital PLC made the following representations: Shaftesbury owns and manages buildings across the West End. Shaftesbury started investing in the area around Carnaby Street 25 years ago. Shaftesbury seeks out and chooses occupiers that reflect our values and can contribute to the area's heritage and community. There has been live music in Carnaby for over 100 years, and Shaftesbury is excited to work with someone like George Hudson.

30. The evening economy is about providing high quality food, beverage and entertainment, and Shaftesbury works hard with operators so that they understand that they must work alongside local residents. Shaftesbury provides a comprehensive estate management service, which takes into consideration the needs of surrounding residents around the estate. There is 24 hours CCTV and on site security.
31. There are very low levels of crime on the estate. The security team has considerable impact in deterring crime and dealing with anti-social behaviour when required. The security team works closely with licensed premises security teams. Any pedicabs are moved on and are reported to the Council. Shaftesbury is considering increasing on-site guarding and also provides managed waste facilities.
32. The feedback from local residents shows that there are two main concerns. First, the potential disruption due to dispersal. The Applicant has looked to address this by using geo-fencing so taxis are unable to pick up people at the Broadwick Street/Marshall Street junction. This has now moved slightly, and Shaftesbury intends to raise this with taxi operators.
33. The residents' concern is also addressed through an Operational Management Plan. After 23:00 the entrance will be from Ganton Street and after midnight the exit will be via Ganton Street. Customers will therefore be dispersed away from residents. Shaftesbury received a letter of support for the planning application from a resident on Ganton Street.
34. The second concern of residents is around servicing and timings. A servicing management plan requires deliveries between 8am to 23:00, and these regulations form part of Shaftesbury's standard lease agreement. Shaftesbury tracks deliveries around the estate, and they follow up with the occupier if there is a delivery outside the allowed times. If the delivery is not to an occupier then it is referred to the Council. If an occupier does not comply with regulations on deliveries, then they are in breach of their lease agreement and Shaftesbury follows this up. The highway signage at Marshall Street junction could be made clearer because it does not say that it is dead end. In selecting the Applicant, Shaftesbury is staying true to its aim to give opportunities to local entrepreneurs who will work hard for the local area.
35. Mr Thomas added that in one of the videos submitted by local residents there was a rubbish truck. Ms Slade's evidence was that such trucks and deliveries will get reported to the Council. Mr Thomas also said that if there are cabs outside Marshall Street, then when geo-fencing comes back that will deter that. There would be no servicing to the Premises before 08:00 due to licence conditions and the lease.
36. Mr Power made the following representations on behalf of the Soho Business Society: Mr Hudson is in the business community's opinion one of the leading impresarios of the new generation. George is engaged with the Soho Community, which is pretty special when comes to operators. In terms of pedigree as an operator Mr Hudson's reputation is second to none. The Soho Business Society feels that George should be embraced.

37. Mr Drayan made the following representations on behalf of EHS: The Applicant did seek pre-application advice from EHS. Most of the conditions on the licence are the outcome of proposed conditions. At pre-application EHS did give an indication that anything that was asked for beyond core hours was going to be very difficult to be granted unless the Applicant could demonstrate that the Premises would not add to cumulative impact. That is a matter for the Sub-Committee to decide.
38. Mr Drayan suggested that the Broadwick Street entrance could be stopped from being used after a certain time, and midnight is the cut-off point. EHS was involved in discussions for the planning application as well. EHS also gave advice about noise breakout from the Premises and those measures have been put on planning conditions. EHS is satisfied that sufficient measures are in place to prevent noise breakout from within the Premises.
39. Mr Drayan explained that the main issue is dispersal late at night. There is an exit tunnel which is about 18-20m long. The dispersal plan suggests that this is all stewarded and comes out at Ganton Street at the Carnaby Street end. It is suggested in the dispersal plan that there should be SIA security staff to encourage people not to go towards Marshall Street or Broadwick Street but to go along Carnaby Street to Regent Street. That is where people are less likely to have an impact. It is for the Sub-Committee to decide whether the Applicant is sufficiently able to control dispersal such that people would not be going to get pedicabs in Marshall Street or Broadwick Street or taxis from those areas. That is the crux of the matter from a public nuisance point of view.
40. Mr Drayan added that one of the Applicant's advantages is the type of clientele that they have, which is not the Cirque Le Soir type. When customers come out they shout after consuming alcohol in premises, and from some of the videos Mr Drayan has seen that is what has been causing a lot of issues in the area. It is up to the Applicant to show that this is not the type of clientele they have and not the issues they will cause; the question is whether the Applicant has demonstrated that dispersal can be done in a reasonable manner so that the Premises does not add to issues that residents suffer in the area. That was the advice provided to the Premises.
41. Mr Drayan also talked with Shaftesbury who say they have patrols, and that needs to be integrated a bit more. That is something that can be worked on to hopefully provide further mitigation, especially from existing premises, which is where the focus needs to be redoubled in addressing issues that residents suffer from. It is for the Applicant to demonstrate that they can control their customers and that they are different from the Premises that are causing the problems.
42. In response to questions from the Sub-Committee, Mr Drayan said that the walkway onto Ganton Street was about 3m wide. Mr Hudson said there was an SIA officer on the Ganton Street door and also a steward on the other side and CCTV. Ms Slade added that Shaftesbury's security team would support the Applicant's.

43. Mr Drayan added that James Hayes, a City Inspector Manager, was present and could advise on current work that the Council is trying to implement to address some of the issues caused by existing premises as well as how the Marshall Street/Broadwick Street issues are being reduced.
44. Mr Hayes explained that the Council does a lot of work to try to address nuisance and that the new venue could well have an impact on public nuisance experienced in the area. The main issues are not directly related to licensed premises but are caused by licenses premises being there. Minicabs/private cars are there, and one of the big problems is pedicabs because the area is mostly pedestrianised. The Council has done a huge amount of enforcement activity but still has not resolved it. Mr Hayes believed an entertainment venue would attract pedicabs which would wait to collect people, and if the Sub-Committee were minded to grant the Sub-Committee needed to be conscious that the hours and conditions needed to address those problems.
45. In response to a question from the Legal Advisor to the Sub-Committee Mr Feeney, Mr Thomas confirmed that the Applicant would put forward a specific condition on SIA. Mr Drayan added that condition 23 on late entry was very open-ended and needed to be tightened up.
46. Ms Abbott on behalf of the Licensing Authority made the following representations: She advised that the Premises is a live music venue and falls under the music and dance policy, where the Applicant must demonstrate an exception to policy. Even with a reduction in hours, the Application is still outside core hours. The concerns are a number of people coming into the CIA at different times with closing times being midnight, 01:00 and 02:00, which is a big concern with that amount of people. The Sub-Committee must be satisfied that the Applicant has demonstrated exceptional circumstances and will not add to cumulative impact.
47. Mr Rankin on behalf of the Metropolitan Police Service made the following representations: He advised that it does not matter whether you are wearing a suit, whether you are mature or whether you like jazz; you are still as capable of behaving badly as anyone else. The MPS objection was straightforward. The Council has a policy, and it is at the Applicant's own peril if he selects a Premises in the CIA which offends policy. The MPS accepted that the Applicant loves jazz and Soho, but PC Muldoon's interests are different - he has the business of policing this area. At 1am-3am it is a very different place to 1959 and Ronnie Scott's, and the principal reason for that is the number of licences the Council has granted. We have got to the stage where Soho is full up.
48. The MPS recognised the benefits of giving young musicians the platform to ply their trade, but there are other considerations. This area has the highest crime rate in the kingdom for public order offences. The MPS do not want to see a licence granted in this area which runs the risk of increasing crime figures.

49. Mr Rankin submitted that it did not matter that there was a report from a retired police officer who visited the area twice and did not see anything. Historically, looking at hours when offences are taking place on page 99 of the agenda report, those danger hours have not changed or altered. Crime happens between 22:00 to 04:00 that is unchanged. Offences take place within those hours and within this area.
50. Mr Rankin submitted that even if Mr Thomas says the policy says the Applicant does not need to prove exception, whether it is an exception or departure from policy, the onus is still on the Applicant. He advised that the Applicant has to show the Sub-Committee that the policy has to be departed from. Mr Rankin asked the Sub-Committee not to depart from the policy because the MPS know what the results will be. With regards to Mr Vivian's report, Mr Rankin asked Mr Vivian to confirm that he did not visit the area but relied on historical data. Mr Vivian said he was familiar with the area but had not visited the area for the purposes of this report. Mr Rankin argued that there was a complicated mathematical formula which proves that the Premises will not be disturbing residents, but we all know what reality is.
51. Mr Rankin argued that the inescapable result, as under pressure as the area was, is that the Premises would inevitably result in increased negative impact in an area that is currently experiencing negative impact. It is impossible to say that 750 people who love jazz will not cause a disturbance because you cannot condition the behaviour of people when they leave licensed premises. PC Muldoon and his team have to pick up the pieces.
52. Mr Rankin said the MPS has sympathies with Mr Hudson and applauded his drive and enthusiasm, but he has selected the wrong location. The Premises is in a part of the City that is under stress and should not be given the benefit of extended hours.
53. In response to questions from the Sub-Committee, Mr Rankin confirmed that the MPS preference was not to grant the Application at all. Mr Rankin added that patrons might be victims of crime. The Premises would be a destination venue, with 750 new people coming into the area. Usually, the argument given by Applicants is that this is not going to be an increase of numbers, just existing patrons that are already in the area.
54. Mr Rankin submitted that this on the other hand was a destination venue on the Applicant's own evidence. With 750 people coming to the area, it would place stress on the area and people would become the victims of crime. PC Muldoon explained that there was normal theft and violent robbery. For violent robbery, criminals go to where victims come out with something worth robbing, such as an expensive watch.
55. Mr Osborne-Smith said he had been a resident in Soho for many years. He explained that Soho had changed character over the years because of the noise. He said he had worked with the licensing authority, police and Shaftesbury for two years but none of the measures that have taken place have improved anything. Mr Osborne-Smith argued that geo-fencing is circumnavigated by people using different taxi companies or using buildings

rather than roads. Similarly, marshals do not work because they do not have the power to stop someone walking down the road. They tried blocking the road with tarpaulins, but this did not stop people from walking to Marshall Street. Every measure has failed.

56. Mr Osborne-Smith said that as a family they are destroyed. His son is ill but cannot be tested for ADHD because the symptoms are the same as symptoms of disrupted sleep. His son is severely ill and has been excluded from school. Mr Osborne-Smith said no-one had the resources to deal with the noise, and he had to leave as a result of development in this area.
57. Mr Osborne-Smith argued that licences have turned the area into an uninhabitable area. He said he had gone to extreme lengths to soundproof his flat, including boarding up windows and acoustic glazing, but it is not enough to stop car horns, deliveries and all things that are carried on. Shaftesbury says it is well-managed, but it is a nightmare area.
58. Mr Osborne-Smith said he wanted to get out but could not; his property is unsaleable and he is on the point of suicide. It is obvious that the Premises would add to cumulative impact, and this venue should not go ahead opposite the main residential zone of Soho. Mr Osborne-Smith said there is going to be delay, and there are going to be people waiting outside when his son is in bed trying to sleep. There is no provision for a smoking area, and people are going to be using raised voices.
59. In response to questions from the Sub-Committee, Mr Osborne-Smith confirmed the location of his flat in Marshall House within sight of the Premises. He added that the dispersal policy does not matter because customers go to the nearest place they can get a taxi, which is Marshall Street and marshals cannot lawfully prevent that. At the junction there are vehicles reversing and a convergence of reversing vehicles which causes chaos. Then there are all the deliveries.
60. Mr Osborne-Smith said it is not possible to sleep in the building anymore. He has tried and failed, and he has tried to be reasonable and discuss, but all these negotiations have not amounted to anything and this is the final line of defence. No-one has resources to enforce. Cirque Le Soir has rules, but in the video the marshals are just standing there. They do not talk to people, and they do not have any right to tell people where to go.
61. Mr Osborne-Smith said he was impacted more than others because he lived on the first floor, but he used to be in another building on the 15th floor and the theory that noise does not go up is completely wrong. It has been a real nightmare. It started off pleasant as one of the lowest-noise streets in the 2009 survey carried out by the Council, but since then it has turned into a nightmare. There is no-one with the resources to resolve this, and the Sub-Committee is the last line of defence.
62. Mr Brown on behalf of the Soho Society made the following representations: He stated that what is important is to hear about the impact of licensed premises in this area. The Application is about what is appropriate to promote

the licensing objectives in this particular location. Mr Brown submitted that this is what the case law (Hope and Glory) says, and only half of the relevant paragraph had been quoted in the Applicant's case. Toulson LJ goes on to say that the evaluation is what is reasonably acceptable in that particular location.

63. Mr Brown echoed what Mr Rankin said. From a residents' perspective the question is will it promote the licensing objectives to have an entirely new licence for 295 people times two and 150 people in the middle of the CIZ where crime rates are high and in the middle of three large residential blocks in close proximity. The residents of residential blocks already suffer from noise late at night which stakeholders have not managed to resolve.
64. Mr Brown said there was no criticism of the Applicant, and he accepted the Applicant's standing in community. However, the Sub-Committee was licensing the building and not the operator. The licence could be transferred to a different operator. That was not the intention, but you never know what will happen down the line. Mr Brown added that the Application was not about the loss of live music venues, which had been on Charing Cross Road and not in the middle of three residential blocks.
65. Mr Brown said that fundamentally the residents are asking whether it is fair that they bear the brunt of additional noise. Mr Brown also submitted that the Application is not about planning permission; he did not accept that the Court of Appeal authority referred to by the Applicant says the Sub-Committee should place significant weight on planning permission. It is right that the Sub-Committee knows what the planning permission says, but the licence application is a different legal process with more evidence (including from police and local residents).
66. Mr Brown said the Soho Society refuted entirely the evidence of the Applicant's experts. The Leveche Report says no additional impact, and the rationale is that because the Premises would close before Cirque Le Soir the two dispersals would not interact.
67. Mr Brown argued that there would be additional impact; there would be impact when the Premises closes and then when Cirque closes. People would also be leaving Cirque throughout the night. Mr Brown argued that contrary to what Mr Vivian says, it is because of the Premises' location that it will cause impact.
68. Mr Lord on behalf of the Soho Society made the following representations: Mr Lord stated that he lives on Broadwick Street and knows the area really well having been a local resident for some three decades. He said that the Soho Society has supported live music venues subject to it being consistent with residential amenity. What is striking about this Application is that for two years he had been dragged into the misery that people had gone through because of the dispersal of venues around Carnaby Street and also because of the vast problems with deliveries.

69. Mr Lord said there had been engagement from the Council to try to resolve it, but those discussions had hit a brick wall. Mr Lord said he had asked for a camera to monitor what is going on but this specific request had not been granted. He had also asked for loading restrictions because Shaftesbury's system does not work but that was impossible. There had been a large amount of time spent on reducing existing cumulative impact largely to no avail.
70. Mr Lord said the Sub-Committee would have seen the video from 3 September 2023. Looking at the map, all the traffic comes down Broadwick Street. In the video there is chaos; cars have to reverse and there could not be a worse place to put a venue with a significant audience. The Applicant says they can condition it and use marshals who will control the behaviour of customers after they have left the Premises.
71. Mr Lord said that would not work because Cirque Le Soir already has similar conditions. Marshals do not work because they have no authority to tell people to do anything. Mr Lord said it is a narrow pedestrian route that leads to Regent Street; customers see the traffic and cars on Marshall Street and they end up on Marshall Street as can be seen in the videos sent to the Sub-Committee. It is chaos.
72. Mr Lord referred to the video taken in August 2021 from Blake House, which is social housing. Mr Thomas pointed out that the video was taken in 2021. Mr Lord pointed out that the marshals required by Cirque's licence were not doing anything; Mr Lord said he was not blaming them because there is nothing they can do, they have no legal authority to do anything about it. In response to a question from Mr Brown, Mr Lord confirmed that the video was taken at 04:00 but this was the situation throughout early hours.
73. Mr Lord said it routinely happens, that there have been attempts to address the problem and they might get somewhere with Uber but then customers get another service. Mr Lord said the latest video shows that the measures are still not working.
74. Mr Lord accepted the value of what the Applicant wanted to do but argued that he could not put it in the main residential area of Soho with a history of failed interventions. He said the reality is that people cannot sleep, and they are ill.
75. Mr Lord advised that people from Marshall House confirmed it is not just Mr Osborne-Smith; people report that noise nuisance is impacting their work, making them ill and affecting their personal relationships. People were arguing more with their partners because they could not sleep at night, and this was a really serious public health issue.
76. Mr Lord argued that the idea that the Applicant could add in 250, 500 and more people all who might seek to be picked up by taxi, Uber is off the scale in terms of not being informed by reality on the ground. Multiple residents say the same thing as Mr Osborne-Smith, and in the Soho Society's survey

people say they are suicidal. Mr Lord said one resident has tried to rent their flat but tenants last 3 days and move out.

77. Mr Lord agreed with everything the police had said. Mr Lord said it is not the punters committing crime, but organised crime has worked out that Soho is where they can go at 01:00 to find thousands of slightly vulnerable people they can rob from. It is so difficult to police, and it is endemic and out of control. Various people are trying to sort it out, but it is a really serious problem. Incidents of GBH and violence against the person showed that robbery and theft involve real violence because some people do not hand over their possessions but fight. The police do the best they can, but since two officers leave every time there is an arrest by 01:00 there can be no-one left on the beat.
78. Mr Lord said the situation is so bad that the Territorial Support Group is sometimes allocated because they deal with violent riots. In summary, Mr Lord said the location was unsuitable because it is a cul de sac, there is serious public nuisance and it has the highest crime rate in the country.
79. In response to questions from the Sub-Committee, Mr Hudson said one of his staff had been mugged and he had been propositioned. He said a main issue for him is coming up with ways of addressing safety, and communication is the main thing from artists to staff. Mr Hudson said his employees (Soho residents) know about these things. Mr Thomas added that the benefit of a new licence is that it has conditions, including a condition on WAVE training. Ms Slade explained that Shaftesbury's 24 hours security team works with door staff of licensed premises and that Shaftesbury's security will come to premises to provide support if there is an issue. Mr Hudson said that he had chosen a site with two entrances and exits.
80. Mr Bancroft as a witness for the Soho Society said the following: Mr Bancroft's bed is twenty feet away from the building, and there will be lots of people outside. The Premises used to be an office building, and it has changed. When Mr Bancroft bought his flat, the office had a closing time of 19:00 and it was a quiet area. It has all changed with venues.
81. Mr Bancroft's problem is the sleep deprivation it has caused him, and it has caused him considerable illness. His illness has deteriorated over the last two years, and he is unable to work and cannot think straight. Mr Bancroft said he did not object to the actual venue but to the noise problems it would cause. He said he was one of 200 residents who were all struggling. He said he had contemplated suicide and had phoned Samaritans. He said he would like to see an improvement, and he felt that not being able to sleep in the night, being woken up 2-3 times a night, is not the right way to live. He said his flat is blighted by everything that is going on outside.
82. Mr Bancroft added that he had put secondary glazing on, but it does not get rid of noise and means there is no ventilation in lovely weather. He has contacted the noise team, but the reality is that it does not work, and he has to wait a long time. Shaftesbury has security, but they are never there in the evening, and there is a limit as to what they can do.

83. Mr Bancroft said there are often deliveries throughout the night and that a lot of conditions do not work. Mr Bancroft said the Sub-Committee has to look at what is causing the problem, namely so many venues and licences. Mr Bancroft said that to drop hundreds of people outside his flat would be the end and his flat is now worthless.
84. Mr Barrett made the following representations: He was the director of Marshall House Management, which managed Marshall House, and he was representing two others (Brigitte Williams and Belinda Denton) who had made representations and who could not be at the hearing because they are on holiday.
85. Mr Barrett said he was inside so the impact of noise is not as bad; Brigitte Williams and Belinda Denton are directly over the noise and they have said it is horrendous. They had made strong representations against the application. Mr Barrett said Marshall House people are not transient, and they are long-term residents. The Application is a nice concept, and they are obviously nice people, but it is in the wrong place. The Premises would decant hundreds of people onto the streets in the evening.
86. Mr Barrett had spoken to someone who said it was very noisy when leaving the Applicant's other venue. Just because somebody is middle-class and middle-aged it does not make them quiet. The Applicant says that people will disperse onto Regent Street, but the reality is that they walk down Broadwick Street, and the collection point for Uber, Bolt and pedicabs is the junction of Broadwick/Marshall Street. Mr Barrett disagreed with Mr Vivian's report, which said that people in groups do not all talk at once.
87. Mr Barrett also said he was concerned that including recorded music meant the Premises could become a disco. Mr Barrett argued that it might not be a crime spot at the moment, but if you add a number of moderately well-heeled it most certainly will become one.
88. Mr Kerry Simpkin the policy Advisor to the Sub-Committee advised the Applicant that as the Application was requesting dancing, and there is nothing to restrict that purpose, the Premises could quite easily become a nightclub. Mr Simpkin said that at the moment his approach was that the Premises would fall under Policy MD1 and there would be a presumption to refuse.
89. Mr Thomas confirmed that dancing could be removed from the Application, and on that basis, Mr Simpkin confirmed that the Premises would fall neatly under policy CCS0S1. Mr Simpkin added that it would still be for the Applicant to demonstrate no cumulative impact in the West End CIZ.
90. Mr Simpkin then asked for clarification on the operation of proposed condition 39. In response to a question from Mr Simpkin, Mr Drayan said the main problem would not be noise escaping out onto the street because of the way the venue is designed.

91. Mr Drayan said there was potential for noise to travel up the building, especially if there is base music and such in play. However, the Applicant had covered that in the planning conditions.
92. Mr Drayan added that if there was queueing outside on Broadwick Street and 295 people during the day queueing and talking then noise would travel, it would bounce off either side between two narrow and tall buildings because those buildings are not designed to absorb noise. The noise would bounce backwards and forwards and there is potential for nuisance to be caused if there is queueing in Broadwick Street. However, that street during the day (during the first two performances) has a high background level anyway because of general activities, so the question is whether you would be able to discern 295 queueing in that area as being additional to what is there already. The type of queueing that occurs would be important.
93. In response to questions from Mr Feeney, Mr Thomas said the smoking area was in the dispersal plan. The dispersal policy was a dynamic document, and he would be reviewing and adding further things. Mr Thomas confirmed he was happy to delete 'anything of a similar description' for dance, and to add 9am-6pm on Sundays before Bank Holidays for Off-Sales, as well as a condition about postal service for off-sales.
94. Mr Thomas explained that the intention is not to have any queues and any queue would be in the walkway on Ganton Street. Mr Hudson said the Premises was not like a nightclub encouraging a queue, and the design of the venue and the ticketing was to get people in as fast as possible. Finally, Mr Thomas said he was happy to make the hatched area smaller if members were worried about vertical drinking.
95. In summing-up, Mr Rankin submitted that the fact that a planning decision has been made is not binding as there are different considerations in licensing. Mr Rankin argued that this was not a surrender case, that this was a destination venue attracting people to the Premises. This caused very real concerns for the Police.
96. Mr Brown said the Sub-Committee had heard very powerful testimony from residents. Soho has always had a strong and cohesive residential community, and the Soho Society want that to remain. There is a lot of pressure on Soho at the moment. The Residents' testimony is not about annoyance, it is about fundamental health and wellbeing issues. That is not the Applicant's fault, but that is the reality on the ground.
97. Mr Brown said he had not engaged in any discussion on conditions because conditions were insufficient. Although Mr Brown accepted the Premises probably fell within policy CCSOS1, the Applicant still had to demonstrate no addition to cumulative impact.
98. In summing-up Mr Thomas proposed three conditions to replace condition 23 as follows:
- 1) There shall be no new admittance to the premises after midnight Wednesday-Thursday or after 01:00 Friday-Saturday.

- 2) No ticket sales shall take place for a period of one hour before a performance when that performance starts at 22:00 or later.
 - 3) There shall be a minimum of 2 SIA Wednesday-Saturday in high vis from 22:00 to 30 minutes after close.
99. Mr Thomas continued that the evidence from the Leveche Report is that a retired police officer did not witness anything as shown in the videos when he was there for two nights; Mr Thomas was not saying it does not happen but not when he was there. Neither did the author of the Leveche Report see anti-social behaviour from customers leaving the Applicant's other venue.
100. Mr Thomas said the police heat map is nowhere near Carnaby because the area is curated by Shaftesbury, and as a result there is less cumulative impact in Carnaby. Mr Thomas argued that the police evidence was not granular, and it was about the West End generally. Mr Thomas said there was no evidence of robberies in the area.
101. Mr Thomas argued that Policy HRS1 recognises that some types of venues are more likely to add to cumulative impact. Policy D9 and D26 supports a qualitative rather than quantitative approach. SLP pretty much says that live music venues do not add to cumulative impact. That is what SLP suggests. The Premises have a detailed dispersal plan which the Applicant believes will work and Shaftesbury will help. SLP encourages the type of venue and operator we are talking about, and the merits of the Application are huge.
102. Mr Thomas said the Applicant did not need to prove an exception to policy. Even if the Application did to a minor degree add to cumulative impact, there is still a balance to be weighed up as to what a live music venue brings to Soho. Policy says that should foster and encourage live music venues. Even if there is a risk that the Premises might add to cumulative impact, the Sub-Committee still has discretion (under Hope and Glory) to grant the application because it is a good thing and will water down cumulative impact issues. The Application was putting a good thing into a bad area, and there would be more supervision and marshals at site. Mr Rankin says that Soho is full; Soho is full of bars and restaurants but not full of live music venues.
103. Mr Thomas said he did not mean to influence the Sub-Committee unduly, but Mr Hudson has signed an agreement conditional on a licence later than core hours. If it is not him, because the Premises has got planning permission it will be somebody else.
104. Mr Thomas argued that Mr Hudson is the person best suited to running the venue, as he has proven himself a doyen of Soho. Mr Hudson was chomping at the bit to provide Westminster with a live music venue that Westminster could be proud of. This was a huge opportunity for Westminster and Soho; Mr Thomas understood the concerns, but the Applicant deserved and needed the benefit of the doubt. This was a borderline application where the Premises do not add to cumulative impact and even if the Premises did to minor degree, the Committee still has a discretion to grant.

Reasons and Conclusion

105. The Sub-Committee has determined an application for a grant of a New Premises Licence under the Act. The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining this application. The Sub-Committee 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 Council's SLP, in particular policies CIP1, HRS1 and CCSOS1.
106. The Sub-Committee considers that the Applicant has not demonstrated that the measures it proposes (as secured by conditions) would promote the four licensing objectives within the West End CIZ. The Application was therefore contrary to policies CIP1, HRS1 and CCSOS1.
107. There was a substantial amount of evidence before the Sub-Committee demonstrating that there is already a significant amount of crime and public nuisance within the West End CIZ. The Sub-Committee placed great weight on the representations made by the MPS with regards to the prevention of crime and disorder, and the Sub-Committee also noted that Mr Drayan and Mr Hayes on behalf of EHS referred to significant noise nuisance in the vicinity of the Premises caused by current licensed premises. This noise nuisance is particularly associated with customers leaving licensed premises late at night and looking for taxis at the Marshall Street/Broadwick Street junction; Mr Hayes also referred to the particular problems caused by pedicabs in this area.
108. The Sub-Committee also placed great weight on the testimony given by local residents who live in close proximity to the Premises and who are directly affected by public nuisance to a serious degree. The testimony given by Mr Osborne-Smith, Mr Lord, Mr Bancroft and Mr Barrett was compelling and moving. There are three residential blocks in close proximity to the Premises, and this is one of the most residential areas of Soho with a resident count of 105. The evidence of local residents demonstrates that their mental health, their work and their personal relationship are being significantly adversely affected by public nuisance caused by current licensed premises. The two videos produced by the interested parties also provide evidence of substantial noise and nuisance being caused in the vicinity of the Premises. Although one of these videos was not recent (dating back to August 2021), the other video was taken on 3 September 2023.
109. The Sub-Committee acknowledges and agrees that none of this is the Applicant's fault, and there is no evidence to suggest that the Applicant would be anything other than a responsible operator. The Sub-Committee also notes the evidence of EHS that there would be no noise breakout from the Premises. However, the Sub-Committee considers based on the evidence it has heard that the area around the Premises (within the West End CIZ) is already under severe stress and to grant this application would only compound matters in the West End CIZ further.

110. The Sub-Committee agrees with the MPS that the Premises would be a 'destination venue' and would attract hundreds of new people into the area. The dispersal of these people would cause public nuisance and add to cumulative impact because (as submitted by the MPS) it is not possible to control the behaviour of people once they have left the Premises by condition. The Sub-Committee also considers it likely that once new people have been attracted to the West End by the Premises, they would frequent other licensed premises, thereby adding to cumulative impact. For example, it is reasonable to assume that at least some of the patrons who attend one of the two main shows would stay within the West End CIZ to attend other licensed premises.
111. The Sub-Committee also agrees with the MPS and local residents that patrons of a jazz club would likely become targets of crime, thereby increasing crime within the West End CIZ which already has the highest crime rate in the country for public order offences as confirmed by the MPS during the hearing.
112. The Sub-Committee is grateful to the Applicant for suggesting a dispersal policy utilising Ganton Street and for proposing further conditions during the hearing restricting ticket sales at the premises and setting firm deadlines for entry times. However, the Sub-Committee does not consider that these conditions would be capable of preventing customers and patrons from making noise once they are outside the Premises and would not prevent patrons from looking for taxis, Ubers and pedicabs near the junction of Broadwick Street and Marshall Street, which all cause a significant amount of public nuisance as demonstrated in the two videos submitted by interested parties.
113. The evidence of the Soho Society and local residents is that efforts so far to address noise issues in the vicinity of the Premises (such as geo-fencing, dispersal policies, SIA security staff and co-operation with Shaftesbury's security team) have been ineffective, and the Sub-Committee does not consider that the Premises would be able to prevent its patrons from moving towards Marshall Street or adding to public nuisance in the area. Furthermore, the reduced capacity after bars/restaurants Core Hours as proposed by the Applicant would reduce capacity but would still mean that up to 150 persons would be brought into the area late at night beyond core hours.
114. The Sub-Committee considered whether its objections would be capable of being addressed by condition but concluded that the introduction of a large capacity jazz club in close proximity to three residential blocks would add to cumulative impact and undermine the licensing objectives for the reasons given above.
115. The Sub-Committee also considered whether its objections would be removed if the licence was granted for Core Hours. However, the Sub-Committee concluded that even if the licence were granted for Core Hours, the Premises as a large capacity jazz club attracting new people to the area would still add to cumulative impact and undermine the licensing objectives.

116. The Sub-Committee agrees with the Applicant that the SLP in places supports the provision of cultural venues, but the Sub-Committee must have regard to countervailing considerations, most notably and importantly the licensing objectives.
117. The Sub-Committee wishes the Applicant success in its endeavours but considers that the Premises is the wrong location for a new jazz club, as it would add to cumulative impact and undermine the licensing objectives in an area that is already under severe stress.
118. Having carefully considered all the committee papers, additional papers, submissions made by the Applicant and the oral evidence given by all parties during the hearing in its determination of the matter the Sub-Committee therefore decided, after taking into account all the individual circumstances of this application and the promotion of the four licensing objectives to refuse the application.

In all the circumstances of the case the approach taken by the Sub-Committee is considered appropriate and proportionate. The application is **Refused**.

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

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

4. MAISON ESTELLE, 6 GRAFTON STREET, W1S 4EQ

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

Thursday 7 September 2023

Membership: Councillor Aziz Toki (Chair) and Councillor Iman Less

Officer Support:	Legal Adviser:	Michael Feeney
	Policy Officer:	Kerry Simpkin
	Committee Officer:	Sarah Craddock
	Presenting Officer:	Kevin Jackaman

Other Parties: Jack Spiegler (Solicitor, Thomas and Thomas Partners), Michael Thomas-Ryan (Managing Director and DPS of the Applicant) and Richard Vivian (Big Sky Acoustics) on behalf of the Applicant and Sue Irons (Solicitor, Laytons) and Simon Pook (Solutions Tailormade Ltd) on behalf of the Interested Party

Application for a Premises Licence Variation in respect of Maison Estelle 6 Grafton Street London W1S 4EQ 23/01877/LIPV

Full Decision

Premises:

Maison Estelle
6 Grafton Street
London W1S 4EQ

Applicant

Maison Estelle Limited

Ward

West End

Cumulative Impact

N/A

Special Consideration Zone

N/A

Summary of Application

The Sub-Committee has determined an application for variation of a Premises Licence in respect of the above premises under the Licensing Act 2003 ("The Act"). The Premises operates as a Private Members' Club from a Grade 1 listed Georgian Building. The Application proposes to vary the existing premises licence by regularising the existing terminal hours for the Basement and Lower Ground Floor on Wednesday to Saturday and to extend hours across all floors Monday to Saturday. No changes are being sought to existing conditions, any licensable activities on Sundays or non-standard timings. A list of the conditions proposed with the Application can be found at **Appendix 5** of the agenda report.

The Premises has had the benefit of a premises licence since 2017. The current premises licence (22/11947/LIPVM) can be viewed at **Appendix 1** of the agenda report along with the premises licence history at **Appendix 4**.

The Applicant has provided supporting documents, including a summary of proposals, an acoustic report, two reports from an independent licensing consultant a dispersal policy, a letter to the objector dated 5 June 2023 and a premises brochure. These can be found at **Appendix 2** of the agenda report. A copy of documents submitted by the Interested Party ahead of the hearing on 27 July 2023 including submissions made to the Council and an 'Event Log' of noise disturbance can be found at **Appendix 3** of the agenda report.

The Premises are situated within the West End Ward but not within a Cumulative Impact Area or a Special Consideration Zone. There is no policy presumption to refuse the application.

There is a resident count of 5.

The application seeks the following:

Hours Premises Are Open to the Public on All Floors

Monday to Saturday:07:00 to 03:00

Sunday:07:00 to 01:30

An additional hour when British Summertime commences.

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

Permitted hours on Sundays immediately before Bank Holiday Mondays the same as permitted hours on Fridays and Saturdays.

Regulated Entertainment Including Performance of Dance, Exhibition of a Film, Performance of Live Music, Playing of Recorded Music, Performance of a Play and Anything of a Similar Description to Live Music, Recorded Music or Performance of Dance on All Floors

Monday to Saturday:08:00 to 02:30

Sunday:08:00 to 01:00

An additional hour when British Summertime commences.

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

Permitted hours on Sundays immediately before Bank Holiday Mondays the same as permitted hours on Fridays and Saturdays.

Late Night Refreshment Indoors on All Floors

Monday to Saturday: 23:00 to 02:30

Sunday: 23:00 to 01:00

An additional hour when British Summertime commences.

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

Permitted hours on Sundays immediately before Bank Holiday Mondays the same as permitted hours on Fridays and Saturdays.

Sale by Retail of Alcohol On and Off Sales on All Floors

Monday to Saturday: 08:00 to 02:30

Sunday: 08:00 to 01:00

An additional hour when British Summertime commence (off sales condition to cease at 23:00)

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

Permitted hours on Sundays immediately before Bank Holiday Mondays the same as permitted hours on Fridays and Saturdays.

Representations Received

- Taradale Offshore Limited, Suntera Global 13 Castle Street St Helier Jersey JE2 3BT

Issues raised by Objectors

- The Premises adjoins our property at 5 Grafton Street. The application represents a very significant extension of the existing business operation. The Premises is already the cause of such a public nuisance that the enjoyment of our property is significantly adversely affected. There is noise from patrons as they standing talking in Grafton Street, as they socialise on the roof garden and there is music noise escaping from the premises facades and transmitted through the internal structure of the property.
- We objected to the planning application to convert the Premises into a private members' club but our objection was unsuccessful, albeit the permission is subject to a number of strict planning conditions. There have been apparent breaches and inconsistencies with conditions 3, 4, 5, 6, 7, 8, 14, 15, 16, 17 and 20 on the planning permission. The capacities on the premises licence are inconsistent with the capacities in the planning permission, and there have been multiple breaches of the conditions concerning noise within our property.
- Music from the Premises can be heard throughout our property, and we question whether the required acoustic screening has been provided. The Premises is also likely to be in breach of licence condition 23, which states that no noise generated on the Premises shall emanate from the Premises nor vibration be transmitted through the structure of the Premises which gives rise to a nuisance. The Premises immediately adjoin the Mayfair Special Consideration Zone, where noise nuisance has been identified as an issue. Policy PN1 is relevant, and the Applicant is in breach of the requirements of Appendix 11 of the Westminster Statement of Licensing Policy. We will lodge an acoustic analysis of the issue.

Policy Considerations

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

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.

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.

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 by the Parties

Mr Kevin Jackaman, Senior Licensing Officer, introduced the application to the Sub-Committee, including the hours and activities applied for. Mr Jackaman confirmed that one representation had been submitted by the Interested Party.

Mr Spiegler stated that the Application sought extension from 01:00 to 02:30 on Mondays and Tuesdays and an increase of capacity. He said that the lower floors of the Premises operated more as a club and lounge whereas the upper floors operate more sedately. This quieter use of the upper floors will not change, and the Applicant has demonstrated via TENs that they can do this without complaint. The intention is to allow members to stay on the upper floors for longer. The membership of the Premises is carefully curated, the Premises is designed to be a home from home and the members' behaviour is controlled. The Premises shares many of the characteristics of a private members' club.

Mr Spiegler confirmed that there were no objections from residents or Responsible Authorities apart from the Interested Party's objection. That objection was submitted by an off-shore company, and there is no account from anyone who has lived or stayed in the property. Mr Spiegler submitted that the Applicant had tried to engaged with the Interested Party and referred to the letter he had sent at page 287 of the Agenda Report. On 22 August 2023 following further correspondence, there was a site visit and music played in Maison Estelle was inaudible in the neighbouring property. The parties also had a useful discussion on sources of nuisance and other licensed premises in the local area. Notwithstanding, other than a suggestion that there are some staff residing in building, there is no evidence that residents permanently reside in the property. In addition, Mr Spiegler submitted that the noise report submitted by the Interested Party relates to 2022 data with very little commentary. The objector has not submitted any noise data since 2022 which may indicate that there are no ongoing issues. Thirdly, Mr Spiegler noted that at page 338 of the agenda report (and throughout the noise report) the objector's own consultant states that 'it should be noted that without specific information from the residence (sic) regarding these times to rule out any internal operations that could have influenced the results, it cannot be proven that these were all caused by the neighbouring property.'

Mr Spiegler submitted that there was therefore no evidence for where the noise came from, and it could have come (for example) from the tube line. Mr Spiegler also pointed out that there was no evidence of substantiated complaints of nuisance during normal operation or TENs. Consistent with this at page 280 of the agenda report, Mr Studd's independent expert opinion is that the Premises is very well run, is not generating noise and will not have an adverse impact on the area. Mr Spiegler submitted that planning was not a matter for the hearing, but turning to licensing policy, the Premises is outside all special areas and the Committee could decide the Application on its merits. The evidence of Mr Studd, Mr Vivian and the conditions proposed all showed that the Application would meet the licensing objectives. Mr Spiegler emphasised the lack of outstanding objections from residents' associations,

Responsible Authorities and the Applicant's good track record before submitting that the Application should be granted.

In response to questions from the Sub-Committee, Mr Thomas-Ryan did not provide a specific number of members, but he said that the membership was curated and generally a bit older. This made it important to have spaces to have a drink after having a meal. Mr Spiegler further explained that a condition on capacity after 01:00 had been agreed with the St James and Mayfair Residents' Society in order to allow for more gradual dispersal. Mr Thomas-Ryan also said that the Premises had three restaurants, bars and lounges and held some events including talks. Mr Spiegler explained that licensable activities were being sought until 2:30am Monday to Saturday across the board. In response to another question, Mr Thomas-Ryan said that there were two smoking areas, one in the basement and one on the rooftop, and Mr Spiegler said an advantage of these areas is that they are not on the public highway.

In response to questions from the Sub-Committee, Mr Spiegler said that they were not anticipating 425 people every night, but the capacity sought was for occasional, busy nights. The Premises had had events under TENs for up to 600 with no complaints. Mr Thomas-Ryan added that the building is very large and that the upper floor space was used in a quieter way. Under the current licence, members had to leave the upper floors at 01:00 and reduce the building's capacity to 250, which did not make sense when the building was big enough to accommodate more.

In response to further questions, Mr Thomas-Ryan said the Applicant uses Whatsapp and asks members to tell them when they are coming and to tell them about any guests (each member is allowed to bring up to three guests). Mr Thomas-Ryan said that the roof terrace could hold up to 24 people and that it was used for having a drink or smoking. Mr Spiegler and Mr Thomas-Ryan both said that the housekeeper at No 5 said there were no issues with the roof terrace. With regards to security, Mr Thomas-Ryan explained that the current licence requires there to be two members of security, but on Thursday-Saturday he uses 11 security staff to manage each floor and that there is always one security member just inside from the roof terrace. Mr Thomas-Ryan said that the Premises was not a rowdy place, that it is a home from home for members and that the roof terrace is a quiet area with people chatting.

In response to questions from Council officers, Mr Spiegler said that earlier hours had not been considered for the roof terrace. He submitted that there have been no complaints when the roof terrace has been used for TENs in the past, there are no representations from Environmental Health and the housekeeper from No 5 confirmed there were no problems with the roof terrace. In addition, the smoking area in the basement would get very busy if the roof terrace were closed earlier and people might have to go out onto the street.

On behalf of the Interested Party, Mr Pook explained that his company was a technology company and for this particular project they were asked to do a specific sound monitoring, which is a way of identifying any impacts environmentally to the front living room and wall adjacent to the Premises. They were asked to do a basic survey as a benchmarking process to understand if there was an environmental sound impact. This was not a detailed acoustic analysis but a benchmarking

exercise to understand if there was a problem. Things such as helicopters, tube trains and cars have not been identified and then identified out of the sound recording to separate that data.

Mr Pook said there would need to be a CCTV camera to be sure about the source of the noise but that it would be expensive to have equipment and CCTV to correlate around the impacts and noises. For a domestic property that is very expensive, which is why he had been asked to do a benchmarking process. The tube runs every 2-3 minutes, but the frequency is such that they did not pick that up on ground floor. Mr Pook explained that the breaches they had been looking at were above 45db, so they set the equipment up to look at 45db. They were not recording the nature of the conversation or music or car, just recording pulses and if those pulses broke 45db, which is a breach according to planning regulations. The noise detector was placed in the front living room. Mr Pook could not say definitively 'it is this' or 'it is that' that was causing the noise; all he could say is that the clients were being impacted by noise at night from 11pm-6am.

On page 314 of the agenda report there is the raw data. Over the ten weeks they monitored the front room there were 26 events, but the highlighted box on page 314 shows 332 specific events over the course of the evening, whether that is noise from music or from the street cannot be said categorically. Mr Pook asked the staff to stay away from the front room and to limit activities in the area so as not to interfere with the noise detector, but without the CCTV he could not prove the source of the noise. However, there is data showing a multitude of breaches over a period of time of ten weeks. They were able to identify an impact, and to determine the nature of that impact, to do it properly to challenge this Mr Pook's company would bring in the best experts they could find on acoustics and environmental impact.

Ms Irons asked the Sub-Committee to reject the Application in its entirety but if the Sub-Committee were minded to grant to look carefully at the roof terrace. The roof terrace is in direct sight and sound of the rear bedrooms of No 5 and has the propensity to cause significant difficulties. Ms Irons believed there was a TEN event with 60 people on the roof terrace, and there might not have been a complaint because the Property was not occupied at the time. In addition, the upper floors of the Premises are the most likely to impact on the bedrooms of No 5. If the upper floors are quiet, it would provide comfort if activities such as live music were restricted on those floors.

Ms Irons explained that No 5 is a residential property, and as it is listed there is a limit to works that can be carried out to ameliorate noise. No 5 shares a party wall with No 6 and all the bedrooms have that party wall within them. The rear bedroom has a direct line of sight to the roof terrace. The fact that the owner of the property is an offshore company is irrelevant. The property is tenanted, and the current tenant is a family with small children. The family may not be there every day, but they are entitled to be there should they wish to be. Ms Irons has been told that they love the house, but that the noise issues have impacted on their desire to spend time at No 5. The clients are sure that the music is coming from No 6 and that it is not outside noise such as cars. The clients have also referenced supercars stopping outside the club and revving their engines.

Ms Irons confirmed that Mr Pook had been asked to carry out a preliminary investigation and following that there was communication between the parties. Ms Irons admitted there was no complaints made to EHS; the company's approach was to engage with the Applicant. The communication between the parties led to Mr Vivian's report that is in the agenda report, but there was no further contact about what more could be done. In December 2022 the household staff twice asked the Premises directly to turn the music down, and in fairness the music was turned down but it was still audible. There continues to be email correspondence.

In light of this, Ms Irons submitted that it is not true that the objections raised are all new and that the Applicant was unaware of her clients' concerns. The hope was that it would be resolved, but it has not been resolved. Ms Irons' clients were not told of the application to extend hours, and the idea of noise disruption extending because of extending the hours is too much. Ms Irons could not say that the problem is every night because the tenants are not there every night. However, Ms Irons' clients had no confidence that the situation would improve because it has not improved to date. If the licence is extended, particularly on the roof terrace, things are going to deteriorate.

In relation to the previous hearing, Ms Irons said that they had not requested an adjournment, and their representations had been in response to the Applicant's documents. The Interested Party's documents had been submitted on time, and the Applicant knows about the noise because they were contacted about it in 2022. The Applicant had not seen the report, but they were told about the noise. The objector has a tenant, and that tenant is entitled to a reasonable night's sleep. With regard to the impromptu sound test, which is not scientific, this was not done on the instructions of Ms Irons' client, and the Interested Party does not accept that it shows that there is no problem.

In response to questions from the Sub-Committee, Ms Irons stated that the tenant was a family and that the objector's property was next to the Premises. Ms Irons added that it was primarily a commercial area, and that it is quiet in the evening apart from the club. Ms Irons explained the layout of No 5 compared to the Premises. Ms Irons confirmed that the tenants had never complained to the Council, and the route they chose to take was to engage with the Applicant.

In response to further questions from the Sub-Committee, Mr Spiegler said that the restaurants were on the ground, first and third floors. Mr Spiegler confirmed that they would be happy to restrict live music on the upper floors. Ms Irons said the Property had been tenanted before. Mr Spiegler also confirmed that they would be happy to accept model condition 24 if the Sub-Committee were minded to grant. Ms Irons said she thought this would be helpful and useful because it would mean that no-one would need to go round to the Premises to complain. The Sub-Committee recommended that the Applicant build a relationship with the tenants, and Ms Irons added that it was not a high turnover property.

Mr Spiegler explained that the TEN applied for in relation to the roof terrace was 60 persons, which is consistent with the capacity on the current premises licence. The TEN for 65 included staff. Mr Spiegler said there had been more than ten TENs. In relation to supercars, Mr Spiegler referred to Mr Studd's report which said there were parking spaces and that staff were able to help members leave. Mr Thomas-Ryan

added that two security staff helped with the dispersal of members, and Mr Thomas-Ryan explained how the dispersal policy operates.

In response to questions from Council officers, Ms Irons referred to a plan from Mr Vivian's report showing the relationship between the Premises and the rooms/bedrooms of the No 5. Mr Spiegler then confirmed that the Applicant would agree to live music not being allowed on the second, third and fourth floors. Mr Spiegler confirmed that the same would be true for recorded music and performance of dance. On the roof terrace capacity, Mr Spiegler confirmed that proposed condition 38 could be amended to specify a maximum capacity of 30 persons on the roof terrace excluding staff. Ms Irons added that from a bedroom in No 5 the roof terrace could be seen and that the roof terrace is a problem.

In summing up, Mr Spiegler submitted that the Sub-Committee had not heard directly from anyone from No 5, and the Committee should treat the objector's evidence with caution. The evidence from the objector is that the 2022 survey could not prove that the noise was coming from the Premises, and Mr Vivian can confirm that the music was inaudible in No 5 in the recent sound test. There is evidence of no complaints and evidence from Mr Studd who visited on two occasions. On the roof terrace, concessions have been made, and the earlier closure of that could be counter-productive in sending smokers down to the street.

Reasons and Conclusion

The Sub-Committee has determined an application for Variation of a Premises Licence under the Act. The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so when determining this application. The Sub-Committee 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 Council's SLP, in particular policies HRS1 and PB1.

The Sub-Committee considers that the Applicant has demonstrated that the measures it proposes (as secured by conditions) would promote the licensing objectives. The Premises is not within a Cumulative Impact Area or a Special Consideration Zone and so is considered on its merits.

Although the Interested Party has raised noise concerns, there is no history of noise complaints regarding the Premises, and there are no other residents who have complained or made representations. Following agreed conditions with the Metropolitan Police there have been no representations from Responsible Authorities. The Sub-Committee places great weight on the fact that Environmental Health Services have not objected to the Application. The Sub-Committee also places great weight on the fact that the representation from the St James and Mayfair Residents' Association was withdrawn following an agreed condition.

In addition, the noise report produced by the Interested Party could not confirm whether the noise complained of came from the Premises. The noise report was a background survey and not a detailed acoustic analysis. The Sub-Committee also notes that there have been TENs at the Premises without there being any noise complaints. Although the application is outside Core Hours, no extension of hours compared to the current licence is sought (apart from on Mondays and Tuesdays).

As the current licence has operated in accordance with the licensing objectives, the hours are deemed acceptable.

Despite this, the Sub-Committee considers that it is appropriate to minimise the impact on 5 Grafton Street by restricting the performance of live music, the playing of recorded music, the performance of dance and anything resembling those activities to the basement, lower ground floor, ground and first floors; this prevents those activities most likely to generate noise from taking place on the floors adjacent to the bedrooms in 5 Grafton Street. The Sub-Committee is grateful to the Applicant for agreeing to this during the hearing.

Given the history of this Application, the Sub-Committee also considers that the parties have failed to communicate proactively and productively; in order to facilitate this, the Sub-Committee has imposed model condition 24 to allow for direct communication.

Finally, the Sub-Committee amended the capacity condition so as to clarify the number of persons allowed on the roof terrace. This has been done because of the potential for noise on the roof terrace. Given the lack of a history of complaints, the lack of representations made by Responsible Authorities or other residents and the nature of the evidence submitted by the Interested Party, it is considered that this measure will uphold the licensing objectives. This conclusion is strengthened by the fact that the Sub-Committee has not allowed live music, recorded music or the performance of dance on the roof terrace or upper floors.

The Sub-Committee, in its determination of the matter, concluded that the hours and the conditions it had imposed on the licence were appropriate and would promote the licensing objectives. Having carefully considered all the committee papers, submissions made by the Applicant and the oral evidence given by all parties during the hearing in its determination of the matter the Committee therefore decided, after taking into account all the individual circumstances of this application and the promotion of the four licensing objectives:-

1. To grant permission for:

Exhibition of a Film and Performance of a Play on All Floors

Monday to Saturday:08:00 to 02:30

Sunday:08:00 to 01:00

An additional hour when British Summertime commences.

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

Permitted hours on Sundays immediately before Bank Holiday Mondays the same as permitted hours on Fridays and Saturdays.

Performance of Dance, Performance of Live Music, Playing of Recorded Music and Anything of a Similar Description to Live Music, Recorded Music or Performance of Dance on Basement, Lower Ground Floor, Ground and First Floors

Monday to Saturday:08:00 to 02:30

Sunday:08:00 to 01:00

An additional hour when British Summertime commences.

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

Permitted hours on Sundays immediately before Bank Holiday Mondays the same as permitted hours on Fridays and Saturdays.

Late Night Refreshment Indoors on All Floors

Monday to Saturday: 23:00 to 02:30

Sunday: 23:00 to 01:00

An additional hour when British Summertime commences.

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

Permitted hours on Sundays immediately before Bank Holiday Mondays the same as permitted hours on Fridays and Saturdays.

Sale by Retail of Alcohol On and Off Sales on All Floors

Monday to Saturday: 08:00 to 02:30

Sunday: 08:00 to 01:00

An additional hour when British Summertime commence (off sales conditioned to cease at 23:00- see condition 18)

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

Permitted hours on Sundays immediately before Bank Holiday Mondays the same as permitted hours on Fridays and Saturdays.

Hours Premises Are Open to the Public on All Floors

Monday to Saturday: 07:00 to 03:00

Sunday: 07:00 to 01:30

An additional hour when British Summertime commences.

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

Permitted hours on Sundays immediately before Bank Holiday Mondays the same as permitted hours on Fridays and Saturdays.

2. That the Licence is subject to any relevant mandatory conditions.
3. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives:
 11. Licensable activities shall only be provided to:
 - (a) members of a private club and their bona fide guests (not exceeding 4 guests per member). No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 24 hours between their nomination or application for membership and their admission.
 - (b) persons attending a pre-booked and bona fide private function or event to which members of the public are not admitted. A register of persons attending the event shall be kept at the premises for 31 days and made available for immediate inspection by police or an authorised officer of the Council.

12. A list of the names and addresses of members of the Club shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guests introduced by members. Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the Council.
13. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.
14. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.
15. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
16. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
17. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
18. There shall be no sales of alcohol for consumption off the premises after 23:00 hours.
19. There shall be no sales of hot food or hot drink for consumption 'Off' the premises after 23:00 hours.
20. All windows and external doors shall be kept closed after 23:00 hours, except for the immediate access and egress of persons.

21. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
22. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
23. 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.
24. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and/or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
25. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport or proof of age card with the PASS hologram
26. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
27. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
28. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
29. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
30. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
31. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
32. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or

inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.

33. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
34. Unless otherwise agreed in writing with the Metropolitan Police, there shall be:
 - (a) A minimum of 2 SIA licensed door supervisors after 9pm; and
 - (b) A minimum of 1 SIA licensed door supervisor at all times.
35. All SIA door supervisors shall display appropriate SIA identification.
36. There shall be no drinks taken from the premises onto the public highway.
37. Loudspeakers shall not be located in the entrance lobby or outside the premises building including the external terrace.
38. 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.
39. Apart from a maximum of four pre-arranged members events per annum the maximum number of persons on the premises after 01:00 shall not exceed 425 excluding staff.
40. The number of persons permitted on the premises at any one time (excluding staff) shall not exceed:
 - (a) Basement: 150
 - (b) Lower Ground Floor: 100
 - (c) Ground Floor: 120
 - (d) First Floor: 120
 - (e) Second Floor: 100
 - (f) Third Floor: 100
 - (g) Fourth Floor: 60, including a maximum capacity of 30 on the roof terrace
Subject to an overall maximum of 600 at any one time.
41. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

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

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

The Meeting ended at 5.50 pm