



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 8th February, 2024**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Robert Eagleton (Chair), Concia Albert and Louise Hyams

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no changes to the membership.

1. TOWNHOUSE, 129 VICTORIA STREET, SW1E 6RD

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

Thursday 8 February 2024

Membership: Councillor Robert Eagleton (Chair), Councillor Concia Albert and Councillor Louise Hyams

Officer Support: Legal Adviser: Michael Feeney
Policy Officer: Kerry Simpkin
Committee Officer: Jonathan Deacon
Presenting Officer: Kevin Jackaman

Others present: Mr Thomas O'Maoileoin (Thomas and Thomas, representing the Applicant) and Mr Ed Hiley (Director, Applicant Company)

Application for a New Premises Licence in respect of Townhouse, 129 Victoria Street, London, SW1E 6RD

FULL DECISION

Premises

Townhouse
129 Victoria Street
London SW1E 6RD

Applicant

Townhouse Group Ltd

Cumulative Impact Area

None

Special Consideration Zone

None

Ward

Vincent Square

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003. The applicant proposes to operate the premises as a nail and beauty salon.

Representations Received

- Environmental Health (withdrawn 4 December 2023 following agreed conditions)
- One local resident

Summary of Issues Raised by Objectors

Local Resident

- The area already has many bars and an alcohol problem. The rear of the property is used to enter and leave, and granting the licence would increase the noise level and the risk of anti-social behaviour.

Submissions

1. The Presenting Officer, Kevin Jackaman, introduced the application. He confirmed that following the withdrawal of Environmental Health's

representation, there was one remaining representation from a local resident and she was not in attendance at the hearing.

2. Mr Thomas O'Maoileoin, representing the Applicant, outlined the application. He mentioned steps which the Applicant had taken to address the initial concerns of the local resident. In addition to limiting on-sales of alcohol to 21:00 hours every night of the week with the premises closing by 21:30, these included proposing additional conditions which prohibited customers from ever using the rear door on Horwick Place, except in an emergency. Conditions prohibiting collections or deliveries or the moving of waste between 21:30 and 08:00 the following day had also been offered.
3. Mr O'Maoileoin stated that there were three Townhouse premises already licensed for alcohol within Westminster's jurisdiction. Two of these had recently been granted but one had been granted in 2018 in Great Portland Street and had operated without issues.
4. Mr O'Maoileoin confirmed that the nail and beauty salon in Victoria Street was already open without alcohol currently being sold. The maximum capacity as set out in a proposed condition was 25 people.
5. Mr O'Maoileoin referred to the nail and beauty salon business and the proposed conditions being in keeping with the Council's Shops Policy, SHP1. He quoted sections of F144 and F145 of the Statement of Licensing Policy that 'The Licensing Authority is keen to support shops who wish to offer ancillary licensable activities to the main purpose of their shop' and 'Common examples of a premises that would be considered under this policy will include traditional off licences, speciality stores, supermarkets, department stores, general stores, boutique, outlets, delicatessens, butchers, grocers, hairdressers, massage parlours, or anything of a similar nature where the primary use is the purchase of goods by customers or to provide a service'.
6. In response to questions from the Sub-Committee, Mr Hiley advised that 96% of customers booked online before entering the premises for their treatments. Those customers who did not book ahead of entering the premises were required to use a screen at the salon to secure an appointment and be included on the booking system.
7. The Sub-Committee noted that the Applicant had proposed that the sale of alcohol would only be limited to customers who were receiving or waiting to receive treatments and asked how long the waiting times and treatments were. Mr Hiley clarified that the waiting times tended to be no more than five minutes and the treatments approximately forty five minutes.
8. In response to a question from the Sub-Committee, Mr O'Maoileoin stated that he would have no objection to the Council's Model Condition 24 being attached to the licence that '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'. Mr Hiley explained that the Applicant company has a customer care department.

9. The Applicant was asked to provide further information on the nature of the private pre-booked events that were referred to in the proposed conditions. Mr Hiley replied that it was corporate entertainment which might involve firms or creative companies. Those present would have a treatment as part of the event. It was currently envisaged that there would be approximately one event per month but they were looking to grow this aspect as part of the business.

Reasons and Conclusion

10. The Sub-Committee decided to grant the application, subject to conditions. Members considered that the application for the sale of alcohol on-sales at the nail and beauty salon was in keeping with the Council's Shops Policy, SHP1, as the Premises was outside the West End Cumulative Impact Zone, the proposed hours were within Core Hours and the proposed conditions (agreed with Responsible Authorities) would promote the licensing objectives. In particular, the provision of alcohol would remain ancillary to the use of the Premises as a nail and beauty salon, the sale of alcohol would be limited to customers who were receiving or waiting to receive treatments and the Premises would close at 21:30. The Sub-Committee also considered that the conditions restricting the times for collections or deliveries of waste would reduce public nuisance and noise for local residents. In reaching its conclusions, the Sub-Committee placed great weight on the fact that the Applicant had satisfactorily addressed all concerns raised by Responsible Authorities.
11. The Sub-Committee noted that the Applicant had attempted to reach an agreement with the one outstanding objector and had proposed conditions (particularly in relation to the door on Horwick Place) to address the concerns raised.
12. Finally, the Sub-Committee considered it appropriate and proportionate to add Model Condition 24 so that local residents would be able to contact the Premises directly and ensure an open line of communication.

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

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

1. To grant permission for **the Sale by Retail of Alcohol (On the Premises)** Monday to Sunday 09:00 to 21:00.
2. To grant permission for **the Opening Hours of the Premises** Monday to Sunday 07:00 to 21:30.

3. That the Licence is subject to any relevant mandatory conditions.
4. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.
5. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a nail and beauty salon.
6. The sale of alcohol shall be limited to customers who are receiving or waiting to receive treatments.
7. All staff engaged or to be engaged in the sale of alcohol on the premises will be trained in age restricted sales to require evidence of age from any person seeking to buy alcohol and appearing to be under the age of 18.
8. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
9. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or authorised officer of the Council as soon as practicable on request.
10. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
11. 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.
12. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall not be permitted to take alcoholic beverages with them.
13. There shall be no sales of alcohol for consumption off the premises.

14. There shall be no self-service of alcohol.
15. 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.
16. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 21.30 hours and 08.00 hours on the following day.
17. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21.30 hours and 08.00 hours on the following day.
18. No deliveries to the premises shall take place between 21.30 hours and 08.00 hours on the following day.
19. Save for private pre-booked events, the supply of alcohol shall be to persons seated only.
20. Save for emergencies, customers shall only enter or exit from the main door onto Victoria Street.
21. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 25 persons.
22. 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
8 February 2024**

2. **61 KINGLY STREET, W1B 5QL**

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

Thursday 8 February 2024

Membership: Councillor Robert Eagleton (Chair), Councillor Concia Albert and Councillor Louise Hyams

Officer Support: Legal Adviser: Michael Feeney
Policy Officer: Kerry Simpkin
Committee Officer: Jonathan Deacon
Presenting Officer: Kevin Jackaman

Others present: Others present: Mrs Arlene Auf Der Mauer (ADM Training Services, representing the Applicant), Mr Samirkumar Natvarbhai Patel (Applicant), Ms Roxsana Haq (The Licensing Authority), Mr Anil Drayan (Environmental Health Service), PC Adam Deweltz (Metropolitan Police Service), Mr Richard Brown, Licensing Advice Project (representing The Soho Society) and 2 local residents (on behalf of The Soho Society).

Application for a New Premises Licence in respect of 61 Kingly Street, London, W1B 5QL

FULL DECISION

Premises

61 Kingly Street
London
W1B 5QL

Applicant

Mr Samirkumar Natvarbhai Patel

Cumulative Impact Area

West End

Special Consideration Zone

None

Ward

West End

Summary of Application

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003. The premises intends to operate as a convenience store.

Representations Received

- The Licensing Authority
- Environmental Health Service
- Metropolitan Police Service
- The Soho Society

Summary of Issues Raised by Objectors

Licensing Authority

- The hours applied for are outside Westminster's Core Hours for off-licences. The applicant has a history of non-compliance at the Premises, and the licence was surrendered following several breaches of the licence witnessed by the MPS. The application would adversely impact on Cumulative Impact.

Environmental Health Service

- The proposal may adversely impact on Public Nuisance and the Protection of Children from Harm. Inadequate conditions have been provided.

Metropolitan Police Service

- The application if granted would undermine the licensing objectives of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and the Protection of Children from Harm. It would also adversely affect cumulative impact. The applicant has a history of non-compliance and has failed to show how he would promote the licensing objectives.

The Soho Society

- There are already too many shops selling alcohol in Soho. The onus is on the applicant to demonstrate that they will not increase cumulative impact and will promote the licensing objectives.

Submissions

1. The Presenting Officer, Kevin Jackaman, introduced the application.
2. Mrs Auf Der Mauer, representing the Applicant, addressed the Sub-Committee. She stated that she did not wish to defend the previous transgressions at the premises when her client had previously been permitted to sell alcohol for consumption off the premises. She had spoken with the Applicant and emphasised that conditions on the premises licence needed to be adhered to by all employees at the store and that her client was responsible even if he was not the salesperson making the error.

3. Mrs Auf Der Mauer asked for some clemency from the Sub-Committee and explained that she would support her client in monitoring that the conditions were being correctly complied with. She had explained the importance of the licensing objectives to the running of the business. She added that the Applicant accepted the Police's proposed conditions, in the event that the Sub-Committee was minded to grant the application.
4. The Applicant, Mr Patel, was asked by the Sub-Committee what he was planning to do differently now compared to before when the previous licence had been surrendered. He stated that his uncle, who had been at the premises when conditions had been breached, no longer worked at the premises. He also commented that he was aware of the conditions, including the CCTV requirements.
5. The Sub-Committee asked the Applicant and his Representative what reassurances they could give that the licensing objectives would be promoted on this occasion when the Applicant had previously held a premises licence and had not previously understood the responsibilities involved. Mrs Auf Der Mauer replied that she would retrain the Applicant and other staff members on the premises. She referred to her client's limited knowledge of English and said she would continue to support him in order to adhere to the licensing objectives.
6. In response to the Sub-Committee's question as to why alcohol had been sold to an underage person, the Applicant's Representative advised that it had been the Applicant's uncle who had made the sale. He had become distracted rather than observing who the customer was and challenging them to provide evidence of their age.
7. The Sub-Committee emphasised that the application was in the West End CIZ. It was expected that conditions would be complied with, licence holders were trained and reliable, underage people seeking to buy alcohol were challenged and that the personal licence holder was on the premises (when this was required by the premises licence). When asked whether any further reassurance could be provided, Mrs Auf Der Mauer stated that there was another member of staff at the premises and she had recommended that they were trained as a personal licence holder. She had also recommended that staff had regular updated training every six months or so. She accepted that the Applicant had not read the conditions on the previous licence requiring a personal licence holder to be on duty on the premises at all times when the premises are authorised to sell alcohol.
8. The Sub-Committee heard from Ms Haq on behalf of the Licensing Authority. She expressed serious concerns as set out in the written submission with regard to the Applicant having a history of non-compliance at the premises, the premises being within the West End CIZ and proposed hours for off sales being beyond Core Hours on Sundays. She made the point that the Sub-Committee needed to be satisfied that the Applicant had demonstrated that he understood his responsibilities and consider whether he would be a responsible operator.

9. Mr Drayan advised Members that the Environmental Health Service (EHS) had made a representation based on the evidence of the Metropolitan Police. It was EHS' position that it was for the Sub-Committee to decide whether sufficient assurances had been given by the Applicant to show that the previous transgressions would not be repeated in the future.
10. Mr Drayan informed the Sub-Committee that he had visited the premises. He considered that the proper infrastructure was in place at the shop for an operator to be able to comply with conditions. For instance, there was an upright fridge which was lockable outside of the operating hours with a further locked screen present. Mr Drayan queried however whether there had been sufficient time from when the Applicant had surrendered the licence, due to the concerns of the Police, to the current application for a new licence to undertake the same licensable activities.
11. Mr Drayan said that Environmental Health had not proposed conditions. However, the Police had offered model conditions which would normally be attached to off licence premises licences in the event the Sub-Committee was minded to grant the application.
12. The Sub-Committee heard from PC Deweltz on behalf of the Metropolitan Police Service. He expressed concerns that the application would result particularly in the undermining of the Prevention of Crime and Disorder licensing objective. The shop was located in the West End CIZ and selling alcohol until 23:00 had the potential to have an adverse effect on the area. The Police wanted to prevent the opportunity for people to drink in the streets and create anti-social behaviour or victims of crime of intoxicated people.
13. PC Deweltz had provided a witness statement setting out the transgressions when the Applicant had previously held the premises licence. He gave a summary of these at the hearing. In December 2021, the premises had failed a test purchase where alcohol had been sold to an underage Police cadet. The sales assistant was consequently fined by the Police and Trading Standards prosecuted the premises. In January 2023, the Police visited the premises and it had been apparent that there were breaches of conditions on the licence, including CCTV, no incident log and the lack of a personal licence holder on the premises. The Applicant and Personal Licence Holder had not been present on that occasion, the Police had advised that they would visit the premises again in the future and a verbal warning had been given.
14. In February 2023, the Police visited the premises again. The sales assistant smelt of alcohol and could not operate the CCTV. The Personal Licence Holder was again not present on the premises. As a result, the Police issued a Section 19 Closure Notice and gave Mr Patel seven days to rectify these issues. They also arranged for Mr Patel and his uncle to visit City Hall to discuss the breaches and give advice. Mr Patel and his uncle gave assurances at that meeting that they would stop breaching their conditions.
15. PC Deweltz stated that the Police then returned to the premises a week later and found a breach of the till prompt. There were also no bar codes on alcoholic products. It was at this point that the Police had asked the Applicant to come back to City Hall and informed him that there was now no option but

for the Police to seek a review of the premises licence with a view to recommending revocation of the licence. It had been decided following discussions between the Police and Mr Patel that the best course of action was for the latter to surrender the premises licence.

16. PC Deweltz brought to Members' attention that just over a week after surrendering his premises licence, Mr Patel applied for a new licence. The Police had engaged with the Applicant, advising that the application was deemed unacceptable by the Police as he needed to demonstrate that he had learnt from past mistakes. Subsequently the application had been withdrawn. The Police considered that the current application nine months later was also not sufficient time to demonstrate that lessons had been learnt from past mistakes.
17. PC Deweltz confirmed to the Sub-Committee that the Police did not have confidence in the Applicant and were not convinced that he would comply with licence conditions if the licence was granted. He added that the Police had tried to work with the Applicant but there had been no sign of progress in terms of compliance.
18. The Sub-Committee asked PC Deweltz whether there was an appropriate amount of time in the Police's view which could lapse before the Applicant could hold a premises licence again. PC Deweltz responded that this was a difficult question to answer because the Police could only go by the past history of the Applicant and the irresponsible trading which had been witnessed. They would have expected at least a year to pass before a new application was submitted.
19. PC Deweltz clarified that the Police opposed the granting of the new premises licence but requested that strict conditions were attached to it in the event Members were minded to grant albeit there was a lack of confidence in the conditions being complied with. The Police, if the application was granted, would work closely with the Applicant and monitor the premises closely.
20. PC Deweltz in response to a question from the Sub-Committee advised that the Applicant had rarely been seen at the premises when the Police had visited and he was the only recognised personal licence holder.
21. The Sub-Committee were provided with a copy of the Police proposed conditions which had been discussed with and were agreed by the Applicant in the event Members were minded to grant the application.
22. The Sub-Committee heard from Mr Brown, representing The Soho Society. He advised that The Soho Society was supporting the Police representation. They had concerns about the various breaches of the conditions which had led to the surrender of the previous premises licence, in particular the underage sale as street drinking was a particular problem in Soho. Pre-loading was a problem for local residents, and a licence holder needed to be prepared for this.

23. Mr Brown made the point that some of the conditions that had been breached on the Applicant's previous licence were on the majority of premises licence and were expected to be routinely complied with, such as the operation of the CCTV. Police resources were precious and there were plenty of issues in Soho which required the Police's attention. Both Mr Brown and a local resident commented that it should not be expected that the Police would have to continue to explain basic conditions and routinely monitor that they were being complied with. It would not be helpful if a licence was granted in Soho where no-one could be confident that it would be operated in accordance with the conditions.
24. The Applicant's Representative asked how her client would be able to demonstrate his ability to be sufficiently responsible to hold a premises licence. PC Deweltz advised that the Police were opposed to the granting of the application. They had engaged with the Applicant, including organising meetings and their advice had not been taken on board. Mr Drayan stated that one step that the Applicant could have taken was to have shown that all the staff at the premises had received licensing training in order that the condition was not breached when the Applicant, who was currently the only personal licence holder at the premises, was not present.
25. Mrs Auf Der Mauer informed the Sub-Committee that she had recommended that other staff, apart from the Applicant, receive training. She had offered to train all the staff that were likely to work at the premises but this had not been taken up. The Applicant, Mr Patel, was asked why there was a reluctance to train other staff. He replied that his uncle no longer worked at the premises and he would train his replacement. Mr Patel added he would also be at the premises full time.
26. Mrs Auf Der Mauer also offered a potential reduction in the operating hours if the Sub-Committee was minded to grant the application.

Reasons and Conclusion

27. The Sub-Committee decided to refuse the application. Given the history of non-compliance with the previous premises licence, the Sub-Committee lacked confidence that the Applicant would be able to comply with any conditions or promote the licensing objectives. The Applicant had had several opportunities to address shortcomings before surrendering the previous premises licence, and he had not responded effectively to interventions made by the Police at that time.
28. The Sub-Committee did not consider that the Applicant had taken steps to demonstrate that he had learnt from his past mistakes, such as providing evidence of staff training. It was concerning that the Applicant had not taken up his representative's offer of staff training and it was also extremely concerning that it appeared that the Applicant had not read the conditions on the premises licence that had been surrendered.
29. It was expected that all licence holders in Westminster would understand and be able to comply with the conditions on their premises licences, but this was particularly important in the West End CIZ. A licence holder should not have

to be constantly reminded of the need to comply with the conditions on a premises licence, either by their representatives or by the Police. The Sub-Committee considered that the application would have an adverse impact on cumulative impact, both by introducing a new premises licence and due to the Applicant's inability to promote the licensing objectives. The application was therefore contrary to policy CIP1.

30. The Sub-Committee placed great weight on the representation made by the Metropolitan Police Service and agreed with the Metropolitan Police Service that the application should be refused. The Sub-Committee noted the offer made by the Applicant's representative to reduce the hours applied for, but given the Sub-Committee's fundamental concerns with the application and the Applicant's inability to promote the licensing objectives, the Sub-Committee did not consider that granting the application with reduced hours would promote the licensing objectives.

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

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

**The Licensing Sub-Committee
8 February 2024**

3. SHAKESPEARE'S HEAD PUBLIC HOUSE, 29 GREAT MARLBOROUGH STREET, W1F 7HZ

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

Thursday 8 February 2024

Membership: Councillor Robert Eagleton (Chair), Councillor Concia Albert and Councillor Louise Hyams

Officer Support: Legal Adviser: Michael Feeney
Policy Officer: Kerry Simpkin
Committee Officer: Jonathan Deacon
Presenting Officer: Kevin Jackaman

Others present: Mr Ewen Macgregor (TLT Solicitors, representing the Applicant), Mr Russell Newby (Business Development Manager, Applicant Company), Mr Danylo Pereira Iamaguchi (Designated Premises Supervisor), Mr Richard Brown, Licensing Advice Project (representing The Soho Society) and 2 local residents (on behalf of The Soho Society).

Application for Variation of a Premises Licence in respect of Shakespeare's Head Public House

FULL DECISION

Premises

Shakespeare's Head Public House
29 Great Marlborough Street
London
W1F 7HZ

Applicant

Spirit Pub Company (Services) Limited

Cumulative Impact Area

West End

Special Consideration Zone

None

Ward

West End

Summary of Application

The Sub-Committee has determined an application for Variation of a Premises Licence under the Licensing Act 2003. The application was to remove all existing conditions and replace them with a new operating schedule of conditions.

Representations Received

- Licensing Authority (withdrawn 26 January 2024 following reduction in hours applied for)
- Environmental Health (withdrawn 6 February 2024 following agreed conditions)
- The Soho Society

Summary of Issues Raised by Objectors

The Soho Society

- Objection to application to extend the hours to 10am on Sundays. The onus is on the Applicant to demonstrate they will not increase cumulative impact and will promote the licensing objectives. An increase in hours would fail to promote the licensing objectives and would increase cumulative impact.

Submissions

1. The Presenting Officer, Kevin Jackaman, introduced the application.
2. Mr Macgregor, representing the Applicant, explained that there were two significant aspects to the application. In relation to the first aspect, the earlier commencement hour on Sundays for live music, anything similar to live/recorded music and sale of alcohol, this was now being withdrawn and the Applicant was no longer seeking to vary the hours. The commencement hour would be midday on Sundays as currently permitted on the premises licence.
3. Mr Macgregor referred to the premises licence being granted on conversion in 2005 and made the point that the conditions had not been updated since then. For the second aspect of the application, it was proposed to remove specific conditions, notably Condition 10 on the existing licence which required alcohol to be ancillary to a table meal for the final hour of trading. There were also new conditions being proposed.
4. Members of the Sub-Committee were advised by Mr Macgregor that the DPS, Mr Iamaguchi, had realised that the premises had not been operating in accordance with Condition 10 which had not previously been picked up by his predecessors. He added that it had not been raised as an issue by the Responsible Authorities. Mr Iamaguchi had discussed the matter with the Police when he had become aware of the error and the Applicant had been operating in accordance with the condition since the error had been identified.

5. Mr Macgregor stated that a schedule of conditions had been agreed with the Environmental Health Service and Metropolitan Police Service in the event the Sub-Committee was minded to grant the application. The Police had requested an updated CCTV condition and Environmental Health had requested a number of updates to conditions. Following the Applicant's agreement to these the Responsible Authorities had withdrawn their representations. These proposed conditions had been included in the Sub-Committee's Additional Information Pack.
6. Mr Macgregor addressed Members on how the premises operated. There was a capacity of 120. Thirty staff were employed. As a pub, food was provided. Whilst it was not required by the licence conditions, one member of door security staff was employed Monday to Wednesday and two on Thursday to Sunday.
7. Mr Macgregor described the application as a very modest change to the licensing conditions. He did not accept the written submission of the Soho Society that the application if granted would result in similar applications being submitted for pubs owned by the company in Soho or that it 'would set a precedent for other public houses'. He expressed the view that each application would be considered on its own merits. He added that it was acknowledged by The Soho Society that the Shakespeare's Head was not a problem premises.
8. Mr Newby, Business Development Manager at the Applicant Company, clarified that whilst the licence permitted the premises to open at 07:00 hours, it did not actually open until 10:00 hours. It sold breakfast and hot and cold drinks at this hour. It was also clarified that the capacity of 120 did not include the outside tables and chairs. There was a capacity of 32 for the outside area. It was understood that the pavement licence was until 23:00 hours. Mr lamaguchi confirmed that deliveries and glass removal only took place between 07:00 and 11:00 as the street was only open to traffic during these times.
9. Mr Brown, representing The Soho Society, stated that their representation had been maintained because they took the view that it was important that applications that were contrary to policy were heard by the Sub-Committee and Mr Brown explained that this was the case in respect of the proposed removal of condition 10 on the existing licence, a supper hours condition which required alcohol to be ancillary to food between 23:00 and midnight. This impacted on the Council's Policies PB1 and CIP1.
10. Mr Brown commented that the Soho Society was grateful that the Applicant no longer sought an amendment to the Sunday commencement hour as this was seen as sacrosanct by local residents. A local resident on behalf of The Soho Society thanked the Applicant for withdrawing this aspect of the application.

11. Mr Brown remarked that whilst it had been good that the current DPS had picked up that Condition 10 was not being complied with, it was a concern that it had taken 18 years to do so. He confirmed that there were no issues with the current operation of the premises. However, he added that the Applicant's submission that the removal of the condition was a modest change to the licence was not accepted on the grounds that it permitted an additional hour of vertical drinking in the CIZ. He expressed the view that the recent Cumulative Impact Assessment cemented the impact of the policies PB1 and CIP1.
12. Mr Brown queried whether the premises operated until midnight. He had noted on the Applicant Company's website that the closing time was given as 23:00 hours. He also clarified that the Soho Society's written submission on precedent, which Mr Macgregor had raised, had particularly referred to the earlier Sunday commencement hour which had now been withdrawn by the Applicant.
13. It was requested by Mr Brown that the Sub-Committee examined the proposed condition 6 on the Applicant's proposed conditions that 'unaccompanied children under the age of 14 should be off the premises by 9.30pm when taking a meal'. It was a proposed amendment to an existing condition on the existing premises licence. He had assumed it was an error that unaccompanied children would be on the premises and proposed that 'unaccompanied' was removed.
14. Mr Macgregor requested that the proposed condition 6 on the Applicant's proposed added conditions remained as it had been part of the discussed conditions with the Metropolitan Police and it had not created any difficulties in the past. However, he referred to the existing condition as an alternative that 'children under 14 should be off the premises (first floor) by 9.30pm when taking a meal'.
15. In his summing up, Mr Macgregor stated that it had been demonstrated that there had been no issues with the way in which the premises operated. The Responsible Authorities had not made representations. He commented that had the Responsible Authorities had concerns about what was a modest change to the premises licence they would have maintained their representations.

Reasons and Conclusion

16. The Sub-Committee, in granting the application, considered that the proposal would accord with policies CIP1 and PB1 because the variation would not add to cumulative impact and the Applicant had demonstrated exceptional circumstances for why the application should be granted.

17. The Applicant themselves had identified the inadvertent breach of condition, and they had acted proactively to regularise the Premises Licence. The Soho Society (the remaining objector) had accepted that the Premises was not a problem Premises, and the fact that the Premises had not been associated with any problems while previously operating in inadvertent breach of the condition demonstrated that the Premises would be capable of operating without undermining the licensing objectives and without adding to cumulative impact. Finally, the Sub-Committee considered that the proposed conditions (agreed with the Responsible Authorities, including Environmental Health) would provide further protections than the conditions on the current licence and would promote the licensing objectives.
18. The Sub-Committee also placed great weight on the fact that all the concerns of the Responsible Authorities had been addressed, and there was no evidence that the Premises had been causing any issues for local residents. The Sub-Committee was also pleased that the Applicant had withdrawn the part of the application that related to allowing the Premises to open earlier on Sunday. This amendment to the application had also been welcomed by the Soho Society.
19. The Sub-Committee decided to retain the proposed condition in relation to unaccompanied children, as this had been the condition agreed with Responsible Authorities and did not in the Sub-Committee's view lead to any confusion.

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

1. To grant permission for **Performance of Live Music** Monday to Saturday 10:00 to 00:00 Sunday 12:00 to 23:30 **Seasonal Variations:** The terminal hour for all licensable activities is extended by one hour for statutory bank holiday weekend periods (not including bank holiday Mondays) and for Thursday before Good Friday and for Christmas Eve.
2. To grant permission for **Anything of a Similar Description to Live Music, Recorded Music or Performance of Dance** Monday to Saturday 10:00 to 00:00 Sunday 12:00 to 23:30 **Seasonal Variations:** The terminal hour for all licensable activities is extended by one hour for statutory bank holiday weekend periods (not including bank holiday Mondays) and for Thursday before Good Friday and for Christmas Eve.
3. To grant permission for **Sale by Retail of Alcohol On and Off Sales** Monday to Saturday 10:00 to 00:00 Sunday 12:00 to 23:30 **Seasonal Variations:** The terminal hour for all licensable activities, and the closing time of the premises, is extended by one hour for statutory bank holiday weekend periods (not including bank holiday Mondays) and for Thursday before Good Friday and for Christmas Eve. The premises may remain open for the sale of alcohol and

the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

4. To grant permission for **the Opening Hours of the Premises** Monday to Saturday 07:00 to 00:30 Sunday 07:00 to 00:00. **Seasonal Variations:** The terminal hour for all licensable activities, and the closing time of the premises, is extended by one hour for statutory bank holiday weekend periods (not including bank holiday Mondays) and for Thursday before Good Friday and for Christmas Eve. The premises may remain open for the sale of alcohol and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
5. That the Licence is subject to any relevant mandatory conditions.
6. That the Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.
7. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
8. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
9. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
10. All recordings shall be stored for a minimum period of 31 days with date and time stamping.
11. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
12. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.
13. Unaccompanied children under the age of 14 should be off the premises by 9:30pm, with the exception being those who are seated and taking a table meal.
14. The terminal hour for all licensable activities, and the closing time of the premises, is extended by one hour for statutory bank holiday weekend periods

(not including bank holiday Mondays) and for Thursday before Good Friday and for Christmas Eve.

15. Live music shall be limited to two performers only.
16. The provision of door supervisors shall be risk assessed, a copy of which shall be kept on site and made available to the police on request.
17. Where door supervisors are employed the door supervisors will correctly display their SIA licence so as to be visible when on duty at the premises.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
20. A record shall be kept detailing all refused sales of alcohol.
21. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system, searching equipment or scanning equipment
 - (g) any visit by a relevant authority or emergency service
22. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are properly supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
23. 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.
24. 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.
25. The premises may remain open for the sale of alcohol and the provision of late-night refreshment from the terminal hour for those activities on New

Year's Eve through to the commencement time for those activities on New Year's Day.

26. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
27. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
28. All tables and chairs shall be removed (or made unusable) from the outside area by 23.00 hours each day.
29. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them after 23.00 hours.
30. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a public nuisance.
31. All windows and external doors shall be kept closed after 23.00 hours except for the immediate access and egress of persons.
32. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
33. A direct telephone number for the duty 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
8 February 2024**

The Meeting ended at 12.00 pm