



**CITY OF WESTMINSTER**

# MINUTES

## Licensing Sub-Committee (1)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Wednesday 3rd July, 2024**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Aziz Toki (Chair), Hamza Taouzzale and Melvyn Caplan

#### 1. MEMBERSHIP

- 1.1 There were no changes to the membership.
- 1.2 Councillor Hamza Taouzzale sent his apologies for Item 3.

#### 2. DECLARATIONS OF INTEREST

- 2.1 There were no declarations of interest.

#### 1. TILA BRUTON DELI, 38 BRUTON PLACE, W1J 6NX

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

#### **Wednesday 3 July 2024**

Membership: Councillor Aziz Toki (Chair), Cllr Hamza Taouzzale and Councillor Melvyn Caplan

Officer Support: Legal Adviser: Horatio Chance  
Policy Officer: Kerry Simpkin  
Committee Officer: Katherine Stagg  
Presenting Officer: Karyn Abbott

Other Parties: Mr Alun Thomas (Thomas and Thomas, Agent for the Applicant), Mr Lahiru Jayasekakra (of the Applicant Company), Mr Anil Drayan (Environmental Health), Mr Ashley Bowes (Counsel representing Ms LP), Ms LP and Mr AN.

**Application for a Variation of Premises Licence in respect of Tila Bruton Deli  
38 Bruton Place London W1J 6NX 24/01652/LIPV**

**Summary of Application**

The Sub-Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 (“The Act”) in respect of Tila Bruton Deli 38 Bruton Place London W1J 6NX (“The Premises”). The Premises operates as a delicatessen. The Premises Licence Holder (“PLH”) is Tila Bruton Deli Limited. The Designated Premises Supervisor is Mr Lahiru Jayasekara.

The Premises has been licensed since 2022 under licence reference 21/11580/LIPN. The Premises are located within the West End Ward and do not fall within the West End Cumulative Impact Zone or any Special Consideration Zone.

There is no policy presumption to refuse an application of this type provided the licensing objectives are not undermined.

Representations were received from the Environmental Health Service (EHS) and four local residents citing concerns in respect of public nuisance and crime and disorder.

There is a resident count of 125.

**Premises**

38 Bruton Place  
London  
W1J 6NX

**Premises Licence Holder**

Tila Bruton Deli Limited

**Ward**

West End

**Cumulative Impact Area**

N/A

**Special Consideration Zone**

N/A

**Licensable Activities**

**As per the Premises Licence**

## **Representations Received**

- Environmental Health Service (EHS)
- 4 Interested Parties (1 withdrawn on 10 June 2024)

### **Summary of Representations received**

- *As applied, the premises seem to be morphing into a bar for which the Public Houses and Bars Policy PB1 applies.*
- *Representation on ground of public nuisance and public safety to the application.*
- *To supply alcohol for consumption on the premises, there is a requirement for customers to have access to sanitary facilities. 27 Bruton Place has a capacity of 100 persons which is predicated, among others, on the number of toilets available to customers. My proffering a condition that allows customer toilet at 27 to be available to customers at 38, applicant may be compromising the risk assessment that informed the capacity of 27 Bruton Place and by extension increasing the risk of public nuisance and public safety in the area.*
- *Extending hours for the sale of alcohol to 11pm Mon-Sat and 10.30pm on Sunday (from a 9pm cut-off currently), significantly raises the risk of noise and disruption in Bruton Place, particularly close to numbers 36, 38 and 40 Bruton Place which are residential properties.*
- *There is already very material and increased commercial activity in the street, including new licensed premises, which is having a very negative impact on residents including late night noise and disturbance as well as additional deliveries and waste collection.*
- *The inclusion of seating and tables is completely counter to the conditions set in the retail planning permission for the West Garage.*
- *Our issue is the overall unsuitability of the site for the proposed usage, which is fundamental to the site.*

### **Policy Considerations**

Policies HRS1 and SHP1 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.

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

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

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday:

Midday to Midnight.

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

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

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

## **Policy SHP1**

A. Applications for a shop 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 meeting the council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1.
4. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meeting the definition of a shop in Clause C.

B. Applications for a shop inside the West End Cumulative Impact Zone will be considered on their own merits and 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 meeting the council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1.
4. The applicant having demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
5. The application and operation of the venue meeting the definition of a shop in Clause C.

C. For the purposes of this policy:

1. A shop is defined as a stall, vehicle, vessel, temporary structure, building or part of a stall, vehicle, vessel, temporary structure or building where the primary activity is the sale of goods or services to customers upon payment.
2. The licensable activities for the sale of alcohol for consumption on the premises, regulated entertainment and/or late night refreshment must be ancillary to the primary use of the premises as a shop.
3. The licensable activity of the sale of alcohol for consumption off the premises must be an ancillary function to the primary use of the premises unless that primary use is to sell alcohol for consumption off the premises, e.g. a traditional off licence

## **SUBMISSIONS AND REASONS**

Ms Karyn Abbott, Presenting Officer, outlined the application to the Sub-Committee. She advised that this was an application for a variation of premises licence in the West End Ward but not in a Cumulative Impact Zone (CIZ) or Special Consideration Zone (SCZ). She advised that representations had been received from Environmental Health and four Interested Parties. She confirmed that the additional submissions from the PLH and the Interested Parties had been circulated.

Mr Alun Thomas, Solicitor appearing on behalf of the PLH, outlined the application to the Sub-Committee and advised that the PLH wished to sell a glass of wine to customers with from the deli which was the rational for the application. Mr Thomas stated that the PLH owned a restaurant opposite at 27 Bruton Street and this additional deli had been open since January with no complaints except about WCC's collection of bins.

Mr Thomas advised that the PLH also owned number 44 Bruton Place which was used as a prep kitchen for the deli. He advised that all bins go into a refuse unit in number 34 Bruton Place and only get taken out onto the street just before WCC collection time.

Mr Thomas said that the PLH wanted to dispute the allegation made that the Premises had sold alcohol without the benefit of a licence. He confirmed on that particular occasion what was being served was actually an elderflower drink in wine glasses and wanted it on record to clear any misunderstandings.

Mr Thomas advised that the PLH had traded under a few Temporary Event Notices (TENs) in the past weeks without complaint. He confirmed that the application included waitress service within Core Hours and this had been further amended to 22:00 hours.

He advised that there were no deliveries from the Premises and the PLH has had significant discussions with local residents, with one resident withdrawing their objection due to the improvement of the licence. He advised that the Premises was outside of the West End CIZ and SCZ and falls within the SHP1 Policy and offered conditions that the sale of alcohol would be ancillary to the use as a shop/delicatessen.

Mr Thomas stated that alcohol could only be consumed on the Premises at three tables. He advised that there had been no noise complaints generated by the Premises and they had been trading until 21:00 hours. He confirmed that if the Sub-Committee were minded granting the application then the PLH would apply for a variation of the planning permission to allow them to trade to 22:00 hours.

In response to questions, Mr Thomas advised that the Premises had a capacity of 25, no deliveries are allowed from the Premises and they had toilet facilities adjacent to the property in 27 Bruton Place and 44 Bruton Place. He advised that the licence is conditioned to ensure 27 Bruton Place and its toilet facilities would be open at all times the Premises were and patrons do not need to go through the restaurant at 27 as the toilets are located close to the entrance.

Mr Anil Drayan appearing on behalf of the EHS addressed the Sub-Committee. He advised the Sub-Committee had received pre-application advice and that they had been advised that to have a licence with the sale of alcohol they would need adequate toilet facilities.

Mr Drayan advised regarding toilet facilities that the construction of the Premises would make it difficult to put a sewage system in place and having discussed the situation with the PLH he was satisfied that offering toilet facilities at number 27 Bruton Place would be an acceptable arrangement. He had proposed a condition

that if the facilities at 27 Bruton Place were not available then the on sale of alcohol also had to stop. He also advised that he would like the Condition offered by the PLH regarding alcohol being ancillary to the use to be changed to “delicatessen” rather than shop.

Mr Drayan advised that the Premises could have its works condition removed as he visited the Premises in January and was satisfied with the work done and the proposed layout changes were minor with no need for a further visit. He advised that he was not aware of any complaints received by the EHS regarding the Premises.

In response to questions from the Sub-Committee, Mr Drayan confirmed that he was happy with the toilet facilities and that he considers the Premise falls appropriately under Policy SHP1 due to the ancillary condition. Mr Thomas in response to questions advised that 27 Bruton Place runs with 42 covers but enough toilets for over 100 patrons so even if the capacity changes in either venue there would be enough toilet facilities to facilitate this.

Mr Ashley Bowes Counsel, appearing on behalf of Ms LP addressed the Sub-Committee. He advised that Ms LP shared a party wall with the Premises and had suspected breaches of their licence which was shared in the additional papers circulated to all parties. He advised that she believed the Premises is too small for alcohol consumption and it would lead to an increase in nuisance.

Mr Bowes explained that the seating area would increase noise, while no further soundproofing is required for the licence and Ms LP cannot install it on her side of the party wall. He advised that with patrons having to use the toilet facilities at 27 Bruton Place it would add to the nuisance and congestion on the narrow street. He advised that the reversal of the outside swing doors would materially inconvenience the people walking on the street and it would impact the access to neighbouring properties. He advised that Ms LP was grateful for the amendment to allow on-sales for a reduced time until 22:00 hours but was concerned that patrons would still be allowed on the Premises until 23:00 hours which would have an adverse effect on residents.

Mr Bowes advised that the Planning Sub-Committee granted the application to 21:00 hours and this would have to be varied before it could come into effect. He advised that although there was a condition which meant alcohol would be ancillary to a shop, due to the size and seating in the Premises it would feel like a wine bar and Ms LP believed that what was proposed would not be ancillary. He asked the Sub-Committee to refuse the licence.

In response to questions from the Sub-Committee, Mr Bowes reiterated that Ms LP’s three main concerns were public nuisance due to the change in operation and toilet facilities, the swing doors and the hours of operation.

Ms LP advised on the different operations in all of the premises owned by the PLH on Bruton Street and advised that large trays of food are constantly being transported from 44 Bruton Street to the Premises.

In response to questions from Horatio Chance, the Legal Advisor to the Sub-Committee, Mr Drayan advised that he had discussed with the PLH the use of

speakers to mitigate the impact on residents and advised that he offered a condition on the licence for it to be reviewed if it caused a nuisance to neighbours.

Mr Drayan and Mr Bowes had nothing else to add in summing up.

In summing up, Mr Thomas advised that the use of the toilets at 27 Bruton Place would be limited as it was going to be a fast turnover of patrons. He advised that under the SHP1 Policy the PLH does not have to offer alcohol to be ancillary but it was offered to help assist with the neighbour's concerns. He advised that there was no evidence that the application would increase nuisance and offered a reduction in the closing time of the Premises to 22:30 hours.

## **Conclusion**

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 Revised Home Office Guidance issued under section 182 of the Act and the City Council's SLP, in particular policies HRS1 and SHP1.

The Sub-Committee noted that there was no presumption to refuse an application for a shop premises outside of the West End CIZ provided the requirements of policies CD1, PS1, PN1 and CH1 are met.

The Sub-Committee noted that Conditions had been agreed with the EHS. The Licensing Authority and Metropolitan Police Service did not object to the application.

The Sub-Committee took the view that the right balance has now been struck when considering the needs of local residents who had objected to the application and the commercial needs of the PLH who after all has a duty to run his Premises to the highest professional standards and in accordance with the promotion of the licensing objectives. It is hoped that the parties going forward can work together to ensure that a fruitful dialogue is maintained whereby any issues are resolved expeditiously.

The Sub-Committee having carefully considered the matter and the evidence before it decided to **Grant** the variation application with the provision for the On Sale of Alcohol and extended hours for licensable activities save that on Sunday there is to be closure at 22:30 hours. The Sub-Committee considered that this was the right balance when considering the resident objections for the start time and terminal hours accordingly.

The Sub-Committee noted the various undertakings and commitments given by Mr Thomas on behalf of the PLH into the daily running of the Premises and the robust management practices the PLH was to employ by an experienced professional team as well as the many offered conditions as amended which would have the desired effect of promoting the licensing objectives.

The Sub-Committee noted that there was no evidence to suggest that the extension of the terminal hour Monday to Sunday would cause public nuisance. No complaints had been made to the Council in relation to the running of the Premises. The PLH



was offering toilet facilities at a nearby neighbouring premises for customers in order to prevent public nuisance in the area and this was welcomed and would be imposed on the licence as a condition along with a requirement that the Premises is to have prominent signage reminders customers when leaving the Premises to respect the needs of the neighbourhood on dispersal.

The Sub-Committee considers that the conditions it has imposed on the premises licence to include licence CCTV by way of security, signage, age verification, a direct telephone number for the manager of the Premises, a dispersal policy for when customers leave the Premises, deliveries and collections of waste to the Premises within permitted hours so as to prevent nuisance and a personal condition meaning that the Premises can only operate as a delicatessen as its primary function where alcohol is served ancillary thereto, and not morph into a drink led premises to be appropriate and proportionate and will have the overall effect of promoting the licensing objectives, in particular the prevention of public nuisance and crime and disorder licensing objectives.

In reaching its decision, the Sub-Committee concluded that the conditions attached to the licence would mitigate and alleviate the residents' concerns of the parties who had objected and were appropriate, proportionate, enforceable and would have the desired effect of promoting the licensing objectives.

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

1. To grant permission for **the Sale by Retail of Alcohol (On the Premises)** Monday to Sunday 12:00 to 22:00 **Seasonal Variations:** None.
2. To grant permission for the **Opening Hours for the Premises** Monday to Saturday: 08:00 to 22:30 Sunday 10:00 to 22:30 **Seasonal Variations:** None.
3. To grant permission to alter the layout of the Premises in accordance with the approved plans.
4. That the hours for the **Sale by Retail of Alcohol (Off the Premises)** remain unaltered as they were not subject to the variation application.
5. That the Licence is subject to any relevant mandatory conditions.
6. That the existing conditions on the licence shall remain in full force and effect save as otherwise varied by the addition of new conditions as specified below and numbered 7-35 which are considered appropriate and proportionate to promote the licensing objectives

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

7. (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.  
(b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.  
(c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.  
(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.  
(e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
8. 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.
9. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
10. 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.
11. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
12. No more than (15)% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
13. There shall be no self-service of spirits on the Premises, save for spirit mixtures less than 5.5% ABV.
14. There shall be no food delivery service operated from the Premises, ancillary or otherwise.
15. No collections of waste or recycling materials (including bottles) from the premises shall take place between (18:00) and (10:00) on the following day Monday to Friday or at any time on a Saturday or Sunday unless it is during the schedule of Westminster City Councils collection times.
16. No deliveries to the premises shall take place between (16:00) and (10:00) on the following day Monday to Saturday or at any time on a Sunday.

17. 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:
  - all crimes reported to the venue
  - all ejections of patrons
  - any complaints received concerning crime and disorder
  - any incidents of disorder
  - all seizures of drugs or offensive weapons
  - any faults in the CCTV system
  - any refusal of the sale of alcohol
  - any visit by a relevant authority or emergency service.
18. All key members of staff responsible for selling alcohol shall be trained on the hours the premises are permitted to sell alcohol to ensure no sales can take place outside the permitted hours.
19. Loudspeakers shall not be permitted at the Premises.
20. The sale of alcohol for consumption on the premises will only be between the hours of 12:00 to 22:00.
21. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed **(25)** persons.
22. 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.
23. The supply of alcohol on the premises shall be by waiter or waitress service only.
24. The customer toilet facilities located at 27 Bruton Place shall be made available at all times to customers from 38 Bruton Place.
25. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
26. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
27. No deliveries from the premises, either by the licensee or a third party, shall take place.
28. 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.

29. No deliveries of bottles, barrels, beer casks or similar, to the premises shall take place between (22.00) and (08.00) hours on the following day.
30. 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.
31. There shall be no sales of alcohol for consumption off the premises after (22:00) hours.
32. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.
33. The total number of customers smoking, vaping or similar in the outside area shall not exceed five at any one time.
34. The Premises Licence Holder shall ensure that no alcohol in open vessels for immediate consumption shall be taken outside of the premises by customers.
35. The sale of alcohol authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a delicatessen.

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

**The Licensing Sub-Committee  
3 July 2024**

## 2. 25 LEINSTER TERRACE W2 3ET

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

**Wednesday 3 July 2024**

Membership: Councillor Aziz Toki (Chair), Cllr Hamza Taouzzale and Councillor Melvyn Caplan

Officer Support: Legal Adviser: Horatio Chance  
Policy Officer: Kerry Simpkin  
Committee Officer: Katherine Stagg  
Presenting Officer: Karyn Abbott

Other Parties: Mr David Inzani (Poppleston Allen, Solicitor for the PLH), Mr Gabriel Chipperfield (for the PLH), Ms Sally Fabbricatore (Environmental Health Service), Mr John Zamit (SEBRA).

### **Application for a Variation of Premises Licence in respect of 25 Leinster Terrace London W2 3ET 24/01996/LIPV**

#### **Summary of Application**

The Sub-Committee has determined an application for a Variation of a Premises Licence under the Licensing Act 2003 ("The Act") in respect of 25 Leinster Terrace London W2 3ET ("The Premises"). The Premises operates as an off licence and convenience store but is to be refitted to trade as a wine bar and delicatessen. The Premises Licence Holder ("PLH") is 25 Leinster Terrace Limited. The Designated Premises Supervisor is Iqbal Ahmad.

The PLH seeks to vary the Premises Licence as follows:-

- *To alter the layout of the Premises so there will be a kitchen in the basement preparing food for service on the ground floor. On Sales of alcohol and food sales will be sold to seated customers. The capacity for the Premises is 40 seated people.*
- *Deli produce and wines will also be available for Off Premises consumption, the alcohol sold will be in sealed containers.*

The Premises has been licensed since November 2005 and are located within the Lancaster Gate Ward and do not fall within the West End CIZ or any Special Consideration Zone.

There is a resident count of 234.

#### **Premises**

25 Leinster Terrace  
London  
W2 3ET

### Premises Licence Holder

25 Leinster Terrace Limited

### Ward

Lancaster Gate

### Cumulative Impact Area

N/A

### Special Consideration Zone

N/A

### Proposed Licensable Activities

#### As per the Premises Licence

### Representations Received

- Environmental Health Service (EHS)
- Metropolitan Police Service (MPS) (**Withdrawn 12 June 2024**).
- South East Bayswater Residents Association (SEBRA).
- 2 Interested Parties.

### Summary of Representations Received:

- *The Metropolitan Police Service objects to this application as it is likely that if the application were to be granted, the premise would undermine the Prevention of Crime and Disorder licensing objective. The applicant has failed to demonstrate in the application that they can uphold and promote the licensing objectives. The applicant has not offered sufficient conditions and as such we object to this application. I would like to arrange a site visit to discuss with the applicant to discuss this application. I have made contact to arrange this. Further submissions will be submitted.*
- *The introduction of on sales of alcohol may cause an increase in Public Nuisance in the area and may impact on Public Safety. The change to the layout may cause an increase in Public Nuisance in the area and may impact on Public Safety.*
- *The application would likely impact on the licensing objective of 'prevention of public nuisance'. The premises is located in a short shopping street, just off Bayswater Road, with commercial units, including a public house, hotel, retail shops and restaurants occupying the ground floor and basement and residential units above with the surrounding area predominantly residential*
- *We note no condition offered that alcohol to ancillary to taking of substantial food and to persons seated, which is required considering the proposed capacity. We also note 'On and 'Off Sales' of alcohol have been applied for.*

- *We have some concerns that a number of Westminster's standard licensing conditions have not been offered.*
- *The daily opening time until 23:00 is likely to result in customers leaving the proposed wine bar around that time, causing noise in what is otherwise a mainly residential area.*
- *The application states that the proposed wine bar will have seating for 40 people. I know the size of the space; it used to be a convenience store and it can't possibly seat 40. Indeed, the plans show 22 stools in a very tight arrangement.*
- *Once the wine bar closes, they will congregate outside. Also coming out to chat and smoke. Noise and cigarette smoke will carry up to residents living above.*

## **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.

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

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

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday:

Midday to Midnight.

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

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

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

## **Policy PB1 (A)**

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

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

2. The hours for licensable activities being within the council's Core Hours Policy HRS1.

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

4. The applicant has taken account of the Special Consideration Zones policy SCZ1 if the premises are located within a designated zone.

5. The application and operation of the venue meet the definition of a Public House or Bar in Clause D.

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

1. Applications to vary the existing licence hours within the council's



Core Hours Policy HRS1.

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

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

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

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

3. The application and operation of the venue continuing to meet the definition of a Public House or Bar in Clause D.

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

### **SUBMISSIONS AND REASONS**

Ms Karyn Abbott, Presenting Officer outlined the application to the Sub-Committee. She advised that this was an application for a Variation of premises licence in the Lancaster Gate Ward but not in the Cumulative Impact Zone (CIZ) or Special Consideration Zone (SCZ). She advised that representations had been received from the Environmental Health Service, Metropolitan Police Service (Withdrawn) and three Interested Parties, including South East Bayswater Residents Association (SEBRA). She confirmed that the additional submissions from the PLH and the Interested Parties had been circulated.

Mr David Inzani Solicitor appearing on behalf of the PLH outlined the application to the Sub-Committee. He advised that the application would be an improvement on the current premises licence as it reduced hours for the sale of alcohol and included more conditions. He advised that the layout had been updated with the kitchen, toilet and a chef's table in the basement, and the main deli and dining area on the ground floor.

Mr Inzani advised that the PLH had the licence transferred to them in February of this year and had refitted the entire Premises to create 'Sol's' an all-day premium deli and wine bar. He advised on the food and drink offer the Premises would sell premium wines and beers. The PLH had a café in the area which also had an alcohol licence.

Mr Inzani stated that the PLH understood the area was residential in nature and had offered site visits to residents who objected, and subsequently some had withdrawn their objection following the visits. He confirmed the PLH had agreed to a number of conditions proposed by the MPS and EHS including alcohol being ancillary to the deli, the tables outside unusable after 22:00 hours and patrons being seated while drinking. He advised that the size of the Premises and terrace outside naturally limits the capacity and advised that the operational management plan dealt with the outside terrace, smokers and noise problems.

Mr Inzani advised that following an EHS site visit they had agreed to a capacity of 30, inclusive of staff, unless they increased toilet provisions. He advised that it will be a well-run and elevated Premises which would benefit the community.

In response to questions from the Sub-Committee Mr Inzani confirmed the following:-

- *The capacity of 30 had been agreed by the EHS and conditioned accordingly.*
- *The terrace could have no more than 8 patrons on it at any one time and the front sash windows would be closed at 22:00 hours (also conditioned).*
- *The hours for when alcohol would be sold are to be reduced would be between 11:00 hours and 23:00 hours from the previous times of 08:00 hours and 23:00 hours Monday to Saturday.*
- *There will be no "bar" area but the ground floor would have a large table which would be used for a community display of products and consumption.*
- *There will be no vertical drinking and a condition has been proposed in this respect.*
- *The PLH would be happy to amend the Operational Plan to only allow 5 smokers outside the Premises at any one time and had conditioned that anyone under 16 must be accompanied by an adult after 20:00 hours.*

Ms Sally Fabbriatore appearing on behalf of the EHS addressed the Sub-Committee. She advised that EHS had maintained their representations on public nuisance concerns initially but advised that these had been addressed by the conditions agreed to after the site visit. She advised that they were content with the application as it is a Core Hours application not in a CIZ.

Ms Fabbriatore advised that conditions included those that substantial food had to be available, alcohol should be ancillary to the use as a deli, and there to be no vertical drinking and no self-service of alcohol. She advised the outside area would be restricted to 22:00 hours with the table and chairs being brought inside the Premises when it closed. She also advised that drinks could not be taken outside unless they were seated. She advised that the Premises could fit 60 people and the application originally was for 40 people but following a visit and the Premises only having one toilet they had to limit it to 30, inclusive of staff, unless they installed another WC. She advised that there was a works condition on the licence and the original odour condition had been taken off the licence but they had agreed to Model Condition MC87.

In response to questions from the Sub-Committee Ms Fabbriatore advised that she was content with the capacity and that they had offered a reduced number of smokers outside at any one time. In response to further questions Mr Inzani advised that the outside space capacity was restricted due to the size of the raised pavement area.

Mr John Zamit, representing SEBRA addressed the Sub-Committee. He advised that they welcomed businesses in the area to improve Leinster Terrace but they do not support an alcohol licence directly opposite a hostel, which had a history of anti-social problems. He advised that they were concerned about the layout and the central table which could lead to it being used primarily as a drinking-led establishment. He advised that they are concerned about the toilet provision and

capacity as EHS have only allowed 20 people at other premises where there is only one toilet.

Mr Zamit advised that they were concerned about the capacity of the outside area and smoking area, with residential properties directly above. He confirmed that SEBRA wished for the capacity to be capped at 20 and they should have to come back before a Sub-Committee if they wished to increase this to 40.

Mr Zamit stated that they requested all windows and door to be closed at 21:00 hours and not the proposed hour of 22:00. He questioned how the Premises would operate with no bar area and expressed concerns about the young people from the hostel causing noise and nuisance in the Premises. Mr Zamit went onto state that it was SEBRA's view that the Premises would be promoted more as a wine bar than a deli and wanted all drinks to be waiter/waitress serviced.

In response to questions from the Sub-Committee Mr Zamit confirmed that the Hostel opposite had a long history of problems and SEBRA had concerns about people drinking and smoking outside the Premises.

In response to further questions Ms Fabbriatore advised that EHS based the capacity number on the size of the Premises and the British Standard Guide for toilets. She advised that EHS believed the capacity of 30 was appropriate and the hours are within Westminster City Core Hours policy.

Mr Horatio Chance, Legal Advisor to the Sub-Committee went through the conditions with the PLH and Interested Parties and they confirmed that they are happy to accept all the conditions suggested with the EHS and MPS as well Model Condition (MC87) to control any potential odours that might emanate from the Premises.

In summing up, Mr Inzani advised that alcohol would be served by waiters and this application had been driven by the desire to improve the street and service its residents. The PLH had spoken with many local residents some of whom live above the Premises and they had withdrawn their representations as their concerns had been addressed by way of the agreed conditions.

Mr Gabriel Chipperfield for the PLH advised that he had grown up on the street and that little had changed since then but he saw the potential and was willing to invest in the area. He advised that he wished to service the residents with this Premises and he had a proven track record in running a licenced premise nearby. He advised that this application would be better for anti-social behaviour than the previous off-licence, as the only alcohol for sale would be of a premium quality and price.

In summing up Mr Zamit, advised that he shared the PLH's desire to improve the street but they still had a number of concerns including that windows should be shut at 21:00 hours and the planned stools in the Premises cater more to a drinking led venue rather than an eating one. He was glad that smokers had been reduced to 5 at any one time but wanted it recorded that SEBRA do not support the condition that would allow them to increase the capacity to 40 under a minor variation, instead he would like it to be a full variation. Ms Fabbriatore had nothing further to add in summing up.

## Conclusion

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 Revised Home Office Guidance issued under section 182 of the Act and the City Council's SLP, in particular policies HRS1 and PB1(A).

The Sub-Committee noted that there was no presumption to refuse an application for a delicatessen/wine bar premises outside of the West End CIZ provided the requirements of policies CD1, PS1, PN1 and CH1 are met.

The Sub-Committee noted that Conditions had been agreed with the EHS. The Licensing Authority did not object and the Metropolitan Police Service had withdrawn their representation after agreeing conditions with the PLH.

The Sub-Committee took the view that the right balance has now been struck when considering the needs of local residents and SEBRA who objected to the application and the commercial needs of the PLH who after all has a duty to run his Premises to the highest professional standards and in accordance with the promotion of the licensing objectives. It is hoped that the parties going forward can work together to ensure that a fruitful dialogue is maintained whereby any issues are resolved expeditiously.

The Sub-Committee having carefully considered the matter and the evidence before it decided to **Grant** the variation application, namely; for a refit of the Premises to a deli/wine bar with a capacity of 40 seated customers required to drink alcohol whilst seated, the provision of Off sales of Alcohol to be now imposed on the licence with those sales to be in sealed containers, the start time for the sale of alcohol to commence later together with updated conditions. The Sub-Committee considered that this was the right balance when considering the resident objections for the start time and terminal hours accordingly.

The Sub-Committee noted the various undertakings and commitments given by Mr Inzani on behalf of the PLH into the daily running of the Premises and the robust management practices the PLH was to employ by an experienced professional team as well as the many offered conditions as amended which would have the desired effect of promoting the licensing objectives and future proof the premises licence.

The Sub-Committee noted that there was no evidence to suggest that the later commencement time for the sale of alcohol would cause public nuisance or indeed undermine the three other licensing objectives as the timings were now reduced and within the core hours policy. No complaints had been made to the Council in relation to the running of the Premises given the high residential count.

The Sub-Committee considers that the conditions it has imposed on the premises licence to include licence CCTV by way of security, signage, age verification, a direct telephone number for the manager of the Premises, an Operational Management Plan, a personal condition meaning that the Premises can only operate as per the restriction, deliveries and collections of waste to the Premises within permitted hours

so as to prevent nuisance to be appropriate and proportionate and will have the overall effect of promoting the licensing objectives, in particular the prevention of public nuisance and crime and disorder licensing objectives.

In reaching its decision, the Sub-Committee concluded that the conditions attached to the licence would mitigate and alleviate the residents' concerns of the parties who had objected and were appropriate, proportionate, enforceable and would have the desired effect of promoting the licensing objectives.

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

1. To grant permission for **the Sale by Retail of Alcohol (On and Off the Premises)** Monday to Saturday 11:00 to 23:00 Sunday 11:00 to 22:00  
**Seasonal Variations:** None.
2. To grant permission for the **Opening Hours for the Premises** Monday to Saturday: 08:00 to 23:00 Sunday 10:00 to 22:30  
**Seasonal Variations:** None.
3. To grant permission to alter the layout of the Premises in accordance with the approved plans.
4. That the Licence is subject to any relevant mandatory conditions.
5. That the existing conditions on the licence shall remain in full force and effect save as otherwise varied by the addition of new conditions as specified below and numbered 6-34 which are considered appropriate and proportionate to promote the licensing objectives

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

6. No off sales of beer and cider above 5.5% alcohol by volume, except for premium beers and ciders supplied in glass bottles and cans.
7. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
8. (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.  
(b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.  
(c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.  
(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.

- (e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
9. 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.
  10. The sale of alcohol for consumption on the premises shall be to seated customers only.
  11. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
    - a) all crimes reported to the venue
    - b) all ejections of patrons
    - c) any complaints received concerning crime and disorder
    - d) any incidents of disorder
    - e) all seizures of drugs or offensive weapons
    - f) any faults in the CCTV system, searching equipment or scanning equipment
    - g) any refusal of the sale of alcohol
    - h) any visit by a relevant authority or emergency service.
  12. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises except to seated customers on the front forecourt.
  13. No self-service of alcohol for consumption onsite.
  14. 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.
  15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
  16. Customers 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 drinks or glass containers with them except those customers seated on the front forecourt.
  17. 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 license or passport.
  18. The Premises Licence Holder shall ensure that each member of staff authorised to sell alcohol is fully aware of his / her responsibilities in relation to verifying a customer's age and is able to effectively question purchasers and check evidence of proof of age.

19. The Premises Licence Holder shall ensure that each member of staff authorised to sell alcohol is sufficiently capable and confident to confront and challenge under - 18s attempting to purchase alcohol. A till prompt system shall be installed to assist staff by reminding them to challenge for ID when a sale is made.
20. Children under 16 must be accompanied by an adult after 20:00 hours.
21. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
22. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21.00 and 08.00 on the following day.
23. No deliveries to the premises shall take place between 21.00 and 08.00 hours on the following day.
24. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 21.00 hours and 08.00 hours on the following day.
25. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
26. No licensable activities shall take place at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined (this shall be no more than 40 persons (including staff) for the internal and external areas. There shall be no more than 30 customers (including staff) permitted for the internal and external areas until such time as an additional toilet has been installed on the premises and those arrangements to be updated on the premises licence by way of a minor variation application).
27. All outside tables and chairs shall be rendered unusable by 22.00 hours each day. All outside tables and chairs shall be removed from the external area when the premises closes each day.
28. 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.
29. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a wine bar and delicatessen.

30. All windows and external doors shall be kept closed after 22:00 hours, except for the immediate access and egress of persons.
31. 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.
32. Delivery drivers shall be given clear, written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside the license premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.
33. No fumes steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
34. Smokers on the outside terrace area shall be limited to five customers after 22:00 hours.

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

**The Licensing Sub-Committee  
3 July 2024**



**3. FEI ER COTTAGE, 37 STRUTTON GROUND, SW1P 2HY**

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

**Wednesday 3 July 2024**

Membership: Councillor Aziz Toki (Chair) and Councillor Melvyn Caplan

Officer Support:      Legal Adviser:                      Horatio Chance  
                                 Policy Officer:                      Kerry Simpkin  
                                 Committee Officer:                  Katherine Stagg  
                                 Presenting Officer:                  Karyn Abbott

Other Parties:              Ms Annie Tsang and Mr Paul Qiu (of the Applicant Company).

**Application for a New Premises Licence in respect of China Centre Ltd T/a Fei Er Cottage 37 Strutton Ground London SW1P 2HY 24/01809/LIPN**

**Summary of Application**

The Sub-Committee has determined an application for a New Premises Licence under the Licensing Act 2003 ("The Act") in respect of China Centre Ltd T/a Fei Er Cottage 37 Strutton Ground London SW1P 2HY ("The Premises"). The Premises operates as a Chinese Restaurant and Takeaway on the ground floor and Basement area and has done so for almost three decades.

The Premises had licence 11/01582/LIPN in 2011 (Gourmet) and a transfer in 2018 was to Bamboo Basket Neway, however, the licence lapsed in August 2020.

The Premises are located within the St James's Ward and do not fall within the West End CIZ or any Special Consideration Zone.

There is no policy presumption to refuse a restaurant application of this type provided that the licensing objectives are not undermined.

Representations were received from the Environmental Health Service, Metropolitan Service and one local resident citing concerns regarding public nuisance and crime and disorder. However, the EHS and MPS withdrew their objections after agreeing conditions with the Applicant.

There is a resident count of 546.

**Premises**

Fei Er Cottage  
37 Strutton Grove  
London  
SW1P 2HY

## **Applicant**

China Centre Pimlico Ltd

## **Ward**

St James's

## **Cumulative Impact Area**

N/A

## **Special Consideration Zone**

N/A

## **Proposed Licensable Activities**

### **Sale by Retail of Alcohol (On and Off the Premises)**

Monday to Sunday: 11:30 to 23:00

**Seasonal Variations: New Years Eve from 11:30 to New Years Day 0300**

### **Hours Open to the Public**

Monday to Saturday: 11:30 to 22:00

**Seasonal Variations: New Years Eve from 11:30 to New Years Day 0300**

## **Representations Received**

- Environmental Health Service (EHS) (**Withdrawn 15 May 2024**).
- Metropolitan Police Service (MPS) (**Withdrawn 9 April 2024**)
- 1 Interested Party.

## **Summary of objections received:**

- *I have attached a list of Police conditions, which I would like you to agree to. Most of these will mirror what's in your application form, but for completeness and ease of reference for Westminster City Council Licensing Services, I have attached them in a word document. I look forward to hearing from you soon*
- *The supply of alcohol may have the likely effect of causing an increase in Public Nuisance in the area and may also impact on Public Safety. The granting of the application as presented may have the likely effect of causing an increase in Public Nuisance in the area and may also impact on Public Safety. Additional EH conditions may be proposed to uphold the licensing objectives. Should you wish to discuss the matter further please do not hesitate to contact me.*
- *I live in Strutton Ground very close to the restaurant. I object vehemently against the licensing application to sell alcohol at the premises. The street is*

*already subject to a massive public health issue with drunk people. There are DAILY occurrences of uncivic behaviour whether it is drunk people shouting or passing out in the street or doorsteps. I had a drunk person sleeping in the entrance to my flat just yesterday afternoon. Selling alcohol in the restaurant and with takeaway will only make the problem worse. Besides, regularly guest coming out of the restaurant late at night are very noisy, if alcohol consumption is permitted at the restaurant it will only get worse.*

## **Policy Considerations**

Policies HRS1 and RTN1 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.

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

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

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday:

Midday to Midnight.

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

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

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

## **Policy RNT1**

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 being within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meeting the definition of a restaurant as per Clause C.

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 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 a meal.

### **SUBMISSIONS AND REASONS**

Ms Karyn Abbott, Presenting Officer, outlined the application to the Sub-Committee. She advised that this was an application for a new premise licence in the St James Ward and not situated in a Cumulative Impact Zone (CIZ) or Special Consideration Zone (SCZ). She advised that representations had been received from Environmental Health and the Metropolitan Police Service (both of which had been withdrawn) and one Interested Party who did not turn up to the hearing. She confirmed that the additional submissions from the Applicant and the Interested Parties had been circulated.

Ms Annie Tsang on behalf of the Applicant outlined the application to the Sub-Committee. She advised that they had held a premises licence for the last 28 years and when Mr Paul Qiu took over, they did not realise they had to transfer the licence to him so the licence lapsed. She advised that they were a small independent Chinese restaurant which was popular among locals and would only serve alcohol with a table serviced meal. She advised that the concerns made by the interested party were about the social issues of the area rather than the premises itself and so therefore unconnected. She advised that they tried to mediate with the resident objector but they had not responded.

In response to questions, Ms Tsang advised that Mr Qiu took over the Premises in May 2023 and ran it under the same name. In December 2023 a WCC Officer visited the Premises and advised that they needed to transfer the licence but as 6 months had passed since Mr Qui took over, they had to apply for a new licence.

Ms Tsang advised that the restaurant opens until 22:00 hours daily but they had applied for WCC Core Hours but would be happy if the Sub-Committee were minded

granting the licence until 22:00 hours as opposed to 23:00 hours which had been applied for in the application.

Ms Tsang confirmed that they used delivery companies such as Just Eat and Uber Eats for their takeaways. Mr Qiu advised that they had a maximum capacity of 65 conditioned by Environmental Health. He advised that they currently do not offer alcohol off sales of alcohol but wish to add it as an option if the licence was granted as a provision that they might wish to explore for the future.

Mr Horatio Chance, Legal Advisor to the Sub-Committee, went through the conditions with the Applicant and they confirmed that they were happy to accept all the conditions suggested with the EHS and MPS contained at pages 97-101 of the agenda report. Mr Chance also suggested Model Condition (MC24) requiring a telephone number to be made available should any problems arise, given the concerns of the local resident objector which they agreed to do.

### **Conclusion**

The Sub-Committee realises that it has a duty to consider each application on its individual merits and did so for the purposes of this application.

The Sub-Committee had regard not only to the written and oral evidence but also to the Act, the Revised Home Office Guidance issued under section 182 of the Act and the City Council's SLP, in particular policies HRS1 and RNT1.

The Sub-Committee noted that there was no presumption to refuse an application for a restaurant premises outside of the West End CIZ provided the requirements of policies CD1, PS1, PN1 and CH1 are met.

The Sub-Committee noted that the Applicant during the hearing amended the terminal hour for the sale of alcohol as well as for opening to 22:00 which was most welcomed. It was explained that the Premises would shut daily at 22:00 in any event so there was no need for a later terminal hour of 23:00 hours.

The Sub-Committee noted that Conditions had been agreed with the Responsible Authorities namely the EHS and the MPS who had withdrawn their objections. The Licensing Authority did not object to the application.

The Sub-Committee noted the concerns of the resident objector but there was nothing in the evidence to suggest that the Applicant would be nothing other than a responsible operator that would help promote the licensing objectives. Moreover, there was no evidence to suggest that the matters complained of were linked to these specific Premises but a general problem in the area associated with anti-social behaviour and homelessness.

The Sub-Committee having carefully considered the matter and the evidence before it decided to **Grant** the Premises Licence with the licensable activities and to core hours. The Sub-Committee considered that this was the right balance when considering the resident objections for the start time and terminal hours accordingly having regard to the s.182 Guidance and the City Councils SLP.

The Sub-Committee noted the various undertakings and commitments given by the Applicant into the daily running of the Premises and the robust management practices the Applicant was to employ by an experienced professional team as well as the many offered conditions which would have the desired effect of promoting the licensing objectives.

The Sub-Committee considers that the conditions it has imposed on the premises licence to include CCTV by way of security, Challenge 25 scheme, signage, a direct telephone number for the manager of the Premises, the sale of alcohol to be by waiter/waitress service, off sales of alcohol to be in sealed containers and collections of waste to the Premises within permitted hours so as to prevent nuisance and the inclusion of Model Conditions to be appropriate and proportionate and will have the overall effect of promoting the licensing objectives, in particular the prevention of public nuisance and crime and disorder licensing objectives.

In reaching its decision, the Sub-Committee concluded that the conditions now attached to the licence would mitigate and alleviate the residents' concerns of the parties who had objected and were appropriate, proportionate, enforceable and would have the desired effect of promoting the licensing objectives.

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

1. To Grant permission for **the Sale by Retail of Alcohol (On and Off the Premises)** Monday to Sunday: 11:30 to 22:00 **Seasonal Variations:** New Years Eve from 11:30 to New Years Day 0300
2. To Grant permission for the **Opening Hours for the Premises** Monday to Saturday: 11:30 to 22:00 **Seasonal Variations:** New Years Eve from 11:30 to New Years Day 0300
3. That the Licence is subject to any relevant mandatory conditions.
4. That the existing conditions on the licence shall remain in full force and effect save as otherwise varied by the addition of three new conditions as specified below and numbered 5-23 which are considered appropriate and proportionate to promote the licensing objectives

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

5. The number of persons permitted in the premises at any one-time shall not exceed 65 persons excluding staff.
6. 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.
7. 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.
8. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
  9. No deliveries of alcohol to the premises shall take place between 23.00 and 08.00 hours on the following day.
  10. Delivery drivers shall be given clear, written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside the license premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.
  11. No deliveries from the premises, either by the licensee or a third party shall take place between 23:00 and 08:00 hours on the following day.
  12. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
  13. 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.
  14. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
  15. (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.  
(b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.  
(c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.  
(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.  
(e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
  16. A staff member from the premises who is conversant with the operation of the CCTV system shall be always on the premises 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.
  17. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
  18. 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.
19. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
  20. The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.  
For the purpose of this condition a 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.
  21. The supply of alcohol shall be by waiter or waitress service only.
  22. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to food that is available to take-away for immediate consumption.
  23. A direct telephone number for the manager of the premises shall be publicly available at all times the premises is open. This telephone number and/or 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  
3 July 2024**

**4. IVY ASIA MAYFAIR, 8-10 NORTH AUDLEY STREET, W1K 6ZD**

This application was Granted under Delegated Authority.

The Meeting ended at 1.14 pm