



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 25th July, 2024**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Maggie Carman (Chair), Hamza Taouzzale and Caroline Sargent

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

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

1. CLAYS, 77 BREWER STREET, W1F 9ZN

WCC LICENSING SUB-COMMITTEE NO. 2 ("The Committee")

Thursday 25 July 2024

Membership: Councillor Maggie Carman (Chair) Councillor Hamza Taouzzale and Councillor Caroline Sargent.

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Daisy Gadd
Committee Officer: Sarah Craddock
Presenting Officer: Sandra Robbie

Other Parties: Mr Alun Thomas and Mr Will Robinson (Solicitors for the Applicant, Thomas and Thomas)
Mr Thomas Snellock, Ms Gemma Steffenssen, Mr Roger Olsson and Ms Maddie Russell (Trigger Opcol4 Ltd, Applicant Company)

PC Reaz Guerra (Metropolitan Police Service - MPS)

Mr Anil Drayan (Environmental Health - EHS)
Ms Karyn Abbott (Licensing Authority – LA)

Mr Richard Brown, Westminster Citizens Advice Bureau Service,
representing the Soho Society.
Ms M.T. (Soho Society)

**Application for a New Premises Licence in respect of Clays 77 Brewer Street
London W1F 9ZN 24/02953/LIPN**

FULL DECISION

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 Clays 77 Brewer Street London W1F 9ZN (“The Premises”). The Premises intends to operate as a competitive socialising venue built around the time-honoured British tradition and sport of clay pigeon shooting adapted for the first time to an indoor immersive format using real (but de-activated) shotguns and cutting-edge electronic tracking and video technology. The Premises are located in the West End Ward and fall within the West End CIZ.

There is an existing licence (reference 24/02963/LIPT) and a shadow licence (reference 24/00187/LIPSL) for these Premises. These can be seen at **Appendix 3** of the agenda report.

The Applicant has provided a summary of the proposal which includes submissions addressing the relevant policies relating to the application as well as capacity, management and dispersal plans. This can be seen at **Appendix 2**.

Assuming the Premises falls within policy **CCSOS1** there is no policy presumption to refuse an application of this type. Although the Licensing Authority advances the argument that **Policy COMB1** (and possibly **Policy PB1**) applies along with the Soho Society who object to the application.

There is a resident count of 52.

Premises

Clays
77 Brewer Street
London
W1F 9ZN

Applicant

Trigger Opco4 Ltd

Ward

West End

Cumulative Impact Area

West End Cumulative Impact Zone (“West End CIZ”)

Special Consideration Zone

N/A

Activities and Hours

Late Night Refreshment (Indoors)

Monday to Wednesday 23:00 to 00:00

Thursday to Saturday 23:00 to 01:00

Sunday N/A

Seasonal variations: From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.

Sundays immediately prior to a bank holiday: 10:00 to 01:00

Sale by Retail of Alcohol (On the Premises)

Monday to Wednesday 10:00 to 00:00

Thursday to Saturday 10:00 to 01:00

Sunday 12:00 to 22:30

Seasonal variations: From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.

Sundays immediately prior to a bank holiday: 10:00 to 01:00

Exhibition of Plays, Films, Live Music, Recorded Music, Indoor Sporting Events (Indoors)

Monday to Wednesday 10:00 to 00:00

Thursday to Saturday 10:00 to 01:00

Sunday 12:00 to 22:30

Seasonal variations: From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.

Sundays immediately prior to a bank holiday: 10:00 to 01:00

Anything of a similar description (Indoors)

Monday to Saturday 10:00 to 00:00

Sunday 10:00 to 22:30

Seasonal variations: From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.

Sundays immediately prior to a bank holiday: 10:00 to 01:00

Opening Hours of the Premises

Monday to Wednesday: 10:00 to 00:30

Thursday to Saturday 10:00 to 01:30

Sunday 12:00 to 23:00

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

Sundays immediately prior to a bank holiday: 10:00 to 01:00

Representations Received

- The Licensing Authority (LA) (Kevin Jackaman)
- Metropolitan Police Service (MPS) (PC Reaz Guerra)
- Environmental Health Service (EHS) (Anil Drayan)
- The Soho Society
- One local resident

All representations citing concerns regarding all four licensing objectives, namely, Public Nuisance, Crime and Disorder, Public Safety and Protection of Children from Harm. The Soho Society and the local resident are requesting that the application be refused.

Policy Considerations

Policies CIP1, HRS1, COMB1, CCSOS1 apply under the City Council's Statement of Licensing Policy ("SLP").

Combined Use Premises Policy Policy COMB1

B. Applications inside the West End Cumulative Impact Zones for premises that propose to operate as a 'combined use premises' will be considered on their merits and subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities for the relevant premises use 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 demonstrating that they will not add to cumulative impact within the Cumulative Impact Zone.

C. When considering what weight is to be given to the relevant uses and policies the Licensing Authority will take into account:

1. Whether it will undermine the licensing objectives.
2. The current and proposed use of the premises.
3. When those uses will take place.
4. What the primary use of the premises is or the uses that will take place in different parts of that premises.
5. Whether there would normally be a presumption to refuse an application for that use if it was operating as that

premises type and not a combined use premises.

6. Whether the hours sought for the all or parts of the premises are within or outside the Core Hours.

D. The Licensing Authority will take into account, when considering the application, the relevant considerations from each of the appropriate premises uses policies within this statement.

E. For the purpose of this policy a Combined Use Premises means premises which require a premises licence and where there is more than one premises use, and where the uses are not dependent on/ or part of the other uses i.e. are not ancillary to the other uses.

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 CIP1

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

1. Vary the hours within Core Hours under Policy HRS1, and/or

2. Vary the licence to reduce the overall capacity of the premises.

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

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

SUBMISSIONS AND REASONS

Mrs Sandra Robbie, Presenting Officer, outlined the application to the Sub-Committee. She advised that representations had been received from the MPS, EHS and LA, the Soho Society and 1 local resident. She confirmed that the Premises is located within the West End Ward and in the West End CIZ. She confirmed that the additional submissions from the Applicant and the Interested Parties had been circulated to all parties.

Mr Alun Thomas, Solicitor appearing on behalf of the Applicant addressed the Sub-Committee. He showed a short video of the current world junior gold medal holder playing the immersive indoor clay pigeon shooting game and then outlined the application to the Sub-Committee.

Mr Thomas explained that the concept of Clays was an immersive group activity where people played the game whilst others in the group, such as an audience, watched them due to it being a competition. He advised that Clays had a proven track record at their two existing venues located in Moorgate and Canary Wharf which had been verified by the City for London Police and that this new Premises Licence would create 65 new jobs. He confirmed that the Applicant would surrender the existing Premises Licence if the application were granted.

Mr Thomas advised that the application was submitted under the Council's Policy CCSOS1 as a "live sporting Premises" within CCSOS1 C3b and therefore the Applicant did not need to prove an exception to the Policy and/or to demonstrate that they would not add to the cumulative impact in the West End CIZ. He added that this was because of what the policy says about competitive socializing Premises and due to the diverse nature of the Premises within the West End area. He outlined how the Applicant was reducing the weekday hours so the only hours beyond the Council's Core Hours Policy were one hour on a Friday and Saturday night and how the Applicant wished to replace the Council's restaurant condition with a condition requiring 'all licensable activities at the Premises to be ancillary to the main function of the Premises as a competitive socialising venue.' He added that a minimum of 10 pegs had to be open for use whenever licensable activities were provided and the capacity of those pegs were up to 400 customers who would be taking part in the activity. He set out that the existing Premises Licence allowed for 188 customers to drink without food and had a terminal hour of 01:00 hours.

Mr Thomas advised that the primary use of this Premises was competitive socializing and therefore it should fall under Policy CCSOS1 and/or Policy COMB1. He emphasised that the Applicant did not have to prove exception and the Premises would not add to the cumulative impact because of its location within the West End. He referred to the MPS heat maps attached in the Additional Information Pack which indicated that there was very little cumulative impact in the vicinity of the Premises. He then referred to the decision notice for the Premises Boombox and advised that this Premises was located in a far worse CIA than Clays. He added that the Council's Policy encourages a diversity of Premises within the West End.

Mr Thomas emphasised that the Applicant was not adding to the capacity of the Premises after midnight. He added that the Applicant had also agreed to a last entry condition. He considered that people would get a lot out of the Premises as it offered competitive socialising, an activity, food and drink and would therefore dilute cumulative impact because it was bringing people to the venue to do a different type of activity rather just going out for something to eat and drink.

Mr Thomas concluded by advising that the Applicant was not increasing capacity after midnight, that this type of Premises did not add to the cumulative impact area and that the MPS's heat maps indicated that there was little cumulative impact in the location of these Premises.

In response to questions from the Sub-Committee, Mr Thomas confirmed that there had been no incidents in the existing two Premises since they had opened and by offering an activity, food and drink the customers had no reason to leave the Premises and go looking for further entertainment. He added they would finish their game and then make their way home. He again compared his application to the Boom Box and emphasised that Clays was a genuine competitive sport rather than beer ping pong that was held in Boom Box. He added that people took Clay pigeon shooting very seriously.

Mr Thomas advised of the food offer at the Premises which he considered was substantial finger food so customers could continue to participate and watch the sport whilst having something to eat and drink. He outlined that the head chef was very experienced and the food offer was very wide and accommodated all dietary requirements from vegan to kosher foods. He emphasised that the Applicant was only asking for an increase in capacity within Core Hours, with the capacity reverting to 360 (per the existing Premises Licence) after midnight, alongside a new condition imposing a last entry time of 23:30 on Thursday and midnight Friday and Saturday.

In response to questions from the Sub-Committee, Mr Thomas Snellock (Applicant) advised that his customer base was around the 24-34 age group, however, a wide range of people attended the corporate events booked at the Premises; and the vast majority of these bookings included a food package. He emphasised it was immersive entertainment. He then set out the operation of the Premises in more detail advising that there were 10 pegs with a combined capacity of 400 persons as well as a private room with an additional three pegs and one more peg upstairs, making a total of 14 pegs. He advised that an average game took around 90 minutes. He confirmed that all corporate packages included food and that 75% of people attending the existing two Premises ordered food whilst on the Premises. He advised that there were tables and chairs in all the booths.

Ms Karyn Abbott appearing on behalf of the LA addressed the Sub-Committee. She advised that there had been mediation and a visit between the LA and the Applicant. She outlined that the LA considered the application closely falls under Policy COMB1 and not policy CCSOS1. She outlined that the Council wished to see a less alcohol-led and a more diverse range and variety of uses available later at night in the West End area and therefore it was for the Committee to decide whether they were satisfied that the granting of this Premises Licence would not have an adverse impact on the West End Cumulative Impact Area.

Mr Anil Drayan appearing on behalf of the EHS addressed the Sub-Committee. He advised that they had provided pre-application advice to the Applicant and were satisfied that the Premises could safely hold 550 persons. He added that the final capacity would be agreed on completion of the works in the Premises. He confirmed that the capacity had been calculated regarding the number of toilets available in the Premises. He further advised that the EHS was also satisfied from a public nuisance and safety point of view that no noise and/or music from the sound systems would emanate from the Premises and therefore the Applicant would be able to promote the licensing objectives within the Premises. He explained that EH's position was neutral, however, they had maintained their representation as it was a Licensing

Committee decision to decide if the application applies with the policy for the West End area.

In response to a question regarding noise within the Premises, Mr Thomas advised that there were directional speakers in all the pegs and mats on the floor that absorb the gun shots, so they could not be heard in other parts of the Premises such as the bar and in no way could they be heard outside of the Premises.

PC Reaz Guerra appearing on behalf of the MPS addressed the Sub-Committee. He advised that although this Premises would not directly increase the crime and disorder in the area it would bring more people to an already busy area of the West End. He advised that the peak hours for crime and disorder was midnight until 04:00 hours with people leaving a variety of venues. He advised that the Premises already had a Premises Licence for 01:00 hours and so that would not change, however, it was the increase in capacity during the Council's Core Hours that was the MPS concern in this case.

In response to questions from Mr Thomas and the Sub Committee, PC Reaz advised that he had not dealt with the Boom Box application and that every application was considered on its own merits. He emphasised that crime and disorder often occurred near tube/train stations.

Mr Richard Brown, Westminster Citizens Advice Bureau Service, appearing on behalf of the Soho Society, advised that the Soho Society wanted to achieve an appropriate balance of commercial, activities and residential within the West End area. He referred to the Cumulative Impact Assessment 2023 which confirms that the crime levels in Westminster are significant and associated with the night time economy.

Mr Brown advised that the significant swap regarding this application was the removal of the restaurant condition and replacing it with 'all licensable activities at the Premises to be ancillary to the main function of the Premises as a competitive socialising venue.' He emphasised that the Soho Society's view was that this was not an adequate swap so as to promote the licensing objectives and the aims of the policy, especially because of the increase in capacity from 360 to 550 persons.

Mr Brown then set out the difference between the existing Premises Licence and the application that was set out in his submission at pages 7 and 8 in the additional information pack. He advised that further information was needed regarding the actual use of the shooting pegs throughout the later hours and how many people were actually using the 'gun' at any one time. He considered that the majority of people as in the Boom Box application should be actively engaged in the sporting activity at any one time.

Mr Brown referred to the MPS's heat map. He endorsed that crime was common around transport hubs and therefore an increase in capacity would have an impact in the cumulative area as a whole. He considered whether the Applicant actually needed a 550 capacity and the late-night hours until 01:00 hours as the Applicant's Premises in Moorgate and Canary Wharf closed at midnight.

Mr Brown then referred to Mr Thomas's submissions regarding the Boom Box and strongly advised that all applications should be considered on their own merits. He further advised that Mr Thomas could pick out bits that helped him however he could do the same and therefore applications already granted should not be used or set a precedence to grant future application.

Ms M.T (Soho Society) advised that she lived locally and that the heat maps were irrelevant when so many people were moving around the West End area and the total number of people in the area needed to be considered by the Sub-Committee. She advised that the Piccadilly Circus area was now very built up and a hot spot for anti-social behaviour and crime and disorder. She was concerned how dark Brewer Street was at night and explained how unsafe residents felt now walking around Soho. She advised of the high statistics of mobile phone theft and how the high numbers of people in Soho attracted criminals to the area.

Ms M.T considered that an increase of 190 people was significant in the cumulative impact area. She advised that she had visited the Premises and had found this very worthwhile. She advised that there seemed to be no restrictions on alcohol and that patrons could drink throughout their visit. She wondered how customers would be dispersed. She referred to the bottom brunch offers and shot offers at the other venues and she requested that the Committee did not increase the capacity of the Premises.

Mr Horatio Chance, Legal Advisor to the Sub Committee, referred to page 72 of the Agenda Pack and discussed whether Clay pigeon shooting was deregulated until 23:00 hours under the Act and the wording to the proposed condition 11.

Ms Daisy Gadd, Policy Advisor to the Sub Committee, advised that it would be useful for Mr Thomas during his summary to advise what customers would be doing when they were not actively engaging in clay shooting and what measures the Applicant would take to mitigate cumulative impact in the West End area.

During his summing up Mr Brown strongly advised that he considered that the application did not fall within the Council's CCSOS1 policy however what was key was the effect that granting this application would have on the cumulative impact in the whole West End area. He advised that the increase of 190 customers was significant as so was what would customers be doing when they were not clay pigeon shooting. He strongly emphasised that the Applicant should kept the capacity as set out in the existing licence for the Premises.

During his summing up, Mr Drayan requested that the Council's Model Conditions 32 and 33 conditions be attached to the Premises Licence unless the Applicant was planning to use the Council's waste collection for the street as this would help reduce the traffic in the area.

During his summing up, Mr Thomas advised that the Council strongly encourages a greater diversity of attractions in the West End area by shifting the focus away from alcohol and drawing a more diverse crowd which was set out repeatedly in policy paragraphs B4, B5, D9, D26 and E9. He set out that they reduced the capacity at midnight by simply reducing the bookings and that shots would not be part of package/the offer in this Premises. He explained that the DJ would be playing a

wide range of music which was much more interesting than a tape on repeat. He advised that bottomless brunch would be on offer for 60-90 minutes however the Premises prided itself on quality and not quantity.

Mr Thomas outlined that the granting of this Premises would not add to cumulative impact because of the reduction of the hours at the beginning of the week and because there was no increase in capacity after core hours. He set out that there were 400 people actively participating in Clay Pigeon shooting at any one time as each turn takes 2-3 minutes so rotation was pretty constant. He emphasised that there would not be an increase in people drinking on the Premises compared to the existing Premises Licence.

Mr Thomas referred to the Police's submission about crime and disorder and set out that there was no increase in capacity after midnight when the increase in crime and disorder starts. He added that the Applicant had also agreed to a last entry condition. He advised that allowing a 01:00 hour finish time gave the Applicant flexibility within his business model. He concluded that this Premises would provide a broader experience for people visiting the West End and would form part of the solution to the issues within the West End.

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 CIP1, HRS1, COMB1 and CCSOS1.

In order to determine what policy the Premises came within it was important to establish how the Premises is to operate so the style, nature and character of the Premises were crucial factors in determining what policy was applicable. It was the Sub-Committee's considered view that Policy CCSOS1 was in line with the evidence presented and therefore the correct policy to apply. Mention was made of Policies PB1 and COMB1, however Policy PB1 was considered not to apply in its entirety, nor was Policy COMB1 either as the Premises, whilst a multi-functional premises with the emphasis being on live sport where the activity is being held within a building where the sport and audience are accommodated wholly within the Premises as required under Policy CCSOS1.

The Sub-Committee noted that under Policy CCSOS1 there is no policy requirement to show exceptional circumstances and the application should generally be granted provided the Applicant is able to demonstrate that the proposals will not add to cumulative impact in the West End CIZ.

The Sub-Committee had regard to paragraph C (3) on page 72 of the SLP which states:-

"For the purposes of this policy the primary function of a cinema, cultural venue and live sporting premises is defined as:-

3. **Live Sporting Premises: the premises or the use to which the licence is intended for**
 - a. ***Live sporting events in the form of boxing and wrestling which takes place either inside or outside in the presence of an audience.***
 - b. ***Live sporting events that are licensable as they are being held within a building where the sport and audience are accommodated wholly or partly inside that building.***

The Sub-Committee decided after hearing the evidence that the Premises fell within CCSOS1 and noted that there is no presumption to refuse an application of this type within the West End CIZ, provided this did not conflict with other policies covered under Paragraph B on page 72. Due to the Applicant scaling back the hours to core hours (with the exception that the terminal hour Thursday to Saturday was one hour later) this meant that the Applicant was not required to prove exceptional reasons but rather would the granting of the application lead to cumulative impact in the West End CIZ and therefore undermine the licensing objectives.

The Sub-Committee noted that Conditions had been agreed with the Responsible Authorities namely the MPS, EHS and the LA although each were asking for the Sub-Committee to consider Policy COMB1 as opposed to Policy CCSOS1.

The Sub-Committee noted the concerns of the Responsible Authorities but this was not an application which merited an outright refusal based on the evidence presented. The Application fell within core hours save for Thursday to Saturday and as such came within the HRS1 Policy which states that consideration will be given to those hours. Further, there was no obligation on the Applicant to prove exceptionality under Policy CCSOS1.

The Sub-Committee having carefully considered the matter and the evidence before it decided to **Grant** the Premises Licence with the licensable activities applied for and to core hours with the exception that Thursday to Saturday the terminal hour would be 01:00. The Sub-Committee considered that this was the right balance when considering the objections from the parties who had objected and 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 team used to running a similar venue in the City of London which was advised to not be a problematic venue 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 and SIA by way of security, log incident records, queues signage, a direct telephone number for the manager of the Premises, last entry time, restricting the Premises use so that provision of licensable activities shall be ancillary to the main function of the premises as a competitive socialising and virtual indoor clay target shooting venue, setting a capacity limit of 360 after Midnight, staff

training, Challenge 25, food to be made available in all parts of the Premises, service of alcohol by waiter/waitress service in all parts of the Premises other than the hatched pink areas, a works condition requiring the EHS to sign off the necessary works before licensable activities can commence 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 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 **Late Night Refreshment (Indoors)** Monday to Wednesday 23:00 to 00:00 Thursday to Saturday 23:00 to 01:00 Sunday N/A **Seasonal variations:** From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sundays immediately prior to a bank holiday: 10:00 to 01:00.
2. To Grant permission for the **Sale by Retail of Alcohol (On the Premises)** Monday to Wednesday 10:00 to 00:00 Thursday to Saturday 10:00 to 01:00 Sunday 12:00 to 22:30 **Seasonal variations:** From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sundays immediately prior to a bank holiday: 10:00 to 01:00.
3. To Grant permission for **Exhibition of Plays, Films, Live Music, Recorded Music, Indoor Sporting Events (Indoors)** Monday to Wednesday 10:00 to 00:00 Thursday to Saturday 10:00 to 01:00 Sunday 12:00 to 22:30. **Seasonal variations:** From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sundays immediately prior to a bank holiday: 10:00 to 01:00.
4. To Grant permission for **Anything of a similar description (Indoors)** Monday to Saturday 10:00 to 00:00 Sunday 10:00 to 22:30 **Seasonal variations:** From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sundays immediately prior to a bank holiday: 10:00 to 01:00.
5. To Grant permission for the **Opening Hours of the Premises** Monday to Wednesday: 10:00 to 00:30 Thursday to Saturday 10:00 to 01:30 Sunday 12:00 to 23:00 **Seasonal variations:** From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sundays immediately prior to a bank holiday: 10:00 to 01:00
6. That the Licence is subject to any relevant mandatory conditions.

7. That the conditions as specified below and numbered 8-46 are imposed on the premises licence which are considered appropriate and proportionate to promote the licensing objectives

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

8.
 - a. The provision of licensable activities shall be ancillary to the main function of the premises as a competitive socialising and virtual indoor clay target shooting venue.
 - b. A minimum of 10 competitive socialising areas must be open for public use whenever licensable activities are provided at the premises.
9. There shall be no new entry to the Premises by customers after 23:30 on Thursdays and after 00:00 on Fridays and Saturdays.
10. 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.
11. Save for the areas hatched pink on the premises plan the sale of alcohol shall only be by Waiter/Waitress service.
12. A challenge 25 proof of age scheme shall be operated at the premise 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.
13. There shall be no takeaway of hot food and hot drinks after 23:00 hours.
14. All external doors shall be kept closed after 23:00 hours except for the immediate access and egress of persons.
15. No fumes, steam or odours shall be emitted from the licenced premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
16. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
17. 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.
18. 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 preceding 31-day period.

19. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
20. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - a. All crimes reported to the venue;
 - b. All ejections of patrons;
 - c. Any complaints received concerning crime and disorder;
 - d. Any incidents of disorder;
 - e. All seizures of drugs or offensive weapons;
 - f. Any faults in the CCTV system, or scanning equipment;
 - g. Any refusal of sale of alcohol;
 - h. Any visit by a relevant authority or emergency service.
21. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of the local residents and businesses and leave the area quietly.
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.
23. During the hours of operation, 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.
24. No drinks shall be taken outside the premises.
25. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
26. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
27. 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.

28. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before collection times.
29. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day.
30. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 and 08.00 hours on the following day unless it is during Westminster City Councils collection times for the street.
31. No deliveries to the premises shall take place between 23:00 and 07:00 hours on the following day unless it is during Westminster City Councils collection times for the street.
32. There shall be no striptease or nudity and all persons shall be decently attired at all times unless the premises are operating under the provisions of a Sexual Entertainment Licence.
33. 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.
34. 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.
35. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
36. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
37. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
38. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
39. The premises licence holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day they start their employment.
40. The premises licence holder shall ensure that:

- (a) All licensed SIA door staff on duty at premises shall be equipped with Body Worn Video (BWV), capable of recording audio and video in any light condition as per the minimum requirements of the Westminster Police Licensing Team.
 - (b) All recordings shall be stored for a minimum period of 31 days with date and time stamping, and
 - (c) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
41. All management shall receive Welfare and Vulnerability Engagement (WAVE) training or similar by a qualified trainer, and once every 12 months thereafter. The date the training was provided and signed confirmation from the member of staff shall be recorded and made available for inspection by the Responsible Authorities upon request.
42. 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.
43. No licensable activities shall take 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, such capacity not to exceed 550 (excluding staff) at any time.
44. After midnight the maximum number of persons in the premises at any one time shall not exceed 360 (excluding staff).
45. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where there are minor changes to the premises layout during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
46. No licensable activities shall take place at the premises until premises licence 24/02963 (or such other number subsequently issued for the premises) has been surrendered and is incapable of resurrection.
47. 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.

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

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

2. **CRUNCHY FALAFEL, TROCADERO, 13 COVENTRY STREET, W1D 7DH**

WCC LICENSING SUB-COMMITTEE NO. 2
("The Committee")

Thursday 25 July 2024

Membership: Councillor Maggie Carman (Chair) Councillor Hamza Taouzzale
and Councillor Caroline Sargent

Officer Support: Legal Adviser: Horatio Chance
Policy Officer: Daisy Gadd
Committee Officer: Sarah Craddock
Presenting Officer: Sandra Robbie

Other Parties: Mr Youssef Zueiter (Applicant) and Ms Sarah Webb (Friend,
representing the Applicant)
PC Adam Deweltz (Metropolitan Police Service)
Mr Maxwell Koduah (Environmental Health)
Ms Karyn Abbott (The Licensing Authority)

Application for a New Premises Licence in respect of Crunchy Falafel
Trocadero 13 Coventry Street London W1D 7DH 24/01392/LIPN

FULL DECISION

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 Crunchy Falafel Trocadero 13 Coventry Street London W1D 7DH ("The Premises"). The Premises intends to operate as a kiosk shop used to sell sandwiches (some of which will be hot) and soft drinks in the St James's Ward.

A previous premises licence application was made in respect of the Premises which was refused by the Licensing Sub-Committee in January 2024. The Applicant does not do deliveries and does not sell or supply alcohol from the Premises. The Applicant initially applied for late night refreshment until 02:00 hours however during the consultation period this has now been reduced to Westminster's core hours.

There is a policy presumption to refuse an application of this type in the West End CIZ and so the onus is on the Applicant to state how the application will not add to cumulative impact.

There is a resident count of 26.

Premises

Crunchy Falafal
Trocadero
13 Coventry Street
London
W1D 7DH

Applicant

Mr Youssef Zueiter

Ward

West End

Cumulative Impact Area

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

Special Consideration Zone

N/A

Activities and Hours

Late Night Refreshment (Indoors) Monday to Thursday 23:00 to 23:30
Friday to Saturday 23:00 to 00:00 Sunday N/A

Seasonal variations: None

Opening Hours of the Premises

Monday to Sunday 11:00 to 02:00

Seasonal variations: None

Representations Received

- Metropolitan Police Service (MPS)
- Environmental Health Service (EHS)
- Licensing Authority (LA)

Summary of Representations Received:-

- *The proposed licensable activities are likely to undermine the Prevention of Crime and Disorder licensing objective. The premises is located at 13 Coventry Street, W1D 7DH, which is within the West End Cumulative Impact Zone ("CIZ"). The Police have concerns that a premises, which provides Late Night Refreshment until 02:00 hours every day of the week, will adversely impact the area. The crime levels within the CIZ are significant. Coventry Street, which runs between Leicester Square and Piccadilly Circus, is already saturated by late night premises, which bring crime and disorder to the area.*

- *The Police would like people dispersed from the area, however, 13 Coventry Street, would likely keep people remaining in the vicinity because hot food and drink is attractive. This can make revellers a target for robberies and assaults. General Anti-Social Behaviour could also increase. The police are already struggling to cope with the excessive crime levels within the West End. Furthermore, the applicant previously applied for Late Night Refreshment until 05:00, which was then reduced to 02:00. This application was refused by the Licensing Sub-Committee, as the applicant could not show they were an exception to the Policy. This new application is on similar terms.*
- *Westminster's Statement of Licensing Policy 2021 states under its Fast Food Premises Policy ("FFP1") section 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."
The Police request that that the licensing sub-committee take into account all the above points, and we respectfully ask that this application is refused.*
- *The provision of late-night refreshment may have the likely effect of causing an increase in Public Nuisance and may impact on Public Safety in the West End CIZ. The granting of this application as presented would have the likely effect of causing an increase in Public Nuisance and may also impact on Public Safety in the West End CIZ.*
- *The premises is located within the West End Cumulative Impact Area and as such various policy points must be considered, namely CIP1, HSR1 and FFP1.*
- *The applicant previously submitted an application for Late Night Refreshment until 5am this was subsequently reduced to 2am. The application was refused at Licensing Sub-Committee on the 11 January 2024 due to the applicant being unable to give the Committee any genuine, exceptional reasons why their discretion to be exercised to depart from the policy.*
- *The Decision from the Licensing Sub-Committee has been attached as Appendix A - LSC Full Decision.*
- *The Licensing Authority note that this application for Late Night Refreshment is on similar terms as the previous application however this still has very little detail in the operating schedule. Due to the nature of the premises being a Fast Food outlet the application falls within Westminster's FFP1 (b, c, d) Policy.*
- *The operating hours applied for Late Night refreshment falls outside of Westminster's core hours under Policy HRS1. The Licensing Authority encourages the applicant to reduce the hours to bring it in line with Westminster's Core hours. The Licensing Authority has concerns regarding this premises and encourages the applicant to provide further submissions on how this will be operated and controlled to have no adverse impact on the cumulative impact area.*
- *The Licensing Authority notes that the applicant has proposed some conditions to support their application, however, can you explain how having these conditions and the operation of the premises will not add to cumulative impact within in the West End cumulative impact zone, in accordance with policy CIP1.*

- The applicant must also demonstrate how they intend to manage any potential risks including where specific policies apply to the area and how the policy impacts on their application and what measures will be in place to mitigate the impact and must consider all factors which may be relevant to promote the licensing objectives.
- *The Licensing Authority would like the applicant to provide further submissions to the questions above to be able to assess any further relevant policy considerations.*
- *The Licensing Authority encourages the applicant to provide further submissions as to how the premises will not add to cumulative impact in the West End cumulative impact area, in accordance with policy CIP1.*
- *The Licensing Authority looks forward to receiving further submissions from the applicant in due course. Please accept this as a formal representation. The Licensing Authorities supporting document appears at Appendix 3.*

Policy Considerations

Policies CIP1, HRS1 and FFP1 apply under the City Council's Statement of Licensing Policy ("SLP").

Policy CIP1

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

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

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

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

Policy HRS1

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

B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:

1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.
2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.

3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.

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

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

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

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

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

9. The capacity of the premises.

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

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

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

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

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

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

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

Monday to Thursday: 10am to 11.30pm.

Friday and Saturday: 10am to Midnight.

Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday:

Midday to Midnight.

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

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

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

Policy FFP1 (B)

- B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:
1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1, and/or,
 2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.
- C. The applications referred to in Clause B1 and B2 will generally be granted subject to:
1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
 2. The operation of any delivery services for alcohol and/or late night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
 3. The application and operation of the venue continuing to meet the definition of a Fast Food Premises in Clause D.
- D. For the purposes of this policy a Fast Food Premises is defined as:
1. A premises that provides late night refreshment, either by way of fast food over a counter, via a self-seating basis or take away for immediate consumption.
 2. Food and drink are:
 - a. Available on the premises for self-selection.
 - b. Prepared on the premises.
 - c. Cooked or produced off the premises but brought to that premises in advance of its sale to customers.
 3. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption.
 4. A fast-food premises can provide a delivery service as part of its operation, however, that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.

SUBMISSIONS AND REASONS

Mrs Sandra Robbie, Presenting Officer, outlined the application to the Sub-Committee. She advised that representations had been received from the MPS, EHS and the LA. She confirmed that the Premises is located within the West End Ward and in the West End CIZ.

Ms Sarah Webb appearing on behalf of the Applicant outlined the application to the Sub-Committee. She advised that she was a sexual violence advocate for the LGBT community and had knowledge and experience of the West End area. She explained that the Applicant wished to serve the local community and the people already in the West End by providing them with food on their way home from their night out. She outlined that the Applicant would create a dispersal policy and would employ a security guard with a body camera to help successfully disperse people out of the area. She emphasised that there would be no more than a maximum of 10 people in the queue at any one time.

Ms Webb explained that the Premises was situated under quite a dark walkway which could be easily targeted by pickpockets, so having Crunchy Falafel open later at night would reduce this type of crime from happening as this would signify a

presence and activity. She advised that the Applicant had also asked the landlord to change the solid shutter of the front of the Premises to a glass one which would also enhance the vicinity and the walkway. She confirmed that the Premises was in a good location for foot traffic and people making their way home after a night out. She advised that the Premises had 24-hour CCTV and would be displaying the 'Ask for Angela' logo to indicate that they were a place of safety for vulnerable people.

Mr Youssef Zueiter for the Applicant advised that he had worked in Soho for 15 years and that the additional 30 minutes/one hour would help support the business because during the day the competition from other food establishments was fierce. He confirmed that he was in contact with the landlord to update the shutter in order to upgrade the Premises. He outlined that there was no actual cooking on the Premises and that food was heated up for customers. This took less than 3 minutes so customers were never kept around waiting so there was never a long queue. He advised that his staff, as well as himself, often cleaned the outside area to ensure that it remained clean and tidy and that he was committed to keeping the public safe.

Ms Webb advised that the additional 30 minutes/hour would enable the economic growth of the business which was important because of the loss of income suffered during the Covid-19 pandemic. She added that it also meant that the Applicant could provide permanent employment for his employees. She explained that the Premises' food offer was unique and therefore offered choice and diversity within the West End area. She requested that the Sub-Committee grant the application accordingly.

In response to questions from the Sub-Committee, Ms Webb and Mr Zueiter confirmed that they were applying to extend Late Night Refreshment in order to increase income and improve the business and actual Premises within the dark walkway.

PC Adam Deweltz appearing on behalf of the MPS addressed the Sub-Committee. He advised that the MPS had maintained their representation as the granting of this application would likely undermine the Prevention of Crime and Disorder licencing objective. He outlined that the Premises was located within the West End CIZ and the crime levels within the CIZ were significant. He added that Coventry Street which runs between Leicester Square and Piccadilly Circus was already saturated by late night Premises which was a hot spot generally for crime and disorder in the area.

PC Deweltz explained that hot food and drink were attractive to revellers and kept people within the CIZ longer than necessary which made them a potential target for robberies and assaults. He added that general anti-social behaviour would also increase with people queuing for food outside of these Premises and the MPS were already struggling to cope with the excessive crime levels within the West End area. He advised that he welcomed that the Applicant had brought the hours back and would employ a security guard with a body camera however the MPS were still opposed to the granting of this application. He added that if the Sub-Committee were minded granting the application the Police would want specific conditions regarding security staff, CCTV and a Dispersal Policy imposed on the Premises Licence.

In response to questions from the Sub-Committee, PC Deweltz advised that the photographs he had submitted were to highlight the dark walkway and the issues of homelessness in the area. He advised that there was no crime and disorder associated with the kiosk, however the MPS feared that the offer of hot food would bring additional people into the area that would otherwise not be there if the kiosk were closed.

In response to questions from the Sub-Committee, Mr Zueiter advised that after the Premises closed the security guard (SIA) would remain for 30 minutes to help disperse people away from the area. He confirmed that the SIA would be employed for three hours each evening which gave additional security to the area. He also confirmed that he was happy to keep an incident log. He added that he felt that the area would become a much safer place if the establishment were to remain open as it would deter crime and disorder due to the CCTV being in operation 24/7. He advised that he visited the Premises most days and sometimes actually worked in the kiosk. He emphasised that he wanted the Premises Licence to increase his income but also at the same time ensuring that he was promoting the licensing objectives and satisfying the concerns of the Responsible Authorities who objected to the application.

Ms Karyn Abbot appearing on behalf of the LA addressed the Sub-Committee. She advised that due to the nature of the Premises being a Fast-Food outlet the application falls within Policy FFP1 (b, c, d) of the City Councils SLP. She outlined that unfortunately the Premises was located in one of the worse areas of the West End for crime and disorder and emphasised how narrow the pavement was outside of the Premises. She considered that not everyone walked away to eat their takeaway food and that some would stand eating on the pavement which could lead to the blocking of the pavement. She added that there was also no means of escape for staff or customers if an incident occurred which was cause for concern for the Licensing Authority. She advised, therefore, that the Applicant needed to demonstrate how he intended to manage any potential risks and what measures would be put in place to mitigate the impact and promote the licensing objectives. She advised that the LA welcomed that the Applicant had brought the hours back however the LA still believed that the application should be refused.

Mr Maxwell Koduah appearing on behalf of the EHS addressed the Sub-Committee. He advised that the EHS had maintained their representation as the granting of the application would likely cause an increase in Public Nuisance and may impact Public Safety in the West End CIZ. He outlined that people queuing for hot food would cause obstruction and enhance the increase in public nuisance. He advised that signage should be displayed making people aware of the maximum number of people allowed to queue and that the security staff would need to be outside turning people away and helping with dispersal in the area. He advised that if the Sub-Committee were minded granting the application then Model Condition MC98 should be imposed on the Premises Licence.

Mr Koduah explained that even with the Premises open the area was still boxed off and there would still be a risk of people walking around the area and down the walkway. He outlined that the Applicant needed to have regard to the narrow width of the pavement and how he was going to prevent customers from spreading out across the pavement. He emphasised that the area was not very residential,

however, the concern was the possible obstruction to the flow in the area. He emphasised that it was for the Applicant to demonstrate that they would not increase the risk to public safety.

In response to further questions from the Sub-Committee, Mr Zueiter advised that he was happy to put up adequate signage and barriers to indicate the end of the queue. He confirmed that the security guard would play a major role in ensuring that there was only 10 people queuing at any one time and would prevent people standing around eating their food in the immediate vicinity. He emphasised that once people brought their takeaway food they would be encouraged to move on straight away. He advised that if ever there was an incident the staff would be safe as they could close the kiosk's window and lock the doors until the Police arrived.

Mr Zueiter advised that he did not currently have any security staff and there had never been any incidents. He considered that with the additional 30 minutes/hour depending on the day he would be able to serve an extra 20 customers. He emphasised how the Premises was going to promote community engagement and partnerships and help vulnerable people by giving out free water and helping them get home at night.

Mr Horatio Chance the Legal Advisor to the Sub-Committee went through the proposed and possible additional conditions with the Applicant and Responsible Authorities and agreed to the wording of conditions if the Sub-Committee were minded granting the application. These included a condition requiring that the Applicant was not to have takeaway deliveries from the Premises and a dispersal policy is to be implemented.

During his summing up, Mr Koduah advised that as the area outside of the Premises was public highway the Applicant would need to apply for the necessary permission to place a barrier on the pavement.

During his summing up, PC Deweltz advised that he believed that the application should be refused due to the excessive crime levels within this area.

During her summing up, Ms Webb confirmed that Mr Zueiter would not be selling alcohol and did not intend to provide delivery of takeaway food and was happy to accept a condition restricting the same.

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. It was not bound by the previous Decision of another Licensing Sub-Committee which heard the matter on the 11 January 2024 and had been produced as part of the Licensing Authority's evidence.

It does not automatically follow that just because an application was refused in the past that the same Decision would be arrived at as each application rests on differing facts and considerations.

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 CIP1, HRS1 and FFP1.

The Sub-Committee noted that there is a presumption to refuse an application of this type within the West End CIZ, however, because the licensable hours were scaled back to core hours this meant that the Applicant was not required to prove exceptional reasons but rather would the granting of the application lead to cumulative impact in the West End CIZ and therefore undermine the licensing objectives. There was no evidence to suggest that the Premises would be a problem operating until the later terminal hour despite the concerns raised by the Responsible Authorities.

The Sub-Committee noted that Conditions had been agreed with the Responsible Authorities namely the MPS, EHS and the LA although each of the Responsible Authorities were asking for refusal of the application.

The Sub-Committee noted the concerns of the RA's but this was not an application which merited an outright refusal based on the evidence presented. The Applicant had reduced late night refreshment to Westminster Core Hours and accordingly this came within the HRS1 Policy which states that consideration will be given to such hours. Further, there was no obligation on the Applicant to prove exceptionality but rather that the licensing objectives would not be undermined by taking steps to ensure the Premises was well managed at the later terminal hour.

The Sub-Committee was persuaded that the Applicant would be nothing other than a good and responsible operator that would help promote the licensing objectives. On this basis it decided that the additional hours applied for was justified given the assurances the Applicant has given and preventative measures by way of proposed conditions when it came to selling hot food late at night.

The Sub-Committee having carefully considered the matter and the evidence before it decided to **Grant** the Premises Licence with the licensable activities applied for and to core hours. The Sub-Committee considered that this was the right balance when considering the objections from all three Responsible Authorities and 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 given his extensive experience of operating premises in the West End, 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 and SIA by way of security, log incident records, queues signage, a direct telephone number for the manager of the Premises, 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 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 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 **Late Night Refreshment (Outdoors)** Monday to Thursday 23:00 to 23:30 Friday to Saturday 23:00 to 00:00 Sunday N/A **Seasonal variations:** None.
2. To Grant permission for the **Opening Hours of the Premises** Monday to Thursday 11:00 to 23:30 Friday to Saturday 11:00 to 00:00 Sunday N/A **Seasonal variations:** None.
3. That the Licence is subject to any relevant mandatory conditions.
4. That the conditions as specified below and numbered 5-18 are imposed on the premises licence 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. (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. 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.
6. A direct telephone number for the manager at 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.

7. The premises licence holder shall ensure that any queue which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
8. 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.
9. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) hours on the following day.
10. Bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.
11. 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.
12. The Premises Licence Holder will employ and station a licenced SIA door supervisor outside the premises wearing high visibility yellow jackets who will display a SIA Badge in yellow arm bands from 21:00 to 00:00 Friday to Saturday to ensure the safe dispersal of patrons on these days. The door supervisor will be equipped with radios and body worn video camera devices which will record sound and images. Such sounds and images will be available to the Police or any responsible authority throughout the preceding 31-day period. The SIA door supervisor shall undertake to complete a refresher course every 12 months.
13. A log shall be kept on the premises and made available on request to an authorised officer of the City Council or the Police and will record the following:
 - (a) Any complaints.
 - (b) All crimes reported to the venue. Such crimes to be reported to the Police without delay.
 - (c) All incidents and disorder.
14. The provision of hot food is for the purpose of a takeaway from the premises for consumption whilst the premises licence is held by the Premises Licence Holder.
15. Queuing outside the premises for takeaway food shall be permitted for a maximum of 10 customers with appropriate signage.
16. There shall be no glass bottles supplied with takeaway meals.

17. The premises licence holder shall use recyclable carton boxes and have a proper cleaning regime in place to reduce litter and rubbish.
18. There shall be no delivery of takeaway from the Premises.

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

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

3. **BOXCAR, 30-31 KENDAL STREET, W2 2AW**

WCC LICENSING SUB-COMMITTEE NO. 2 **("The Committee")**

Thursday 25 July 2024

_Membership: Councillor Maggie Carman (Chair) Councillor Hamza Taouzzale
and Councillor Caroline Sargent

Officer Support: Legal Advisor: Horatio Chance
Policy Officer: Daisy Gadd
Committee Officer: Sarah Craddock
Presenting Officer: Sandra Robbie

Other Parties: Ms Sarah Taylor (Agent, Keystone Law, Solicitor) and Mr Ankur
Wishart (Director, Applicant Company).

Mr Maxwell Koduah (Environmental Health - EH)

Mr Richard Brown, Westminster Citizens Advice Bureau Service,
representing SEBRA and HPEA
Mr J.Z (SEBRA) and Ms S.B (HPEA)

Application for a Variation of Premises Licence in respect of Boxcar 30-31 Kendal Street London W2 2AW 24/02544/LIPV

Full Decision

Summary of the Application

The Sub-Committee has determined an application for a Variation of Premises Licence under the Licensing Act 2003 ("The Act") in respect of Boxcar 30-31 Kendal Street London W2 2AW ("The Premises"). The Premises previously operated as a café but since the transfer of the Premises Licence Holder (PLH) the PLH proposes to operate as a baker and delicatessen in the Hyde Park Ward. The Premises Licence Holder ("PLH") is Boxcar Kendal St Ltd. The Designated Premises Supervisor is Blagovest Radkov Grozdanov.

The PLH seeks to vary the licence as follows:-

- (1) To vary the layout of the premises in accordance with the submitted plans to include:
 - *Adding existing outside demise to the Licensing Plan*
 - *Reconfiguring toilets*
 - *Reconfiguring servery counter*
 - *Reconfiguring kitchen/back of house*
 - *Adding banquette seating and other fixed furniture*

- (2) To vary the terminal hour for the sale of alcohol (on and off sales) Monday to Saturday 22:00 and Sunday 21:00
- (3) To vary the terminal hour for opening hours Monday to Saturday 22:30 and Sunday 21:30
- (4) To amend condition 15 of the Premises Licence to now read:

Save for when seated at tables, all sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
- (5) To remove condition 16 which states: Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
- (6) To remove condition 20 which states: No supply of draught beer.
- (7) To amend condition 24 to now read: The maximum number of persons permitted in the premises at any one time (excluding staff) shall not exceed:
Ground Floor 48 persons (excluding retail area)
Outside Seated Area 16 persons

The Premises had the benefit of a Premises Licence from January 2011 until June 2020 when the licence lapsed due to the insolvency of the licence holder. The Premises has since benefited from another Premises Licence (24/02538/LIPT) and this was granted by a Licensing Sub-Committee in November 2020.

There is a resident count of 187.

Premises

Boxcar
30-31 Kendal Street
London
W2 2AW

Premises Licence Holder

Boxcar Kendal St Ltd

Ward

Hyde Park

Cumulative Impact Area

N/A

Activities and Hours

As per the Premises Licence

Representations Received

- Environmental Health Service
- Councillor Karen Scarborough (Local Ward Councillor)
- South East Bayswater Residents Association (SEBRA).
- Hyde Park Estate Association (HEPA).
- Two Local residents (Against)
- Two Local residents (in support)

Summary of Representations Received

- *The proposed amendments may have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area. This will be discussed further with the PLH through a site visit.*
- *I welcome Boxcar. Anyone drinking alcohol should be inside or seated if outside. There should be no outside heating which is environmentally unsustainable. Staff should always keep all adjacent public/exterior areas tidy and clean up litter caused by their customers. I object to the later opening hours serving alcohol. I live very close by and this will be too noisy. This will be especially problematic in summer when our windows are more likely to have to be open. Well after closing time staff usually have to stay to clean up. Late at night staff have to empty/fill refuse bins which is loud. Especially bins full of glass bottles. Removing tables and chairs is also noisy.*
- *No delivery nor refuse collections vehicles should be allowed down Titchborne Row which is a dead end. The times of delivery/refuse vehicles should not be outside normal business hours. The previous tenants had a daily refuse vehicle that used Titchborne Row to access at sometimes 4am. They would then have to reverse - with warning alarm - out of Titchborne Row as it is a dead end. This was always very noisy. I object to cooking of smelly foods on the premises. Things like grilling meat or frying onions etc.*
- *There is inadequate extract as it is too close to residential windows. Colbeh restaurant nearby regularly sends smokey cooking fumes out which badly effects a large surrounding area. They don't properly clean their extracts. This is very unpleasant. I object to smoking hookah pipes at the premises. This should be strictly forbidden.*
- *I broadly support the opening of Boxcar but....Alcohol consumption - Anyone drinking alcohol should ideally be seated and not standing around outside; I object to the granting of a later hours license for alcohol as it will encourage persons to stay late, making a noise and possible mess in the street. Delivery of goods - I live in Titchborne Row. It is a small quiet street and is a dead-end. Vehicles are noisy reversing into this street as driving in straight does not enable the vehicle to easily exit. No goods/food etc should be delivered by this access route. Deliveries should be on Kendell Street. Refuse collection - also only on Kendall Street. Hours of opening - would prefer closure by 9pm latest.*
- *There are already two licensed premises Duke of Kendal, Kendal Kitchen in a residential area. With the potential for outdoor seating in the expanded*

Titchborne row/Connaught Street area this will create even greater noise for residents at all times of the day. Further Submissions received on 26 June 2024. My concerns remain. What was a cafe will now be a bar/cafe and based on the popularity of the similarly owned boxcar in Marylebone, be popular and add incrementally to the noise levels at key evening hours in what is principally a residential area, where we already have to suffer the noise and discarded bottles of the Duke of Kendal.

- **2 MAJOR CONCERNS :**

- **LATE LICENCE TO 1030 TO SERVE CUSTOMERS AND BUY ALCOHOL** - as an immediate neighbour am concerned here regarding late night noise and antisocial behaviour from customers arriving/departing very late into the evening which is obviously in addition to existing late night arrangements for the pub and other restaurant facilities in the immediate area.

- **COOKING OF MEAT PRODUCTS ON PREMISES** - due to poor/minimal extraction management facilities in current property we are very concerned about negative impact on the environment from meat cooking - already issues in this regard with other outlets in the area - particularly COLBEH and others - please advise on provision of robust extraction management capability to minimise, if not prevent environmental impact from cooking burgers, steaks and other meat products.

- *I am writing to object to the above variation as it will not promote the Licensing Objectives namely, Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and Prevention of Children from harm.*

- *Whilst this operator will be a welcome addition to The Hyde Park Estate I object to the removal of the following conditions:*

Condition 16, which states "Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables". As this will not promote the Licensing Objectives and permit vertical drinking

Condition 20 which states " No supply of draught beer" This will not promote the Licensing Objectives and encourage vertical drinking unless Condition 16 is retained. Further this is described as a Bakery/Deli so the requirement for draught beer seems to be out of character with this description.

Condition 24 which states "To amend condition 24 to now read:

The maximum number of persons permitted in the premises at any one time (excluding staff)

shall not exceed:

Ground Floor 48 persons (excluding retail area) - This needs to be determined by EH Outside Seated Area 16 persons: My understanding is that this may require a Pavement Licence.

Please can you confirm what the licence in the other Box Car in Wyndham Place has on the licence in relation to alcohol sales?

Also the I and SEBRA requested no draft beers but this is shown on the sample menu. Are they still intending to sell draft beer?

- *My concern re the sale of alcohol without food is that the licence runs with the premises so if this were to close it could be a drink led premises. Can you ask for clarification on the draft beer?*

I request that the committee consider my comments. Thank you for your consideration.

- *The premises are located in a short shopping street, adjacent to Connaught Street, both with commercial units, including retail shops, public house, cafes and restaurants, all occupying the ground floor and basement with residential*

units above, and the surrounding area is predominantly residential. We wish to ensure that residents are protected from any nuisance which may arise from the proposed changes. We note no condition offered that alcohol to ancillary to taking of substantial food or meals.

- We also note 'On and 'Off Sales' of alcohol have been applied for. SEBRA's position. We welcome the new business to the area and wish them all the success with this new restaurant. We note that the extended hours requested for sale of alcohol are within Westminster's Core Hours. We do not object to the variation of Premises Licence regarding reconfiguring of toilets, internal layout and adding banquette seating.
- We do have some concern over removal of existing Condition 20, to enable sale of draft beer and increase in the trading hours. We do have very strong objection to the request for the deletion of Condition No 16, as this would effectively allow vertical drinking in the outside area of the premises, especially as a residential area, with flats immediately above in Coniston Court, residential premises in the adjacent Titchborne Row and residential units opposite in Connaught Street. We note that there are a number of conditions on existing Premises Licence but consider more are required to protect residential amenity and to reflect the proposed changes to hours and style of operation.
- The additional conditions we require are below:
No Off Sales of beers, lagers or ciders of over 5.5%.APV.
Updated condition regarding no drinks to be taken outside the premises, except to seated customers.
On 'take away sales', challenge 25 condition and no 'off sales' of alcohol without food. Model Restaurant condition required for sale of alcohol.
Model conditions regarding odours and noise emanating from the premises into the residential units above or surrounding businesses and residential properties. No Off Sales of alcohol via a Third party, such as Deliveroo, without food and to be carried out in a responsible manner in accordance with policy DEL1.
- Model condition to control any queuing outside the premises, so as to not block the public highway. We are aware of course that applications can be amended, and as ever, SEBRA is very happy for our contact details to be passed on now to the applicant or their representative and welcome the opportunity to discuss the application with them.
- We reserve the right to make further representation in due course when we have heard back from the applicant or from the relevant authorities or seen any correspondence from any objectors.
- We trust that agreement can be reached with all parties so that a Licencing Hearing will not be necessary.
- I am writing on behalf of Hyde Park Estate Association (HPEA). Susie is currently out of the country and unable to send in the representation.
- She asked me if I could confirm on behalf of HPEA that they do object to this application as currently presented.
- The objection is based on the prevention of public nuisance. They endorse the content and reasons set out in SEBRA's objection below, and agree with the points made. Specifically, they agree that further conditions are required to ensure that the licensing objectives are promoted, as per SEBRA's objection. They also strongly object to the proposed change to condition 16,

as they are concerned that more and/or more drink-led activity outside the premises may be detrimental to local residents.

Policy Considerations

Policies HRS1, RNT1 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 meal.

SUBMISSIONS AND REASONS

Mrs Sandra Robbie, Presenting Officer, outlined the application to the Sub-Committee. She confirmed that the additional submissions from the PLH and the Interested Parties had been circulated to all parties and that the Premises is located within the Hyde Park Ward.

Ms Sarah Taylor Solicitor appearing on behalf of the PLH addressed the Sub-Committee outlined the application along with Mr Ankur Wishart (Director, Applicant Company) to the Committee. She confirmed that Mr Wishart was an experienced operator who would be frequently present at the Premises. She advised that there had been no representations made regarding the change of layout of the Premises and that the contention was to do with the modest increase in Sale of Retail of Alcohol and the amendments to some of the conditions already attached to the Premises Licence.

Ms Taylor explained that the PLH and the Interested Parties had managed to have further discussions during the morning and the PLH was now willing to offer further concessions to alleviate the resident's concern. She added that it was important to note that the Act advised that conditions attached to a Premises Licence should be proportionate to the operation of the Premises and that there should be no need to impose disproportionate and overly burdensome conditions on a Premises.

Ms Taylor advised that the PLH had listened to the Interested Parties and had agreed to amend conditions 15, 16, 20, 23 and 24 on the Premises Licence. Ms Taylor then went through each of the conditions outlining the amendments to be made to each of the conditions that had been agreed with the Interested Parties and which would alleviate the concerns of residents. She added that the amendments would particularly alleviate the concerns regarding public nuisance of deliveries and vertical drinking outside of the Premises. She confirmed that there would only be one draft beer available, however there would be two beer taps to ensure efficiency behind the counter. She further confirmed that there would be no smoking of shisha or hookah pipes at the Premises and this was a condition offered.

Ms Taylor explained that the only point of contention was the request for the removal of the restaurant condition that all alcohol must be sold ancillary to food which would be a decision for the Sub-Committee. She emphasised that the Premises had operated without a restaurant condition and had received no complaints for many years and there was no evidence to suggest that it needed this condition to be now imposed on its Premises Licence. She confirmed that the Premises was predominantly a café/bakery and there was no intention of turning it into a vertical drinking establishment. She added that in the future if the Premises Licence was transferred the new owners would need to apply for a variation to the Premises Licence for it to become a bar.

Ms Taylor advised that the PLH wished to have the flexibility to serve their customers alcohol without food and that the hours sought were within the Westminster's Core Hours Policy. She added that in addition there were no primary cooking facilities to provide substantial meals to customers as the Premises would be operated as a café and not a restaurant. She emphasised that it was commercially important that the Applicant have this flexibility in order for the café to succeed and that people who wished to stand drinking alcohol would go to the pub.

Ms Taylor advised that the PLH was happy to make his direct telephone number available to the community so residents could call him to discuss any issues arising such as noise nuisance from deliveries and customers inside the Premises. She added, however, it was unlikely noise nuisance would occur because the Premises was well managed. She emphasised that the Premises was not located in a cumulated impact area or a special consideration zone. She requested that the Sub-Committee grant the application accordingly with the agreed amendments to the conditions and without making alcohol ancillary to a table meal.

Mr Maxwell Koduah appearing on behalf of the EHS addressed the Sub-Committee. He advised that this was a low-risk type of operation and that the variation would only take effect once EH had visited and approved the new layout of the Premises. He considered that it was good practice to include the Council's Model Condition MC24 regarding providing a direct telephone number to residents. He advised that there had been no complaints regarding the operation of the Premises. He confirmed that EH had only maintained their representation to be of assistance to the Sub-Committee.

Mr Richard Brown, Westminster Citizens Advice Bureau Service, representing SEBRA and HPEA, emphasised that the representations were not objecting to the new operator and indeed residents warmly welcomed them to the area and wished them every success. However, he advised that it was about the detail contained in the conditions proposed to be amended or removed from the Premises Licence.

Mr Brown then referred to the proposed conditions and advised the Sub-Committee of the two points of contention that still remained which were the extension of hours and the removal of the restaurant condition from the Premises Licence. He advised that SEBRA and HPEA did not have any particular concern regarding the hours, in fact they were neutral on this point, as they were within the Council's Core Hours Policy, however, they were aware that the increase in hours were of concern for some residents. He then turned to the removal of the restaurant condition and considered that the full restaurant conditions would not be appropriate for this

Premises, however, SEBRA and HPEA would still like a condition that referred to food in some way so that the Premises could not become a bar.

Mr J.Z, representing SEBRA, advised that they welcomed the Premises to the area, however, it was important to get/keep the correct balance of commercial and residential properties. He requested that having some sort of food, say a sausage roll, being served with alcohol might just confirm that it was definitely a café/bakery. He advised that it was up to the Sub-Committee to decide during their decision making. He confirmed that he accepted 'off sales of alcohol' without food, the hours proposed for the tables and chairs outside of the Premises and the way deliveries to the Premises would be made due to the road layout in the area.

Ms S.B, representing HPEA, endorsed Mr J.Z submission and confirmed that she would like some sort of condition mentioning food being sold with alcohol.

Mr Horatio Chance, Legal Advisor to the Sub-Committee, asked Mr Brown to confirm whether he was requesting a condition on the Premises Licence that alcohol was ancillary to food. Mr Brown advised that ideally that would be consistent with the Interested Parties approach with other applications, however, he would leave the final decision for the Sub-Committee in light of all the proposed conditions to be attached to the Premises Licence.

Mr Chance requested that as there was many amendments, additions and deletions to the proposed conditions that the Sub-Committee adjourn temporarily so that a list of all the updated and agreed conditions to be attached to the Premises Licence could be agreed by all parties and then presented to the Sub-Committee for consideration.

The Sub-Committee adjourned for 20 minutes and was then presented with a list of agreed conditions to be attached to the Premises Licence. The Sub-Committee noted that the Interested Parties had agreed that a condition mentioning alcohol being ancillary to a table meal was not necessary due to a condition stating that 'the licensable activities authorised by this licence and provided at the Premises shall be ancillary to the main function of the Premises as a Bakery/Café so the Premises could not morph into a drink led premises.

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.

There is no policy presumption to refuse an application for a restaurant premises operating outside of the West End CIZ provided that the licensing objectives are not undermined.

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 Conditions had been agreed with the parties and welcomed that the PLH had engaged proactively with SEBRA and HPEA throughout the process which led to the agreement of those conditions.

The Sub-Committee having carefully considered the matter and the evidence before it decided to **Grant** the Variation of Premises Licence with the licensable activities applied for which were below core hours, the variation of certain conditions and change of layout for the Premises in accordance with the approved plans.

The Sub-Committee considered that this was the right balance when considering the objections from the parties who had objected and 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 PLH into the daily running of the Premises and the robust management practices the PLH was to employ, by an experienced team as well as the many offered conditions which would have the desired effect of promoting the licensing objectives.

The Sub-Committee was conscious that queuing could cause potential problems when it came to nuisance issues if not properly managed by the PLH and so would strongly encourage that any queues forming outside of the Premises shall include Tichbourne Row.

The Sub-Committee considers that the additional conditions it has imposed on the premises licence to include queue regulation, signage, a direct telephone number for the manager of the Premises, Challenge 25, the service of alcohol to the outside area is to be to seated customers only, the strength of alcohol is to be restricted on certain products to be no more than 5.5% ABV, the restriction also on only one draught beer to be sold, the capacity of the Premises to be capped, a works condition requiring the EHS to sign off the necessary works before licensable activities can commence and collections of waste to the Premises within permitted hours so as to prevent nuisance and the inclusion of Model Conditions (including the restaurant condition already imposed on the Premises Licence meaning that the Premises could not morph into a drink led venue) 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 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 to alter the layout of the premises in accordance with the submitted plans.

2. To grant permission to vary the terminal hour for the **Sale by Retail of Alcohol (On and Off the Premises)** Monday to Saturday 22:00 and Sunday 21:00.
3. To grant permission to vary the terminal hour for the **Opening Hours of the Premises** Monday to Saturday 22:30 and Sunday 21:30.
4. That Conditions 15, 16, 20, 23 and 24 on the premises licence are varied as specified below.
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 7-20 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. Alcohol consumed outside shall only be consumed by patrons seated at tables.
8. Only one brand of draught beer will be sold at the premises and there shall be a maximum of two taps.
9. There shall be no deliveries to the premises or rubbish collection or recycling materials (including bottles) from the premises between 20:00 and 08:00 on the following day Monday to Friday and between 20:00 and 09:00 on the following day on Saturday and Sunday.
10. The premises licence holder shall ensure that all companies delivering to, or collecting from, the premises will be told to ensure that their drivers do not access Tichborne Row.
11. 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.
12. There shall be no smoking of shisha or hookah pipes at the Premises.
13. 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 and cans.
14. 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.

15. 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.
16. The premises licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
17. 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.
18. No licensable activities shall take place at the premises until the licensing authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.
19. Save for when seated at tables 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 maximum number of persons permitted in the premises at any one time (excluding staff) shall not exceed:

Ground Floor 48 persons (excluding retail area)
Outside Seated Area 16 persons.

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

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

The Meeting ended at 3.09 pm