

**The Royal Borough of Kensington and Chelsea**  
**Decision of the Licensing Sub-Committee (“Committee”)**

**1 August 2024**

**Present at Hearing:-**

**Committee:** Councillor Janet Evans (Chair)  
Councillor Dori Schmetterling  
Councillor Linda Wade

**Officers:** Paul Phelan (Licensing)  
Lindsey Le Masurier (Legal)  
Holly Weaver (Governance)  
Jerome Treherne (Governance)  
Tommy Hanmer (Governance)

**Applicant:** Joe Harvey (Legal Adviser)  
William Wentworth  
Jeremy Biggin

**Objectors:** Henry Peterson (St Quintin and Woodlands  
Neighbourhood Forum and St Helens Residents’  
Association)

**The Volunteer Public House, 274 Latimer Road, London, W10 6QW**  
**(“the Premises”)**

The Committee has considered an application for a grant of a premises licence under the Licensing Act 2003 in respect of the above Premises.

The Committee has considered the committee papers and the submissions made by all of the parties, both orally and in writing.

In reaching its determination, the Committee has had regard to the relevant legislation, the Secretary of State’s Guidance (“Guidance”) and the Licensing Authority’s Statement of Licensing Policy (“SLP”).

**In summary, the Committee has determined**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives:-

1. To **grant** permission for the sale by retail of alcohol on the Premises:-

Sunday to Wednesday	from 10:00 to 23:00
Thursday to Saturday	from 10:00 to 23:30

2. To **grant** permission for the sale by retail of alcohol off the Premises:-

Sunday to Wednesday	from 10:00 to 23:00
Thursday to Saturday	from 10:00 to 23:30

3. To **grant** permission for the provision of late-night refreshment (indoors):-

Sunday to Wednesday	from 23:00 to 23:30
Thursday to Saturday	from 23:00 to 24:00

4. To **grant** permission for the opening hours of the Premises to be:-

Sunday to Wednesday	from 10:00 to 23:30
Thursday to Saturday	from 10:00 to 24:00

5. To **grant** permission for the following non-standard timings on New Years' Eve in relation to the below listed licensable activities:-

For the sale of alcohol on the Premises : from the end of the permitted hours on New Year's Eve to the start of permitted hours on New Year's Day

For the sale of alcohol off the Premises : from the end of the permitted hours on New Year's Eve to the start of permitted hours on New Year's Day

For the provision of Late-Night Refreshment – indoors : from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day

For the opening hours : from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day

6. The licence is subject to the following conditions **proposed by the Applicant** (some of which were amended by the Committee with the Applicant's agreement, namely):-

6.1 The Premises shall not be used under the terms of this licence until an acoustic report from an independent suitably qualified Acoustician has been submitted to the Director of Transport and Regulatory Services to assess whether any further acoustic works are necessary to protect residents living in neighbouring dwellings from noise and vibration associated with the operation of the Premises. The works required to be carried out to achieve compliance with the recommendations of that report shall be completed to the written satisfaction of the Council's Director of Transport and Regulatory Services and shall thereafter be maintained to the same standard.

6.2 The Premises shall not be used under the terms of this licence until a Dispersal and External Management Plan ('the Plan') has been submitted to the Royal Borough of Kensington and Chelsea's Environmental Health Department, Licensing Authority, and the Metropolitan Police for consultation. The Plan shall detail the procedures, management controls and practical steps, including all

measures to control any noise generated by patrons entering or leaving the Premises, smoking outside and keeping the private forecourt clean, which will be taken to ensure that public nuisance does not arise at any time when licensable activities are taking place on the Premises. The Premises Licence holder shall incorporate any recommendations of the Licensing Authority, Metropolitan Police and Environmental Health into the Plan. Once the revised Plan has been finalised, the Premises Licence holder shall implement and comply with the Plan at all times. A copy of the revised Plan shall be sent to the Licensing Authority, Metropolitan Police and Environmental Health within 5 working days of it being revised. Any further amendments to the Plan shall be submitted to the Licensing Authority within 28 days of the revision.

6.3 There shall be CCTV in operation at the Premises and:-

- a) a member of staff who has been nominated in writing and who is conversant with the operation of the CCTV system shall be on the Premises at all times when the Premises are open to the public.
- b) If the Premises are not open, and subject to the tests set out by virtue of the Data Protection Act, within 24 hours of a request for access to the CCTV system from either the Police or Licensing Authority, this member of staff must be able to show a Police, HMRC or authorised council officer recent data or footage with the absolute minimum of delay.
- c) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
- d) Recordings shall be made available immediately upon the request of a Police or Licensing officer throughout the preceding 31-day period.
- e) The CCTV system shall be maintained according to the current Home Office specification for premises of this type.
- f) Should the equipment become faulty the Metropolitan Police will be notified by email and all reasonable efforts made to have any fault rectified within 24 hours.
- g) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.

6.4 Appropriate signage shall be displayed, in a prominent position informing customers they are being recorded on CCTV.

6.5 A daily incident log (electronic or paper-based) shall be kept at the Premises for a period of at least 12 months from the date of last entry and made available on request to an authorised Council Officer, the Police, or the Fire Service. It must be completed within 24 hours of the incident and shall record the following:

- a) All crimes reported to the venue
- b) All ejections of patrons
- c) Any complaints received concerning noise or crime and disorder
- d) Any incidents of disorder
- e) Seizures of drugs or offensive weapons
- f) Any faults in the CCTV system
- g) Any refusal of the sale of alcohol (including the date and time of the refused sale and the name of the member of staff who refused the sale)
- h) Any visit by a relevant authority or emergency service

- i) Any customer welfare issues
- 6.6 All members of staff who are authorised to sell alcohol shall be properly trained in the legal requirements, crime scene management and restrictions to sell alcohol. A record shall be maintained and kept at the Premises detailing the name of each member of staff trained, the date training was provided, details of the person who provided the training, and an acknowledgment that staff have been so trained. The record shall be kept for a period of at least 12 months from the date of last entry and shall be available for inspection by authorised officers of the Licensing Authority and the Police at all times the Premises are open.
  - 6.7 The Premises shall operate a Challenge 25 proof of age scheme and staff shall be trained in respect of the policy. The only acceptable forms of identification are recognised photographic identification cards such as a photo style driving licence, passport, military ID, recognised national photographic ID card from Member States of the EU or proof of age card with the PASS Hologram.
  - 6.8 Posters shall be displayed in prominent positions around the Premises advising customers of the Challenge 25 policy in force at the Premises.
  - 6.9 The consumption of alcohol on the Premises shall cease, and the Premises shall close to patrons and all patrons shall be off the Premises no later than 30 minutes after the end of the permitted hours for the sale by retail of alcohol on the Premises.
  - 6.10 The Premises shall risk-assess the need for SIA-accredited security personnel on a quarterly basis (or sooner if necessary) and shall implement the recommendations of that risk assessment if it becomes apparent that SIA-accredited security personnel are required.
  - 6.11 No noise or vibration associated with the operation of plant at the Premises shall give rise to a nuisance to the occupiers of neighbouring properties.
  - 6.12 No smells generated from the cooking processes at the Premises shall give rise to a nuisance to the occupiers of neighbouring properties.
  - 6.13 No music or amplified sound shall be generated within the premises so as to give rise to a nuisance within neighbouring dwellings.
  - 6.14 The Premises shall display clearly legible signs at each exit from the Premises requesting customers to respect the needs of local residents and to leave the Premises and area quietly.
  - 6.15 The Premises Licence Holder shall provide and maintain a dedicated telephone number, which shall be displayed in the window of the Premises so that it is visible from the public highway, for the Designated Premises Supervisor or the duty manager for use by any person who may wish to make a complaint during the operation of the licence. The number shall be provided to the Licensing Authority and local residents' associations. Any change to the

number shall be notified to the Licensing Authority and to local residents' associations within 7 days of the change.

- 6.16 Rubbish, including bottles or cans, shall not be deposited outside the Premises and refuse collections and deliveries to the Premises shall not take place between 23:00 and 08:00 the following day.
  - 6.17 All external doors and windows shall be kept closed between 23:00 and 07:00 the following day and at all times after 21:00 during the performance of any live entertainment or the generation of loud music on the Premises (except for immediate access and egress).
  - 6.18 No food or drink shall be consumed in the private forecourt from 22:00 until the Premises open to the public the following day.
  - 6.19 The use of the private forecourt area shall cease at 22:00 and (except for smokers) it shall be kept clear of all customers between 22:00 and 10:00 the following day.
  - 6.20 All canopies covering the private forecourt area shall be removed/tied back between the hours of 22:00 and 07:00 the following day.
  - 6.21 All tables and chairs in the private forecourt shall be rendered unusable from 22:00 until the Premises open to the public the following day.
  - 6.22 Subject to a highways/pavement licence being granted, all tables and chairs placed on the highway on the Latimer Place elevation shall be removed from the highway/rendered unusable from 22:00 until the Premises open to the public the following day.
7. The licence is subject to the following conditions **imposed by the Committee** (some of which were agreed by the Applicant at the hearing), namely:-
- 7.1 Substantial food shall be available to customers until at least 22:00. Non-alcoholic beverages, including drinking water, shall be available to customers throughout the permitted hours for the sale of alcohol.
  - 7.2 The Premises Licence Holder/Designated Premises Supervisor shall organise and accommodate meetings at least once per calendar year (and at least 10 months apart) to discuss the operation of the Premises with the local ward councillors and the local residents' associations including the St Quintin and Woodlands Neighbourhood Forum (unless it is previously agreed in writing by the local ward councillors, local residents' associations and the St Quintin and Woodlands Neighbourhood Forum that a meeting is not necessary in any given period). The details of the proposed meeting shall be clearly displayed on a window or door visible to people outside the Premises and the Premises Licence Holder/Designated Premises Supervisor shall directly notify local ward councillors, local residents' associations and the St Quintin and Woodlands Neighbourhood Forum of the meeting date at least two weeks before the meeting. The Premises Licence Holder/Designated Premises Supervisor shall take the minutes of the meetings and they shall be circulated to the local ward

councillors, local residents' associations and St Quintin and Woodlands Neighbourhood Forum and to the Licensing Authority and copies shall be readily available at the Premises upon request.

8. The licence is subject to any other conditions in the Operating Schedule provided that they do not conflict with this document.
9. The licence is subject to any relevant mandatory conditions.

### **Preliminary Matters**

10. The Chair introduced the members, identified the parties attending and who wished to speak and outlined the procedure. The Chair confirmed that cross-examination would be permitted. No declarations of interests were made.
11. In addition to the main papers, the following additional papers were received:-
  - i. Additional submission from the Applicant<sup>1</sup>
  - ii. Additional submission from Henry Peterson on behalf of St Quintin and Woodlands Neighbourhood Forum<sup>2</sup>
  - iii. Additional submission from the Applicant<sup>3</sup>
12. The Application was made by Wentworth Anderson who attended the hearing and were represented by Mr Joe Harvey of Poppleston Allen. Mr William Wentworth and Mr Jeremy Biggin were also in attendance.
13. Mr Henry Peterson attended the hearing and spoke on behalf of St Quintin and Woodlands Neighbourhood Forum ('SQWNF') and St Helens Residents' Association.
14. Before the Licensing Officer introduced the application, the Legal Officer, Ms Le Masurier addressed the Parties regarding concerns that had been raised by the Parties in relation to the contents of the licensing committee report and the admissibility of Mr Peterson's additional submission. She explained that licensing reports did not contain a recommendation to the Committee and that the full representations were appended to the Main Pack (or, in relation to any additional submissions, such full additional submissions were circulated to the Parties). She advised the Parties that the Committee had read all of the full representations in any event.
15. She then explained the difference between the planning and the licensing regime and what matters the Committee could and could not take into account when determining this application. She also advised that the Planning Department, as a Responsible Authority in their own right, were entitled to submit a representation, but had not done so.

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<sup>1</sup> Circulated to the Parties on 18 July 2024

<sup>2</sup> Circulated to the Parties on 23 July 2024

<sup>3</sup> Circulated to the Parties on 29 July 2024

16. Lastly, she confirmed that the Committee were prepared to accept Mr Peterson's additional submission<sup>4</sup> but would only determine the application in accordance with the promotion of the licensing objectives (which meant disregarding any planning related concerns that would be considered separately under the planning regime) and the licensing legislative framework including the Guidance and the SLP.
17. The Licensing Officer, Mr Phelan, then introduced the application. He explained that the Premises had previously operated<sup>5</sup> from the ground and first floors as 'Ariadne's Nectar Bar'<sup>6</sup> under a different operator. That licence had been revoked on 19 August 2020 after a series of complaints and non-compliance with the licence conditions. An appeal was lodged against such revocation but was subsequently withdrawn on 5 April 2022 at which time the revocation took effect.
18. The current application<sup>7</sup> was for the grant of a new premises licence in relation to the basement, ground floor and forecourt area<sup>8</sup>. The Applicant was seeking to:-
- i. Sell alcohol on and off the Premises between the hours of 10:00 until 23:00 (Sunday to Wednesday) and 10:00 to 23:30 (Thursday to Saturday)
  - ii. Provide late-night refreshment (indoors) at the Premises between the hours of 23:00 to 23:30 (Sunday to Wednesday) and 23:00 to 24:00 (Thursday to Saturday)
  - iii. Opening hours from 10:00 to 23:30 (Sunday to Wednesday) and 10:00 to 24:00 (Thursday to Saturday)
  - iv. Non-standard timing for all of the above from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.
19. Mr Phelan explained that the Licensing Authority had received 3 representations opposing the application<sup>9</sup> and 1 representation supporting the application<sup>10</sup>. He added that there had been no relevant noise complaints made in relation to the Premises over the last 24 months (although the last complaint<sup>11</sup> dated 26 March 2022 related to the previous operator) prior to the revocation of the last premises licence. He also added that there had been no Temporary Event Notices submitted in the last 12 months (although the Committee were aware that the Premises had been closed since April 2022). There had not been a representation made by the Planning Department and an email had been received<sup>12</sup> confirming that no objection was raised.

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<sup>4</sup> As per paragraphs 9.9 and 9.37 of the Guidance

<sup>5</sup> See former premises licence at Appendix A

<sup>6</sup> Or 'Ariadne's Nektar Bar'

<sup>7</sup> See Appendices B and C

<sup>8</sup> No licensable activities were to take place in the basement. On sales of alcohol and late-night refreshment would take place inside the ground floor of the Premises. Off sales of alcohol would take place in relation to the forecourt area of the Premises.

<sup>9</sup> See Appendix D and additional submission

<sup>10</sup> See Appendix E

<sup>11</sup> See Appendix F

<sup>12</sup> See Appendix G

## **Submissions and Questions of the Applicant**

20. Mr Harvey confirmed that there had been no amendments to the application.
21. He advised that the Applicant had much experience working in the Council's area. He acknowledged that businesses and residents existed alongside one another "cheek to jowl" and that it was therefore important for an operator to be mindful of residents' concerns when opening a new business and for the 4 licensing objectives to be promoted.
22. He explained that the Premises had, until recently, been trading as a public house since the late 1800s. He recognised the serious distress that the previous operator had caused the residents which had resulted in 3 reviews of that premises licence and its ultimate revocation.
23. He confirmed that the Applicant had engaged in pre-application discussions with the Licensing and Environmental Health Departments who had apprised the Applicant of the recent turbulent history of the Premises. He added that the Applicant had also sought to engage with local residents and SQWNF.
24. He emphasised that the application, as submitted, comprised sensible hours and operations. The Premises would not be playing late night live or recorded music (they would restrict any such regulated entertainment to deregulated hours) and that the Premises would be closed by midnight (which accorded with the Council's Midnight Policy contained in its SLP<sup>13</sup>). He noted that a set of robust conditions had also been offered to address any concerns raised, especially potential noise.
25. He pointed out that the Applicant had invested large sums of money into renovating the Premises so that it would become a desirable place for customers and neighbours to visit.
26. Turning to one of the Objector's concerns that the Applicant was a developer rather than an experienced pub operator, he explained that the Applicant already had an established history of owning pubs as well as other commercial properties. The Applicant's intention was for the Premises to be a traditional London Victorian pub.
27. He mentioned that although the Asset of Community Value status was due to expire in October, the Applicant had already demonstrated their commitment to retain the Premises as a true asset to the community beyond that date.
28. Lastly, he reminded the Committee of the power to bring a review of a premises licence under the Licensing Act 2003. However, he did not anticipate this would be the case.

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<sup>13</sup> See paragraphs 8.9 to 8.12 of the SLP



29. In response to questions from the Committee, Mr Harvey/the Applicant advised that:-

- i. Once they had obtained a Premises Licence, they would continue with discussions to ascertain which preferred operator should be selected to operate the Premises under a long-term commercial lease. Such operator would be contractually obliged to comply with the terms of the Premises Licence.
- ii. The Designated Premises Supervisor (who was yet to be nominated) would need to have a personal licence.
- iii. The mural on the outside of the Premises was symbolic of the Applicant's intention to restore the Premises to a traditional pub.
- iv. The first floor was not included in this application (unlike the previous revoked licence) as the Applicant was mindful that any occupant of the first floor may be disturbed by activities emanating from the ground floor.
- v. The 2 upper floors were currently classified as being ancillary to the use of the Premises as a pub and, therefore, could still be used as lodgings.
- vi. Depending on trading viability, the Applicant may apply for a pavement licence to place tables and chairs along Latimer Place in the future.
- vii. There were 2 fire exits at the Premise which were marked "Exit" on the proposed Premises Plan<sup>14</sup>.
- viii. The acoustic report findings<sup>15</sup> were still being processed. This would establish the baseline for noise from plant such as kitchen extract.
- ix. Additional acoustic treatments had already been applied to the party wall with 276 Latimer Road as well as to the brick walls shared with the adjoining property at Latimer Place.
- x. The envisaged clientele was likely to be families, neighbours and passing tourists.
- xi. There would be a food offering (with the kitchen now being located in the basement). The type of food to be offered would depend upon the operator who took the lease of the Premises but the Applicant's intention would be that it would comprise as full a menu as possible rather than insubstantial food offerings.
- xii. Historically, refuse had been stored inside and outside the Premises with the use of a paladin bin in the forecourt area. The Applicant envisaged that this would be the same going forward with food waste being kept inside the Premises in the cooler cellar area (to reduce smells) and some waste being stored externally on the forecourt area in Eurobins.

30. In response to questions from the Legal Officer, Mr Harvey/the Applicant advised that:-

- i. Due to the limited size of the Premises, the operator was more likely to play background music rather than relying on the deregulated entertainment provisions. However, this would ultimately be down to the operator who ran the Premises.
- ii. They hoped to open the Premises around February 2025.

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<sup>14</sup> See Appendix C

<sup>15</sup> The measurements were taken on 26-29 July 2024

- iii. They had purchased the freehold of the entire building which was currently being registered by the Land Registry.

31. In response to questions from the Objector, Mr Harvey/the Applicant advised that:-

- i. Substantial food would be offered at the Premises.
- ii. The plans showed the inclusion of a kitchen in the basement.

### **Submissions and Questions of the Objector**

32. Mr Peterson then addressed the Committee and advised them that he was the Chairman of SQWNF (as well as having previously been the Monitoring Officer for the London Borough of Hammersmith and Fulham). He advised the Committee that an open meeting comprising 51 members had been recently held by SQWNF to discuss the application. All but one member had voted to submit an objection to the application requesting that it should be revised and resubmitted with further information such as planning permission and building control approval.

33. He referred to the Guidance which directed Licensing Authorities to consider each application on its own merits, that any decision must be evidence-based and to attach conditions that were tailored to the type of operation under consideration. He did not consider there to be enough information currently available to determine the application as it was somewhat 'thin' on detail.

34. He reminded the Committee that the use of the entire building at 274 Latimer Road was for use as a public house, that works had been undertaken within the basement and that the upper residential flats were currently being refurbished. He acknowledged that nothing had occurred to date to trigger any planning enforcement investigation. He also mentioned that the adjoining pavements were narrow.

35. He was keen to see what type of food the Premises would be offering as this would be indicative of the type of clientele who may attend the Premises.

36. He reminded the Committee that the representation from SQWNF was supported by 51 of its members.

37. Mr Peterson then went on to list SQWNF's following concerns:-

- i. Whether the proposed operator would reside at the Premises.
- ii. The omission of the first floor (which was previously used as a dining area under the revoked licence) from the licensable area and the relocation of the kitchen to the basement. He questioned why the first floor was being fitted out as a flat.

- iii. Use of the front forecourt area<sup>16</sup>. He noted that the previous operator had illegally erected a terrace building there which had been removed following enforcement action.
- iv. No Designated Premises Supervisor had been nominated as yet.
- v. The pavement along Latimer Place was very narrow.
- vi. A full set of plans had not been submitted showing the first and second floors.
- vii. It was unclear whether the basement area had been tanked.
- viii. Whether it was realistic to operate a kitchen from the basement.
- ix. The order that the works were being carried out.
- x. Midnight closing was too late.

38. Mr Peterson concluded by saying that the application was premature and that it should either be refused or deferred.

39. In response to questions from the Committee, Mr Peterson advised that:-

- i. Although he was now relieved to hear that there would be a food offering<sup>17</sup>, he stated that local residents had lost confidence in the Applicant and were very concerned that this was a prelude to the entire building being converted into residential use further down the line. It was at this point that Councillor Schmetterling observed that this did not appear to be what the Applicant was saying and that “fear of what may happen” could not be a reason to refuse the application.
- ii. It would be helpful if assurances were to be given that there would be better communication in future as residents felt as though they had been told different things at different times. Councillor Schmetterling said that issues could also be reported online to the Council so that they were officially documented.
- iii. In response to a question from the Chair as to whether SQWNF would prefer a well-run pub versus a closed down pub, Mr Peterson conceded that residents had to be careful what they wished for. However, he was concerned that the Applicant had not carried out satisfactory due diligence and had often sought retrospective permissions to regularise matters that fell outside the scope of their original plans.
- iv. SQWNF wanted the Premises to be a well-managed bistro type pub. They did have concerns that the pub may become a destination venue for students from Imperial College once the underpass beneath Latimer Road was completed. However, their main fear was that the Premises would not continue as a pub in the long term.

## Conditions Discussion

40. Following a 5-minute adjournment, the Committee reconvened to discuss potential conditions based on the draft condition list that had been circulated to the Parties<sup>18</sup>.

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<sup>16</sup> The Legal Officer noted that the forecourt area was private land and did not require a pavement licence to place tables and chairs there

<sup>17</sup> He originally thought it was to be a ‘wet only’ type of establishment until recently

<sup>18</sup> Circulated to the Parties on 31 July 2024

41. The following draft conditions were discussed and agreed:-

- i. Not operating under the terms of the Premises Licence until an acoustic report had been submitted to the Council and any works required to achieve compliance with such report to be completed to the written satisfaction of the Council and maintained thereafter.
- ii. Not operating under the terms of the Premises Licence until a Dispersal and External Management Plan ('Plan') had been submitted to the Council and the Police for comment. And for the Premises Licence Holder to incorporate any recommendations of the Council and the Police. Such Plan would cover procedures and controls such as measures to control noise from customers entering or leaving the Premises, smoking outside the Premises and keeping the external forecourt area clean.
- iii. CCTV and signage. There was some discussion as to the extent of coverage. Mr Peterson noted that there was no CCTV on Latimer Road now. The Applicant advised that it would cover the Premises and not the surrounding areas due to GDPR issues<sup>19</sup>.
- iv. Keeping a daily incident log.
- v. Risk assessing the need for SIA door staff on a quarterly basis (unless it became apparent that such assessment was required sooner).
- vi. Staff training.
- vii. No nuisance from noise or vibration associated with the operation of plant at the Premises.
- viii. No nuisance from smells generated from cooking processes at the Premises.
- ix. No nuisance from music or amplified sound generated within the Premises.
- x. Signage requesting customers to leave the area quietly.
- xi. Timings for depositing rubbish, refuse collections and deliveries to the Premises.
- xii. Maintaining a visible dedicated telephone number in the window.
- xiii. 30 minutes drinking up condition.
- xiv. Ceasing use of the front forecourt at 22:00 and, apart from smokers, keeping such area clear of all customers from 22:00 until 10:00 the next day. The Applicant advised that, at some point in the future, they may seek to enclosed the front forecourt with railings. They added that there would also be a retractable canopy over the entire forecourt.
- xv. No food or drink to be consumed in the front forecourt from 22:00 until the Premises opens to the public the next day.
- xvi. Keeping all external doors<sup>20</sup> and windows closed from 23:00 and 07:00 the following day and at all times after 21:00 during the performance of any live entertainment or loud music (except for immediate access and egress). It was noted that as the front forecourt area was covered by off-sales of alcohol (rather than on sales of alcohol), there would not be any amplified live music or recorded music played on the forecourt.
- xvii. Rendering all tables and chairs on the front forecourt unusable from 22:00 until the Premises opens to the public the next day.

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<sup>19</sup> General Data Protection Regulation (transposed into UK law by The Data Protection Act 2018)

<sup>20</sup> The Applicant advised that there was a total of 5 external doors in relation to the Premises and that the doors on the Latimer Place elevation would typically stay closed.

- xviii. Subject to a highways/pavement licence being granted, all tables and chairs on the Latimer Place elevation to be removed/rendered unusable from 22:00 until the Premises opens to the public the next day.
- xix. Forecourt canopies to be removed/tied back from 22:00 until 07:00 the next day.
- xx. Challenge 25 policy and signage.

42. In response to a question from the Legal Officer as to whether the Applicant would be restricting off-sales of alcohol to the front forecourt area or whether they would also be utilising such off-sales to allow customers to take alcohol away from the Premises and/or for the purposes of a delivery service, the Applicant advised that they needed flexibility and requested that off-sales not be confined to the front forecourt area only.

43. Some time was then spent discussing the condition proposed by the Legal Officer concerning the need for substantial food and non-alcoholic beverages, including drinking water, to be made available to customers throughout the permitted hours for the sale of alcohol. The Applicant noted that although they were seeking the provision of late-night refreshment (indoors)<sup>21</sup>, it was likely that the kitchen would close at 22:00 (especially on quieter nights). They were therefore concerned that such a condition would obligate them to provide 'substantial' food beyond 22:00. They envisaged that snacks would still be available from 22:00. Mr Peterson observed that the viability of the Premises as a "bistro family restaurant" may be affected if substantial food were not available after 22:00.

44. It was noted that the Applicant had not offered 'restaurant-type' conditions which would have meant that alcohol would need to be served with food to seated customers by waiter/waitress service. This was because such a condition would be at odds with the operation of a typical pub. Mr Biggin advised that in relation to the fixed furniture at the Premises, a maximum of up to 55 covers could be accommodated inside the Premises and a further 18 to 20 covers on the front forecourt area. Mr Peterson noted that the Applicant had chosen to not include the first floor as part of the licensable area, which would have allowed for more diners.

45. The Committee then suggested that a condition be added requiring the Premises Licence Holder to accommodate annual meetings with residents so that any issues could be openly discussed. This would be in addition to the ability of the residents to contact the Premises using the dedicated telephone number and the Council's online reporting service. The Applicant was agreeable to such a condition.

46. Councillor Wade then raised the issue of keeping the outside areas clean. She was concerned about litter as well as grease spillage. It was noted that the front forecourt fell within the demise of the Premises and the Applicant advised that it was in their interests to keep the area clean in any event. There was also some

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<sup>21</sup> Until 23:30 (Sunday to Wednesday) and 24:00 (Thursday to Saturday)

discussion as to where the bins would be sited externally. The Legal Officer suggested that issues such as sweeping could be managed via the Dispersal and External Management Plan.

### **Conclusions of the Committee**

47. In making its decision the Committee has taken into account all relevant sections of its SLP and the Guidance. The Committee considers the following paragraphs of the Guidance and its SLP are particularly important but it should be emphasised this is not an exhaustive list as the Committee has considered all relevant provisions of both documents. Relevant paragraphs are: 1.9, 1.11-1.12, 1.16-1.17, 1.19, 2.20-2.26, 8.41–8.44, 8.47-8.48, 9.3, 99, 9.37-9.38, 9.42-9.44, 10.10, 10.13-10.15, 13.10, 14.10, 14.12-14.13, 14.51-14.52 and 16.6 of the Guidance and paragraphs 2.1, 2.4, 2.7, 3.7-3.10, 5.2, 6.1- 6.3, 11.1-11.4, 12.4, 13.1-13.5, 14.1, and 14.5-14.6] of the SLP.
48. The Committee considered the merits of the application and the representations made by all of the Parties. The Committee noted that no representations had been made by any of the Responsible Authorities. However, 3 representations had been made objecting to the application (and 1 representation in support of the application).
49. The Committee were well aware of the troubled past associated with the Premises when it traded as Ariadne's Nectar Bar and sympathised with the objectors, who were understandably concerned as to the future operation of the Premises. However, the Applicant was a completely different operator and fear of what may happen was not a reason to refuse an application.
50. The Committee considered that the hours sought were modest and did not trigger the Council's midnight policy contained in its SLP. In relation to the sale of alcohol off the Premises, the Committee were not minded to restrict it to the private forecourt area as they did not consider this to be proportionate.
51. Unlike the previous revoked licence, the Applicant had not applied for regulated entertainment including the exhibition of film (indoors), performance of live music (indoors), performance of recorded music (indoors) or performance of dance (indoors). Instead, the Applicant had indicated that they would be either playing background music (which is not a licensable activity) or they may rely upon the deregulated provisions<sup>22</sup> which allowed for unamplified or amplified live music to be played between 08:00 and 23:00 on any day as well as the playing of recorded music between 08:00 and 23:00 on any day inside the Premises.
52. Whilst the Applicant would be entering into a separate contractual arrangement with an operator to run the Premises and, therefore, was not able to advise exactly what kind of food or entertainment would be on offer, the Applicant was agreeable to a multitude of conditions aimed at promoting the licensing objectives.

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<sup>22</sup> As a result of The Live Music Act 2012, the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 and The Legislative Reform (Entertainment Licensing) Order 2014

53. In terms of potential noise and vibration, the Applicant had agreed to a condition<sup>23</sup> whereby the Premises could not operate under the terms of the licence until an acoustic report had been submitted to the Council. The purpose of the report would be to ascertain whether any further acoustic works would be required to protect neighbours from noise and vibration associated with the Premises. The Applicant had already indicated that some works had already been carried out to the party walls with the adjoining properties. Any works required by the report must be carried out to the written satisfaction of the Council.
54. Likewise, the Applicant had agreed to a condition<sup>24</sup> whereby the Premises could not operate under the terms of the licence until a Plan had been submitted to Environmental Health, Licensing and the Police for consultation. Such Plan was to deal with dispersal from the Premises as well as external management issues including controlling noise from customers entering or leaving the Premises, smoking outside the Premises and keeping the private forecourt clean. Any recommendations made by the consultees are to be incorporated into the Plan.
55. As mentioned in paragraph 41 above, various other conditions were also agreed such as CCTV, signage, staff training, Challenge 25 policy, keeping a daily incident log and 30 minutes drinking up.
56. The Committee were agreeable to the Applicant risk assessing whether or not there was a need for SIA-accredited security staff. This would be done on a quarterly basis or sooner if needed.
57. Conditions were added<sup>25</sup> enabling dialogue to take place between the operators of the Premises and the local residents by way of a dedicated telephone number and annual residents' meetings. Any unresolved issues could be reported online to the Council via its website or ultimately be dealt with by way of a review of the Premises Licence.
58. In terms of noise escape, a condition<sup>26</sup> was agreed whereby all external doors and windows would be kept closed between 23:00 and 07:00 the next day and at all times after 21:00 during the performance of any live entertainment or the generation of loud music on the Premises.
59. Furthermore, conditions were added requiring use of the forecourt to cease at 22:00 and for it to be kept clear of customers (except smokers) from 22:00 until 10:00 the following day<sup>27</sup>. No food or drink could be consumed on the forecourt from 22:00<sup>28</sup> either and the canopies covering the forecourt would also be removed/tied back too after 22:00<sup>29</sup>.

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<sup>23</sup> Condition 6.1

<sup>24</sup> Condition 6.2

<sup>25</sup> See Conditions 6.15 and 7.2

<sup>26</sup> See Condition 6.17

<sup>27</sup> See Condition 6.19

<sup>28</sup> See Condition 6.18

<sup>29</sup> See Condition 6.20

60. Regarding tables and chairs on the private forecourt<sup>30</sup>, these were to be rendered unusable from 22:00 until the Premises opened the following day. And if the Applicant were to apply for a highways/pavement licence to place tables and chairs along Latimer Place then they too would need to be removed from the highway/rendered unusable by the same time<sup>31</sup>.
61. As regards the provision of substantial food and non-alcoholic beverages, the Committee were persuaded to require substantial food to be available until 22:00 each day (rather than until the end of permitted hours). However, they noted that other food would be available as an alternative after that time.
62. Regarding rubbish being deposited outside the Premises and refuse collections and deliveries to the Premises, a condition was added restricting such times to between 23:00 and 08:00 the following day<sup>32</sup>. The Committee noted that the Applicant would likely be storing food waste inside the Premises pending its collection, and for other rubbish to be deposited within a Eurobin located on the private forecourt area.
63. Overall, the Committee felt that the conditions attached to the Premises Licence were appropriate and proportionate as they addressed the concerns raised by the Parties.

This licence becomes operational once conditions 6.1 and 6.2 have been satisfied. If problems are experienced, then an application for a review of the Premises licence can be made.

This is the full reasoned Decision reached by the Licensing Sub-Committee. If the Parties are unhappy with the Decision, they can appeal to the Magistrates' Court within 21 days of the Decision being issued.

**Licensing Sub-Committee**  
**1 August 2024**

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<sup>30</sup> See Condition 6.21

<sup>31</sup> See Condition 6.22

<sup>32</sup> See Condition 6.16