



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (5)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** Committee held on **Thursday 4th May, 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

**Members Present:** Councillors Peter Freeman (Chairman), Karen Scarborough and Shamim Talukder

#### 1 MEMBERSHIP

There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 3 ART OF TAPAS, 16 CHURTON STREET, SW1

### LICENSING SUB-COMMITTEE No. 5

*Thursday 4<sup>th</sup> May 2017*

Membership: Councillor Peter Freeman (Chairman), Councillor Karen Scarborough and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Yolanda Wade

Relevant Representations: Environmental Health, , Councillor Nickie Aiken, The Churton and East Pimlico Society, The Churton & Charlwood Residents' Association, one commercial operator and eighteen local residents.

Present: Mr Francisco Campillo (Applicant), Ian Watson and Nicola Curtis (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing The Churton and East Pimlico Society and one local resident), Councillor Christabel Flight (Ward

Councillor on behalf of Councillor Aiken) and Mr Paul Monteiro (local resident and project manager for De-Vera Property Management).

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| <b>Art of Tapas, 16 Churton Street, London, SW1V 2LL<br/>17/02223/LIPV</b>   |   |
| <b>1. Conditions Being Varied, Added or Removed</b>  |   |
| <p><b>Current:</b></p> <p><b>Condition 15</b></p> <p>The premises shall only operate as a restaurant:</p> <p>(i) in which customers are shown to their table,</p> <p>(ii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,</p> <p>(iii) which do not provide any take away service of food or drink for immediate consumption, and</p> <p>(iv) where intoxicating liquor 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 intoxicating liquor by such persons is ancillary to taking such meals.</p> | <p><b>Proposed:</b></p> <p><b>Condition 15</b></p> <p>The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a Specialist Spanish Tapas food business.</p> <p>The supply of alcohol at the premises shall only be to:</p> <p>i) persons seated and ancillary to their substantial food.</p> <p>ii) to invited guests as part of pre booked private event restricted to once per calendar month.</p> |
| <p><b>Condition 17</b></p> <p>There shall be no draught sales of alcohol.</p>  | <p><b>Condition 17</b></p> <p>To be removed.</p>  |
| <p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised that Condition 35 proposed by Environmental Health should read 22:00 hours and not 23:00 hours.</p>  |   |

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|  | <p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Mr Francisco Campillo for a variation of a premises licence in respect of Art of Tapas, 16 Churton Street, London, SW1V 2LL.</p> <p>The Licensing Officer provided an outline of the application and informed the Sub-Committee that Condition 35 proposed by Environmental Health should read 22:00 hours and not 23:00 hours.</p> <p>All parties were invited to make representations to the Sub-Committee in relation to the application. The parties responded to members' questions and were given an opportunity to ask questions of each other.</p> <p>Mr Campillo explained that the Art of Tapas had been operating since September 2010 and had been licenced to sell alcohol for the last five years. Since the premises had been licenced no complaints had been received from local residents. The restaurant sold tapas and the application was requesting a relaxation of Condition 15 on the licence to allow the sale of alcohol with light meals and snacks. Mr Campillo stressed that the application was not seeking to turn the premises in to a bar and explained that a similar licence to the one requested had been already been granted to a Tapas bar located in Westminster. When a licence to sell alcohol at the premises was submitted five years ago similar representations to those submitted for this application had also been received from local residents. Despite this Mr Campillo stated that there was no record of any complaints ever being made against the premises. The capacity of the venue was thirty persons and the application was seeking to allow customers to be able to sit down, not necessarily at a table, and consume alcohol. It was also proposed to allow customers to stand and drink alcohol during the monthly private events requested.</p> <p>Mr Watson, representing Environmental Health (EH), was of the opinion that because Mr Campillo had submitted the application himself without any legal representation the application was slightly clumsy which could account for some of the confusion arising regarding the proposals. Mr Watson confirmed that he had visited the premises and was satisfied that the applicant only wanted to sell alcohol which was ancillary to food. The applicant however was currently unclear if tapas was regarded as a substantial meal. Mr Watson was of the opinion that the nature of the premises and the conditions proposed by EH would prevent the operation becoming a bar. The Sub-Committee noted that the Model Condition that was currently attached to the licence (condition 15 which the applicant was seeking to amend) ensured the premises would have to operate as a restaurant as defined in policy. The Sub-Committee was advised that it would have to decide if tapas did constitute substantial food as this was still a requirement of the amended condition. Mr Watson confirmed that the restaurant had no enforcement history but there was a lack of clarity regarding the proposals to hold private events.</p> |

Councillor Flight had not made her own representation but was allowed to speak on behalf of Councillor Aiken who was also a Ward Councillor. She stated that the changes requested to Conditions 15 and 17 would allow the premises to become a bar and therefore have a negative impact on the amenity of local residents. The premises had residential properties on three sides of it and there were also three pubs located in close proximity. The application would therefore increase the cumulative impact in the area and create public nuisance. The local area already suffered from street drinkers which the premises would exacerbate and it was regarded that the application would not uphold the licensing objectives. The Sub-Committee was therefore asked to refuse the application as there was not a need for further vertical drinking in the local area. For the record, the members of the Licensing Sub-Committee noted that the cumulative impact policy was not applicable in this case.

Mr Brown, from Westminster Citizens Advice Bureau, advised the Sub-Committee that substantial numbers of residents had expressed concerns over the application. Churton Place, located near to the premises, was a high-sided cul-de-sac and any noise arising from customers leaving the premises would be compounded in this area. It was recognised that it was difficult to define what a substantial table meal was as the Licensing legislation simply defined a table meal as a meal eaten at a table. The Sub-Committee was therefore requested to refuse the relaxation of condition 15 and removal of condition 17 as it would create a premises with the characteristics of a bar and would encourage the drinking of alcohol without food. More information on the proposed private events was required and it was suggested these events could be held using Temporary Events Notices rather than varying the licence. The local residents were pleased that model condition 66 was on the licence but the changes proposed would allow customers to drink more alcohol with less food which would have the likely effect of increasing noise and disturbance in the local area. Mr Brown also brought to the Sub-Committee's attention that a new premises plan had been submitted.

Mr Monteiro, a local resident, explained that he lived next door to the premises and the proposed relaxation to the conditions would attract a different clientele to the area resulting in an increase in public nuisance. The location was already very busy due to the nearby market and was proving to be dangerous to young families due to the number of people on the nearby pavements. Several issues arising from the premises had occurred recently including customers continuing to drink outside residential properties and the application would encourage even greater consumption of alcohol.

Mr Campillo explained that proposed private events would have the style of a canapé party where artists would display their work and invited guests would be able to stand and consume alcohol and food. The tables and chairs would be moved to the sides during these events and this explained the new plan which had been submitted. In response to a question Mr Campillo confirmed that most customers purchased approximately 2 to 3 plates of tapas each. The restaurant did not attract young people or those causing nuisance and doubt was expressed that any customers would continue drinking outside residential properties.

The Sub-Committee enquired what the food offer consisted of. Mr Campillo explained that the restaurant served Spanish food and specialised in ham. The application was not seeking to turn the restaurant into a bar and it was not proposed to sell any alcohol without food. The tapas plates varied in size and all customers would be seated, the variation would simply allow customers to also sit on a stool at a bar instead of just tables.

The Council's Legal Adviser asked Environmental Health if other tapas premises had the full restaurant conditions on their licences and if the proposed relaxation had also been applied to them? Mr Watson commented that on previous cases which had come before the Sub-Committee tapas had always been regarded as a substantial meal. Of the recent five previous applications heard by the Sub-Committee three had model condition 38 added, ensuring alcohol was ancillary to the sale of food and supplied to persons seated at a table. The other two had model condition 66 attached which constituted the full restaurant condition. No other conditions had been attached specifying that the restaurants had to operate in a particular style. The Legal Adviser queried that model condition 38 did not require substantial food and whether one plate of tapa (a single dish) would meet the requirement? Mr Watson explained this had always been a discussion and it was for the Sub-Committee's judgement.

In response to a question Mr Campillo advised that the private events would not continue late into the evening and would potentially finish at 22:00 hours.

Mr Brown addressed the Sub-Committee and advised that one plate of tapa did not constitute a substantial meal and the requested relaxation of condition 15 would be a significant watering down of model condition 66.

The Sub-Committee carefully considered the application and in particular the significant residential concern which had been expressed. It was recognised that the premises was not located in a Cumulative Impact Area and operated within the core hours policy. The premises was considered to be a restaurant and it was noted the applicant was proposing to offer a more café style operation and not that of a bar. Therefore it was considered appropriate to retain the existing condition 15 but to remove the word 'substantial' from this condition. This would still ensure that alcohol was ancillary to table meals and this would include tapa. It was very difficult to draft conditions that relaxed conditions in the way proposed without undermining the overall expectation of the licensing authority that the premises would remain food led and it was certainly not expected that the provision of just one small dish should become the standard arrangement at the premises. The expectation was that most customers would consume more than one small dish so that the overall impression was that the premises were operating as a genuine tapas restaurant rather than a bar. For this reason the condition proposed by Environmental Health was imposed so as to require the licensable activities (and especially the sale of alcohol) to be ancillary to the main function of the premises as a specialist Spanish delicatessen and tapas restaurant. Under no circumstances are the premises allowed to operate as a bar or similar type of drink led operation.

The premises had been licenced over the last five years during which time no complaints had been received. The Sub-Committee was of the opinion that the

conditions proposed by EH were very stringent, would prevent the premises becoming a drink led operation and ensure local residents were not subjected to any noise disturbance or nuisance. With regard to the private events it was recognised that these would be private, pre-booked events for guests to view works of art and these could actually have the potential of creating less impact on the local area. To provide reassurance that these events would not cause a disturbance to residents the Sub-Committee added a condition to the licence requiring only one event to take place each calendar month, a written record of each event be kept for inspection and the terminal hour for such events to be 22:00 hours. Even these events were expected to operate on the basis that the alcohol would be ancillary to the provision of the event itself. On that understanding, the Sub-Committee agreed to grant the variation to the licence as it was felt the nature of the operation, the strict conditions imposed and the previous good conduct of the applicant would all ensure the licensing objectives were upheld and promoted. The applicant was reminded that in operating the business the licensing objectives had to be upheld at all times and if the residents did have any concerns they had the option to instigate a review application.

The Sub-Committee agreed to amend the following conditions on the licence in order to update the licence accordingly:

- A condition be added to the licence to read “The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a Specialist Spanish Delicatessen and Tapas restaurant. “
- Condition 15 be amended to read: “The premises shall only operate as a restaurant (i) in which customers are shown to their table, (ii) which provide food in the form of table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery, (iii) which do not provide any take away service of food or drink for immediate consumption, and (iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals.”
- A condition be added to the licence to read “Notwithstanding Condition 15 The supply of alcohol at the premises shall also be permitted to invited guests of pre-booked private events until 22:00 hours restricted to one event per calendar month and the permanent written record for all such events shall be kept permanently at the premises and shall be produced to the Police or Local Authority Inspectors on request.”
- Condition 17 be amended to read “A Maximum of two types of draught beers shall be sold at the premises.”
- A condition be added to the licence to read “The maximum number of persons permitted in the premises at any one time (excluding staff) shall

not exceed 30 persons.”

- A condition be added to the licence to read “A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premise is open.”
- A condition be added to the licence to read “An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.”
- A condition be added to the licence to read “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.”
- A condition be added to the licence to read “All windows and external doors shall be kept closed after 22:00 hours except for the immediate access and egress of persons.”

### **Conditions attached to the Licence**

#### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—  
  
(a) games or other activities which require or encourage, or are designed to require

or encourage, individuals to;

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;



- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above –

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -  $P = D + (D \times V)$

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that subparagraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from

the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**Conditions Attached After a Hearing by the Licensing Authority**

9. Management shall participate in pubwatch meetings.

10. Management shall provide telephone numbers of local taxi companies at all times.

11. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. 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. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

12. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premise is open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.

13. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.

14. The supply of alcohol shall be by waiter or waitress service only.

15. The premises shall only operate as a restaurant (i) in which customers are shown to their table, (ii) which provide food in the form of table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery, (iii) which do not provide any take away service of food or drink for immediate consumption, and (iv) where alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

16. Notwithstanding Condition 15 the supply of alcohol at the premises shall also be permitted to invited guests of pre-booked private events until 22:00 hours restricted to one event per calendar month and the permanent written record for all such events shall be kept permanently at the premises and shall be produced to the Police or Local Authority Inspectors on request.

17. 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.

18. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a Specialist Spanish Delicatessen and Tapas restaurant.

19. A Maximum of two types of draught beers shall be sold at the premises.

20. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

21. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.

22. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.

23. No drinks shall be consumed outside the premises nor glasses/bottles removed from the premises by patrons when leaving, save for persons seated at tables.

24. No alcohol shall be consumed more than 30 minutes after the permitted hour for the supply of alcohol.

25. No deliveries shall be made to the premises between 23:00 and 08:00 hours.

26. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

27. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.

28. The pavement from the building line to the kerb edge immediately outside the premises, including gutter / channel at its junction with the kerb edge, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.

29. A challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.

30. All outside tables and chairs shall be rendered unusable before 09:00 hours and after 22.00 hours each day.

31. The maximum number of persons permitted in the premises at any one time (excluding staff) shall not exceed 30 persons.

32. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premise

is open.

33. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.

34. 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.

35. All windows and external doors shall be kept closed after 22:00 hours except for the immediate access and egress of persons

**4 IRAN RESTAURANT, 27 SHEPHERD MARKET, W1**

The item was deferred to a future Sub-Committee meeting.

**5 THE BORDERLINE, ORANGE YARD, MANETTE STREET, W1**

**LICENSING SUB-COMMITTEE No. 5**

*Thursday 4<sup>th</sup> May 2017*

Membership: Councillor Peter Freeman (Chairman), Councillor Karen Scarborough and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Yolanda Wade

Relevant Representations: Environmental Health, The Metropolitan Police, The Licensing Authority and The Soho Society

Present: Mr David Lucas (Solicitor, Representing the Applicant), Ms Julie Tippins and Mr Joe Sargeant (Applicants), Mr Ian Watson and Ms Nicola Curtis (Environmental Health), PC Toby Janes (Metropolitan Police) and Mr David Sycamore (Licensing Authority).

**The Borderline, Orange Yard, Manette Street, London, W1D 4AR  
16/14083/LIPV**

**1. Performance of Live Music – Indoors**

Current

Proposed

Monday to Wednesday: 09:00 – 03:00    Monday to Wednesday: 09:00 – 03:00

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|  | <p>Thursday to Saturday: 09:00 to 06:00<br/>Sunday: 09:00 to 23:00</p> <p><b>Licensable Area</b></p> <p><u>Current</u></p> <p>Plan attached at Appendix 1 of the report.</p> <p><b>Seasonal Variations/Non-Standard Timings:</b></p> <p><u>Current</u></p> <p>Conditions attached at Appendix 4.</p>  | <p>Thursday to Saturday: 09:00 to 06:00<br/>Sunday: 09:00 to 02:00</p> <p><u>Proposed</u></p> <p>Proposed new plan attached at Appendix 1 of the report.</p> <p><u>Proposed</u></p> <p>An additional hour to the standard and non-standard times of the day when British Summer Time Commences.</p> <p>From the standard start time on 31 December to the standard start time on 1 January.</p> |
|  | <p>Amendments to application advised at hearing:</p> <p>None</p>  |   |
|  | <p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by DHP Family Ltd for a variation of a premises licence in respect of the The Borderline, Orange Yard, Manette Street, London, W1D 4AR.</p> <p>The Licensing Officer provided an outline of the application to the Sub-Committee.</p> <p>All parties were invited to make representations to the Sub-Committee in relation to the application. The parties responded to members' questions and were given an opportunity to ask questions of each other.</p> <p>Mr Lucas, representing the applicant, clarified that the proposed amendment to the layout of the premises had already been approved and dealt with by way of a minor variation. As such the amendment described in the report would not form part of the application before the Sub-Committee. Mr Lucas explained that the request to change several of the conditions on the licence had been made as the licence was old and the conditions attached had simply been converted under the Licensing Act 2003 and this provided an opportunity to modernise some of them. It was proposed to delete conditions 10-36 and replace them with those conditions circulated before the hearing. The new conditions were substantially more restrictive and more appropriate for the premises. The other major aspect</p> |   |

of the application was to extend the hours for licensable activities on Sunday evenings to 02:00 hours on the following day. It was a well-established premises with a reputation for dancing, music and entertainment. It was a landmark destination and the current hours already permitted for Monday to Saturday were well beyond the core hours policy. On Sundays the premises currently closed at 23:00 and it was proposed to extend this to 02:30. Mr Lucas recognised that concerns had been raised over the application and to help address these the following amendments to the conditions were proposed:

- Removal of off sales from the licence;
- Recorded music was currently unrestricted, new conditions would introduce specific hours when it could be played;
- The hours for licensable activities on a Thursday would be reduced by one hour (including the terminal hour for closing);
- The striptease provision currently on the licence would be removed; and
- The condition requiring food to be available at the premises would be removed as it was an entertainment venue not a dining venue. Currently there was a microwave in use which could provide a basic food offer.

Mr Lucas highlighted how the applicants were very experienced in operating late night venues which provided licensable entertainment late on Sundays in residential areas and Cumulative Impact Areas (CIA). The applicants were aware of the issues in such areas and had experience of what was required in addressing the needs of such areas. As such no issues had arisen in the other venues the applicants operated. The Borderline was on the border of the CIA and only a small number of residential properties were in its vicinity. Since the venue had been in operation there had been no reported issues arising with local residents. There was one entrance to the premises and any customers queuing or standing outside the premises to smoke would be located on Orange Yard which was not a residential area. Taxis picked customers up from outside the venue to help with dispersal and there were extensive public transport links located close by. Therefore dispersal of customers was not an issue Monday to Saturday and wouldn't be an issue on Sundays. There was no history of customers causing any nuisance when entering the premises, management contact numbers of the premises were available to residents and constructive discussions had been held with the responsible authorities to address any concerns raised. Environmental Health had requested a noise limiter condition be added to the licence but it was felt this was not required as the premises was located in the basement of the property and it was proposed to add model conditions 13 and 14 to the licence ensuring there were no loudspeakers located in the lobby or outside the building and all doors were closed at certain times. It was considered that this would be sufficient to ensure the premises created no noise nuisance. Mr Lucas confirmed that Orange Yard would be the specified location with regards to model conditions 64 and 67 proposed to be attached to the licence.

PC Janes, representing the Metropolitan Police, confirmed that their representation was maintained. The hours sought on a Sunday were beyond the hours specified on the core hours policy, it was located in a CIA and customers leaving the premises at 02:00 hours would have an impact on the local area,

particularly on a Sunday when Police resources were reduced. If the Sub-Committee was minded to grant the application it was suggested that a condition be added to the licence specifying a last entry time for entry to the premises on Sundays.

Ms Curtis, representing Environmental Health, confirmed that their representation was maintained. The late hours requested on Sundays had the potential to increase public nuisance and would represent an intensification of use. The application was also seeking to remove the condition requiring substantial refreshment to be available which had the potential to establish it as a drink led premises. Ms Curtis confirmed that no complaints or enforcement action had been taken against the premises and it was agreed the proposed condition to install a noise limiter was no longer appropriate.

Mr Sycamore, representing the Licensing Authority, explained that the application was seeking to allow 300 extra people to remain in a CIA beyond the core hours on a Sunday; this represented a substantial increase in the premises impact on the local area. The Sub-Committee was advised that Section 2.3.3 of the Council's Licensing Policy did acknowledge that residents could expect additional respite on Sundays. The Sub-Committee was also advised that if the application was granted the licence could, in future, be transferred to another operator who could operate the venue in a completely different, and unknown, manner.

The Sub-Committee was interested to know if the applicant had any evidence the extension in hours would not add to the cumulative impact in the area. Ms Tippins explained that they would be immediately notified of any noise issues arising from customers entering or leaving the premises and would take actions as necessary. They also worked closely with taxi companies to help with the dispersal of customers. Alcohol was not served fifteen minutes before the premises closed and all the staff were fully trained in helping customers leave the premises quietly. People attending events at the Borderline did not do so purely for alcohol but because of the live music or DJ offer available. The recent change to the layout provided more booth seating for customers resulting in a more sedate atmosphere than was operated under the previous owners.

The Sub-Committee carefully considered the different aspects of the application and the evidence submitted by all parties. The Sub-Committee decided to refuse the proposal of the application requesting the extension of hours on a Sunday. The Sub-Committee was of the opinion that Sundays were to be considered different to other days of the week and this was reflected in the Council's Licensing Policy. The Policy position was clear in stating that an applicant always had to demonstrate that an application in the CIA would not add to cumulative impact and it was considered that the burden was particularly onerous on a Sunday night. The members of the Licensing Sub-Committee did not think that the applicants had demonstrated that the application would not add to cumulative impact, especially as the premises would essentially continue to operate as a late night music and dancing establishment. It was considered that no evidence had been provided that customers leaving the premises would immediately leave the CIA and that meant that there was the potential for an increase in public nuisance and crime and disorder within that area. The fact remained that the

sale and consumption of alcohol until the early hours of the morning would be a major concern and that was especially so during the later hours on a Sunday evening and the early hours on Monday morning which were not comparable with a Friday or Saturday night.

Having refused that aspect of the application, the members of the Licensing Sub-Committee decided that it was not appropriate to accept the further concession made by the applicants regarding the reduction in hours on a Thursday night which was clearly made in contemplation of the additional hours being granted on a Sunday night.

With regards to the second aspect of the application it was agreed to amend the conditions on the licence in order to modernise them and make them more appropriate for the premises. Conditions proposed by the applicant and the responsible authorities were accepted and the Sub-Committee felt this would remove some of the old restrictions on the licence and ensure the licensing objectives were upheld. However, in making those amendments the Licensing Sub-Committee wanted to be sure that permission was not being granted to operate the premises as a late night pub or bar. The sale and consumption of alcohol would still have to be ancillary to the principal use of the premises for music and dancing. Whilst there would not be any requirement for the consumption of alcohol to be ancillary to a table meal or any food at all, it was nevertheless considered that the premise should ensure the provision of substantial food for those that wanted it. The Sub-Committee therefore agreed to delete condition 10 – 36 on the licence and replace them with the following conditions in order to update the licence accordingly:

- Authorisation in respect of the sale of alcohol for consumption off the premises be removed.
- The addition of Model Condition 44 to the licence.
- The following condition be added to the licence “The sale of alcohol at the premises must be ancillary to the use of the premises for music and dancing.”
- The following condition be added to the licence “On any evening where the premises are open for music, dance or entertainment, alcohol may not be sold or supplied to persons admitted to the premises after 11pm other than to:-
  - (a) Persons attending a live music event and either i) paid an admission fee or ii) presented a ticket on the door;
  - (b) Persons who have paid a minimum annual admission fee of at least £150 payable in advance (not to be credited against consumables). A list of all persons who have paid an annual admission fee will be held for inspection by the relevant authority or
  - (c) Any person attending a private function at the premises, details of the type of function and host having been provided to Police at least 24 hours previously; or
  - (d) Artistes or person employed on the premises; or
  - (e) Bona fide guests of the proprietor to a maximum of 30 persons, a list of whom shall be kept at reception for inspection by appropriate



authorities.

- The following condition be retained on the licence “If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):-
  - (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
  - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
  - (c) to take all other reasonable precautions for the safety of the children.”
- The following condition be retained on the licence “The number of persons accommodated at any one time (excluding staff) shall not exceed 300 in the basement.”
- The following modified condition be added to the licence (essentially model condition 49) “An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:-
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received regarding crime disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system, searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.”
- The addition of Model Condition 83 to the licence (extending the hours on New Year’s Eve).
- The addition of Model Condition 84 to the licence (extending the hours for British summer time).
- The following condition be added to the licence “There will be no entry or re-entry permitted to the premises after 03:00 hours except for customers permitted to temporarily leave the premises to smoke.”
- The addition of Model Condition 01 to the licence.
- The addition of Model Condition 02 to the licence.
- The addition of Model Condition 12 to the licence.
- The addition of Model Condition 13 to the licence.
- Model Condition 14 be added to the licence to read “All external doors shall be kept closed after 22:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.”
- The addition of Model Condition 21 to the licence.
- The addition of Model Condition 22 to the licence.
- The addition of Model Condition 23 to the licence.

- The addition of Model Condition 24 to the licence.
- The addition of Model Condition 25 to the licence.
- The addition of Model Condition 26 to the licence.
- Model Condition 35 be added to the licence to read “No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.”
- The addition of Model Condition 41 to the licence so as to also require the provision of substantial food should it be required by customers.
- The addition of Model Condition 42 to the licence.
- The addition of Model Condition 45 to the licence.
- The addition of Model Condition 47 to the licence.
- The addition of Model Condition 51 to the licence.
- The addition of Model Condition 52 to the licence.
- The addition of Model Condition 57 to the licence.
- The addition of Model Condition 60 to the licence.
- Model Condition 64 be added to the licence to read “Queuing outside the premises shall be restricted to a designated area located at Orange Yard.”
- Model Condition 65 be added to the licence to read “No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.”
- Model Condition 67 be added to the licence to read “Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as Orange Yard.”
- The addition of Model Condition 68 to the licence.
- A modified version of Model Condition 71 be added to the licence to read “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.”
- The addition of Model Condition 26 to the licence (to control any queue that might form outside the premises).
- The addition of Model Condition 72 to the licence.
- The addition of Model Condition 73 to the licence.
- The addition of Model Condition 74 to the licence.
- The addition of Model Condition 75 to the licence.
- The addition of Model Condition 76 to the licence.
- The addition of Model Condition 77 to the licence.
- The addition of Model Condition 78 to the licence.
- The addition of Model Condition 79 to the licence.
- The addition of Model Condition 80 to the licence.
- The following condition be added to the licence “On the occasions when a live music event takes place at the premises prior to 23:00 hours, a minimum of 2 Security Industry Authority registered door supervisors shall be on duty at the premises until the end of the event.”
- The following condition be added to the licence “A minimum of 3 Security Industry Authority registered door supervisors shall be on duty when the premises are open to the public after 23:00 hours until close.”
- The following condition be added to the licence “

|  |   |                |                 |                        |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |  |
|--|---|----------------|-----------------|------------------------|--|------------------------|--|----------------|-----------------|--|---|--|--|----------------|-----------------|------------------------------------|--|--|--|
|  | <p>a) All drinking vessels used in the venue shall be polycarbonate. All drinks in glass bottles are to be decanted into polycarbonate containers or polycarbonate carafes prior to being served, with the exception of champagne or bottles of spirits with a minimum size of 70cl supplied by waiter/waitress service to tables. Staff shall clear all empty champagne and spirit bottles promptly from the tables. Customers shall not be permitted to leave their table carrying any such glass bottles or drink directly from the bottle.</p> <p>b) Notwithstanding a) above, with the written agreement of the Westminster Licensing Police, a copy of which will be held at the premises reception, glass drinking vessels may be used for private or pre-booked events.</p>   |                |                 |                        |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |  |
| <p><b>2. Recorded Music – Indoors</b></p>        | <table border="0"> <tr> <td data-bbox="263 741 375 779"><u>Current</u></td> <td data-bbox="839 741 979 779"><u>Proposed</u></td> </tr> <tr> <td data-bbox="263 815 577 853">Currently Unrestricted</td> <td data-bbox="839 815 1390 925">Monday to Wednesday: 09:00 – 03:00<br/>Thursday to Saturday: 09:00 to 06:00<br/>Sunday: 09:00 to 02:00</td> </tr> <tr> <td colspan="2" data-bbox="263 963 512 1001"><b>Licensable Area</b></td> </tr> <tr> <td data-bbox="263 1037 375 1075"><u>Current</u></td> <td data-bbox="839 1037 979 1075"><u>Proposed</u></td> </tr> <tr> <td data-bbox="263 1111 756 1182">Plan attached at Appendix 1 of the report.</td> <td data-bbox="839 1111 1287 1182">Proposed new plan attached at Appendix 1 of the report.</td> </tr> <tr> <td colspan="2" data-bbox="248 1256 919 1294"><b>Seasonal Variations/Non-Standard Timings:</b></td> </tr> <tr> <td data-bbox="263 1330 375 1368"><u>Current</u></td> <td data-bbox="839 1330 979 1368"><u>Proposed</u></td> </tr> <tr> <td data-bbox="263 1404 762 1442">Conditions attached at Appendix 4.</td> <td data-bbox="839 1404 1329 1547">An additional hour to the standard and non-standard times of the day when British Summer Time Commences.</td> </tr> <tr> <td></td> <td data-bbox="839 1585 1353 1695">From the standard start time on 31 December to the standard start time on 1 January.</td> </tr> </table> | <u>Current</u> | <u>Proposed</u> | Currently Unrestricted | Monday to Wednesday: 09:00 – 03:00<br>Thursday to Saturday: 09:00 to 06:00<br>Sunday: 09:00 to 02:00 | <b>Licensable Area</b> |  | <u>Current</u> | <u>Proposed</u> | Plan attached at Appendix 1 of the report. | Proposed new plan attached at Appendix 1 of the report. | <b>Seasonal Variations/Non-Standard Timings:</b> |  | <u>Current</u> | <u>Proposed</u> | Conditions attached at Appendix 4. | An additional hour to the standard and non-standard times of the day when British Summer Time Commences. |  | From the standard start time on 31 December to the standard start time on 1 January. |
| <u>Current</u>                                   | <u>Proposed</u>   |                |                 |                        |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |  |
| Currently Unrestricted                           | Monday to Wednesday: 09:00 – 03:00<br>Thursday to Saturday: 09:00 to 06:00<br>Sunday: 09:00 to 02:00  |                |                 |                        |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |  |
| <b>Licensable Area</b>                           |   |                |                 |                        |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |  |
| <u>Current</u>                                   | <u>Proposed</u>   |                |                 |                        |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |  |
| Plan attached at Appendix 1 of the report.       | Proposed new plan attached at Appendix 1 of the report.   |                |                 |                        |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |  |
| <b>Seasonal Variations/Non-Standard Timings:</b> |   |                |                 |                        |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |  |
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|  | <p>Amendments to application advised at hearing:</p> <p>None</p>  |                |                 |                        |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |  |
|  | <p>Decision (including reasons if different from those set out in report):</p> <p>The application was part granted, the reason for the decision is detailed in section 1.</p>   |                |                 |                        |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |  |

|  |  |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |
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|  |  |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |
| <p><b>3.</b></p>   | <p><b>Performance of Dance - Indoors</b></p> <table border="0"> <tr> <td style="text-align: center;"><u>Current</u></td> <td style="text-align: center;"><u>Proposed</u></td> </tr> <tr> <td>Monday to Wednesday: 09:00 – 03:00<br/>Thursday to Saturday: 09:00 to 06:00<br/>Sunday: 09:00 to 23:00</td> <td>Monday to Wednesday: 09:00 – 03:00<br/>Thursday to Saturday: 09:00 to 06:00<br/>Sunday: 09:00 to 02:00</td> </tr> <tr> <td colspan="2"><b>Licensable Area</b></td> </tr> <tr> <td style="text-align: center;"><u>Current</u></td> <td style="text-align: center;"><u>Proposed</u></td> </tr> <tr> <td>Plan attached at Appendix 1 of the report.</td> <td>Proposed new plan attached at Appendix 1 of the report.</td> </tr> <tr> <td colspan="2"><b>Seasonal Variations/Non-Standard Timings:</b></td> </tr> <tr> <td style="text-align: center;"><u>Current</u></td> <td style="text-align: center;"><u>Proposed</u></td> </tr> <tr> <td>Conditions attached at Appendix 4.</td> <td>An additional hour to the standard and non-standard times of the day when British Summer Time Commences.<br/><br/>From the standard start time on 31 December to the standard start time on 1 January.</td> </tr> </table> | <u>Current</u> | <u>Proposed</u> | Monday to Wednesday: 09:00 – 03:00<br>Thursday to Saturday: 09:00 to 06:00<br>Sunday: 09:00 to 23:00 | Monday to Wednesday: 09:00 – 03:00<br>Thursday to Saturday: 09:00 to 06:00<br>Sunday: 09:00 to 02:00 | <b>Licensable Area</b> |  | <u>Current</u> | <u>Proposed</u> | Plan attached at Appendix 1 of the report. | Proposed new plan attached at Appendix 1 of the report. | <b>Seasonal Variations/Non-Standard Timings:</b> |  | <u>Current</u> | <u>Proposed</u> | Conditions attached at Appendix 4. | An additional hour to the standard and non-standard times of the day when British Summer Time Commences.<br><br>From the standard start time on 31 December to the standard start time on 1 January. |
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|  | <p>Amendments to application advised at hearing:</p> <p>None</p>   |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |
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| <p><b>4.</b></p>   | <p><b>Anything of a Similar Description – Indoors</b></p> <table border="0"> <tr> <td style="text-align: center;"><u>Current</u></td> <td style="text-align: center;"><u>Proposed</u></td> </tr> <tr> <td>Monday to Wednesday: 09:00 – 03:00<br/>Thursday to Saturday: 09:00 to 06:00<br/>Sunday: 09:00 to 23:00</td> <td>Monday to Wednesday: 09:00 – 03:00<br/>Thursday to Saturday: 09:00 to 06:00<br/>Sunday: 09:00 to 02:00</td> </tr> <tr> <td colspan="2"><b>Licensable Area</b></td> </tr> <tr> <td style="text-align: center;"><u>Current</u></td> <td style="text-align: center;"><u>Proposed</u></td> </tr> </table>  | <u>Current</u> | <u>Proposed</u> | Monday to Wednesday: 09:00 – 03:00<br>Thursday to Saturday: 09:00 to 06:00<br>Sunday: 09:00 to 23:00 | Monday to Wednesday: 09:00 – 03:00<br>Thursday to Saturday: 09:00 to 06:00<br>Sunday: 09:00 to 02:00 | <b>Licensable Area</b> |  | <u>Current</u> | <u>Proposed</u> |  |   |  |  |                |                 |                                    |  |
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| <b>Licensable Area</b>   |  |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |
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|  | <p>Amendments to application advised at hearing:</p> <p>None</p>  |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |                                    |
|  | <p>Decision (including reasons if different from those set out in report):</p> <p>The application was part granted, the reason for the decision is detailed in section 1.</p>   |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |                                    |
| 5.   | <p><b>Late Night Refreshment – Indoors</b></p> <table border="0"> <tr> <td data-bbox="261 1189 798 1225"><u>Current</u></td> <td data-bbox="836 1189 1418 1225"><u>Proposed</u></td> </tr> <tr> <td data-bbox="261 1265 798 1332">Monday to Wednesday: 23:00 – 03:30<br/>Thursday to Saturday: 23:00 to 05:00</td> <td data-bbox="836 1265 1418 1368">Monday to Wednesday: 23:00 – 03:30<br/>Thursday to Saturday: 23:00 to 05:00<br/>Sunday: 23:00 to 02:00</td> </tr> <tr> <td colspan="2" data-bbox="261 1373 1418 1408"><b>Licensable Area</b></td> </tr> <tr> <td data-bbox="261 1449 798 1485"><u>Current</u></td> <td data-bbox="836 1480 1418 1516"><u>Proposed</u></td> </tr> <tr> <td data-bbox="261 1525 798 1592">Plan attached at Appendix 1 of the report.</td> <td data-bbox="836 1556 1418 1624">Proposed new plan attached at Appendix 1 of the report.</td> </tr> <tr> <td colspan="2" data-bbox="261 1664 1418 1700"><b>Seasonal Variations/Non-Standard Timings:</b></td> </tr> <tr> <td data-bbox="261 1740 798 1776"><u>Current</u></td> <td data-bbox="836 1740 1418 1776"><u>Proposed</u></td> </tr> <tr> <td data-bbox="261 1816 798 1852">Conditions attached at Appendix 4.</td> <td data-bbox="836 1816 1418 1955">An additional hour to the standard and non-standard times of the day when British Summer Time Commences.</td> </tr> <tr> <td></td> <td data-bbox="836 1995 1418 2031">From the standard start time on 31</td> </tr> </table> | <u>Current</u> | <u>Proposed</u> | Monday to Wednesday: 23:00 – 03:30<br>Thursday to Saturday: 23:00 to 05:00 | Monday to Wednesday: 23:00 – 03:30<br>Thursday to Saturday: 23:00 to 05:00<br>Sunday: 23:00 to 02:00     | <b>Licensable Area</b> |  | <u>Current</u> | <u>Proposed</u> | Plan attached at Appendix 1 of the report. | Proposed new plan attached at Appendix 1 of the report. | <b>Seasonal Variations/Non-Standard Timings:</b> |  | <u>Current</u> | <u>Proposed</u> | Conditions attached at Appendix 4. | An additional hour to the standard and non-standard times of the day when British Summer Time Commences. |  | From the standard start time on 31 |
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| Monday to Wednesday: 23:00 – 03:30<br>Thursday to Saturday: 23:00 to 05:00 | Monday to Wednesday: 23:00 – 03:30<br>Thursday to Saturday: 23:00 to 05:00<br>Sunday: 23:00 to 02:00  |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |                                    |
| <b>Licensable Area</b>   |   |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |                                    |
| <u>Current</u>   | <u>Proposed</u>   |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |                                    |
| Plan attached at Appendix 1 of the report.                                 | Proposed new plan attached at Appendix 1 of the report.   |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |                                    |
| <b>Seasonal Variations/Non-Standard Timings:</b>                           |   |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |                                    |
| <u>Current</u>   | <u>Proposed</u>   |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |                                    |
| Conditions attached at Appendix 4.   | An additional hour to the standard and non-standard times of the day when British Summer Time Commences.  |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |                                    |
|  | From the standard start time on 31  |                |                 |  |  |                        |  |                |                 |  |   |  |  |                |                 |                                    |  |  |                                    |

|  |  |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |
|--|--|----------------|-----------------|--|--|----------------|-----------------|--|---|----------------|-----------------|------------------------------------|--|
|  | December to the standard start time on 1 January.  |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |
|  | Amendments to application advised at hearing:<br><br>None  |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |
|  | Decision (including reasons if different from those set out in report):<br><br>The application was part granted, the reason for the decision is detailed in section 1.   |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |
| <b>6.</b>  | <p><b>Sale of Retail by Alcohol – On and Off Sales</b></p> <table border="0"> <tr> <td style="text-align: center;"><u>Current</u></td> <td style="text-align: center;"><u>Proposed</u></td> </tr> <tr> <td>Monday to Wednesday: 10:00 – 03:00<br/>Thursday to Saturday: 10:00 to 04:00<br/>Sunday: 12:00 to 22:30</td> <td>Monday to Wednesday: 10:00 – 03:00<br/>Thursday to Saturday: 10:00 to 04:00<br/>Sunday: 10:00 to 02:00</td> </tr> </table> <p><b>Licensable Area</b></p> <table border="0"> <tr> <td style="text-align: center;"><u>Current</u></td> <td style="text-align: center;"><u>Proposed</u></td> </tr> <tr> <td>Plan attached at Appendix 1 of the report.</td> <td>Proposed new plan attached at Appendix 1 of the report.</td> </tr> </table> <p><b>Seasonal Variations/Non-Standard Timings:</b></p> <table border="0"> <tr> <td style="text-align: center;"><u>Current</u></td> <td style="text-align: center;"><u>Proposed</u></td> </tr> <tr> <td>Conditions attached at Appendix 4.</td> <td>An additional hour to the standard and non-standard times of the day when British Summer Time Commences.<br/><br/>From the standard start time on 31 December to the standard start time on 1 January.</td> </tr> </table> | <u>Current</u> | <u>Proposed</u> | Monday to Wednesday: 10:00 – 03:00<br>Thursday to Saturday: 10:00 to 04:00<br>Sunday: 12:00 to 22:30 | Monday to Wednesday: 10:00 – 03:00<br>Thursday to Saturday: 10:00 to 04:00<br>Sunday: 10:00 to 02:00 | <u>Current</u> | <u>Proposed</u> | Plan attached at Appendix 1 of the report. | Proposed new plan attached at Appendix 1 of the report. | <u>Current</u> | <u>Proposed</u> | Conditions attached at Appendix 4. | An additional hour to the standard and non-standard times of the day when British Summer Time Commences.<br><br>From the standard start time on 31 December to the standard start time on 1 January. |
| <u>Current</u>   | <u>Proposed</u>  |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |
| Monday to Wednesday: 10:00 – 03:00<br>Thursday to Saturday: 10:00 to 04:00<br>Sunday: 12:00 to 22:30 | Monday to Wednesday: 10:00 – 03:00<br>Thursday to Saturday: 10:00 to 04:00<br>Sunday: 10:00 to 02:00   |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |
| <u>Current</u>   | <u>Proposed</u>  |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |
| Plan attached at Appendix 1 of the report.   | Proposed new plan attached at Appendix 1 of the report.  |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |
| <u>Current</u>   | <u>Proposed</u>  |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |
| Conditions attached at Appendix 4.   | An additional hour to the standard and non-standard times of the day when British Summer Time Commences.<br><br>From the standard start time on 31 December to the standard start time on 1 January.   |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |
|  | Amendments to application advised at hearing:<br><br>None  |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |
|  | Decision (including reasons if different from those set out in report):<br><br>The application was part granted, the reason for the decision is detailed in section 1.   |                |                 |  |  |                |                 |  |   |                |                 |                                    |  |

|   |   |   |   |
|---|---|---|---|
| 7.  | <p><b>Hours Premises are Open to the Public</b></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><u>Current</u></p> <p>Monday to Wednesday: 09:00 – 03:30<br/>Thursday to Saturday: 09:00 to 06:00<br/>Sunday: 09:00 to 23:00</p> <p><b>Licensable Area</b></p> <p><u>Current</u></p> <p>Plan attached at Appendix 1 of the report.</p> <p><b>Seasonal Variations/Non-Standard Timings:</b></p> <p><u>Current</u></p> <p>Conditions attached at Appendix 4.</p> </td> <td style="width: 50%; vertical-align: top;"> <p><u>Proposed</u></p> <p>Monday to Wednesday: 09:00 – 03:30<br/>Thursday to Saturday: 09:00 to 06:00<br/>Sunday: 09:00 to 02:30</p> <p><u>Proposed</u></p> <p>Proposed new plan attached at Appendix 1 of the report.</p> <p><u>Proposed</u></p> <p>An additional 30 minutes after the non-standard finishing timings for the licensable activities.</p> </td> </tr> </table> | <p><u>Current</u></p> <p>Monday to Wednesday: 09:00 – 03:30<br/>Thursday to Saturday: 09:00 to 06:00<br/>Sunday: 09:00 to 23:00</p> <p><b>Licensable Area</b></p> <p><u>Current</u></p> <p>Plan attached at Appendix 1 of the report.</p> <p><b>Seasonal Variations/Non-Standard Timings:</b></p> <p><u>Current</u></p> <p>Conditions attached at Appendix 4.</p> | <p><u>Proposed</u></p> <p>Monday to Wednesday: 09:00 – 03:30<br/>Thursday to Saturday: 09:00 to 06:00<br/>Sunday: 09:00 to 02:30</p> <p><u>Proposed</u></p> <p>Proposed new plan attached at Appendix 1 of the report.</p> <p><u>Proposed</u></p> <p>An additional 30 minutes after the non-standard finishing timings for the licensable activities.</p> |
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|   | <p>Amendments to application advised at hearing:</p> <p>None</p>  |   |   |
|   | <p>Decision (including reasons if different from those set out in report):</p> <p>The application was part granted, the reason for the decision is detailed in section 1.</p>   |   |   |
|   | <p><b>Layout Alteration</b></p> <p>To amend the layout of the premises as shown on the plan ref: 110 rev B.</p> <p>The changes include relocation of the bar server. Additional toilet provisions and amendments to the raised stage area.</p>  |   |   |
|   | <p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised that the proposed change to the layout of the premises had already been agreed under a minor variation.</p>   |   |   |
|   | <p>Decision (including reasons if different from those set out in report):</p> <p>This part of the application did not have to be considered by the Licensing Sub-Committee as it had already been granted by way of a minor variation.</p>   |   |   |

|           |  |
|-----------|--|
| <b>8.</b> | <b>Conditions Being Varied, Added or Removed</b>   |
|           | To remove conditions 10 to 36 inclusive.   |
|           | Amendments to application advised at hearing:<br><br>None  |
|           | Decision (including reasons if different from those set out in report):<br><br>The application was part granted, the reason for the decision is detailed in section 1. |

| <b>Conditions attached to the Licence</b>  |
|--|
| <p><b><u>Mandatory Conditions</u></b></p> <p>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</p> <p>2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.</p> <p>3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.</p> <p>4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—</p> <p>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;</p> <p>(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or</p> <p>(ii) drink as much alcohol as possible (whether within a time limit or otherwise);</p> <p>(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;</p> <p>(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;</p> <p>(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of</p> |



drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above –

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -  $P = D + (D \times V)$

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that subparagraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

9. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

**Conditions Attached After a Hearing by the Licensing Authority**

10. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the

authority of a Sexual Entertainment Venue licence.

11. The sale and consumption of alcohol at the premises must be ancillary to the use of the premises for music and dancing.
12. On any evening where the premises are open for music, dance or entertainment, alcohol may not be sold or supplied to persons admitted to the premises after 11pm other than to:-
  - (a) Persons attending a live music event and either i) paid an admission fee or ii) presented a ticket on the door;
  - (b) Persons who have paid a minimum annual admission fee of at least £150 payable in advance (not to be credited against consumables). A list of all persons who have paid an annual admission fee will be held for inspection by the relevant authority or
  - (c) Any person attending a private function at the premises, details of the type of function and host having been provided to Police at least 24 hours previously; or
  - (d) Artistes or person employed on the premises; or
  - (e) Bona fide guests of the proprietor to a maximum of 30 persons, a list of whom shall be kept at reception for inspection by appropriate authorities.
13. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):-
  - (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
  - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
  - (c) to take all other reasonable precautions for the safety of the children.
14. The number of persons accommodated at any one time (excluding staff) shall not exceed 300 in the basement.
15. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:-
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received regarding crime disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system, searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.

16. The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
17. On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00.
18. There will be no entry or re-entry permitted to the premises after 03:00 hours except for customers permitted to temporarily leave the premises to smoke.
19. 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. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
20. 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.
21. 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.
22. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
23. All external doors shall be kept closed after 22:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
24. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
25. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 30 persons at any one time.
26. 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.

27. 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.
28. An attendant shall be on duty in the cloakroom during the whole time that it is in use.
29. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
30. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
31. 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.
32. 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.
33. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
34. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
35. Any special effects or mechanical installations shall be arranged, operated and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the licensing authority where consent has not previously been given.
  - dry ice and cryogenic fog
  - smoke machines and fog generators
  - pyrotechnics including fireworks
  - firearms
  - lasers
  - explosives and highly flammable substances.

- real flame.
- strobe lighting.

36. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased. NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
37. 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.
38. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
39. Queuing outside the premises shall be restricted to a designated area located at Orange Yard.
40. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as Orange Yard.
41. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
42. All external emergency exit doors shall be fitted with sensor alarms and visible indicators to alert staff when the doors have been opened.
43. 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.
44. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
45. 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.
46. 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.
47. All emergency exit doors shall be available at all material times without the

use of a key, code, card or similar means.

48. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
49. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
50. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
51. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
52. The certificates listed below shall be submitted to the licensing authority upon written request.
  - a. Any permanent or temporary emergency lighting battery or system
  - b. Any permanent or temporary electrical installation
  - c. Any permanent or temporary emergency warning system
53. Flashing or particularly 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.
54. On the occasions when a live music event takes place at the premises prior to 23.00 hours, a minimum of 2 Security Industry Authority registered door supervisors shall be on duty at the premises until the end of the event.
55. A minimum of 3 Security Industry Authority registered door supervisors shall be on duty when the premises are open to the public after 23:00 hours until close.
56.
  - a) All drinking vessels used in the venue shall be polycarbonate. All drinks in glass bottles are to be decanted into polycarbonate containers or polycarbonate carafes prior to being served, with the exception of champagne or bottles of spirits with a minimum size of 70cl supplied by waiter/waitress service to tables. Staff shall clear all empty champagne and spirit bottles promptly from the tables. Customers shall not be permitted to leave their table carrying any such glass bottles or drink directly from the bottle.
  - b) Notwithstanding a) above, with the written agreement of the Westminster Licensing Police, a copy of which will be held at the premises reception, glass drinking vessels may be used for private or pre-booked events.

## LICENSING SUB-COMMITTEE No. 5

Thursday 4<sup>th</sup> May 2017

Membership: Councillor Peter Freeman (Chairman), Councillor Karen Scarborough and Councillor Shamim Talukder

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Tristan Fieldsend  
Presenting Officer: Yolanda Wade

Relevant Representations: The Licensing Authority.

Present: Mr James Rankin (Barrister, Representing the Applicant), Mr Ian Oram (representing the applicant), Mr Abner Eisma (Applicants) and Mr David Sycamore (Licensing Authority).

| <b>29 Maddox Street, London, W1S 2PA</b><br><b>17/01629/LIPV</b> |  |                |                 |                  |                  |              |              |
|--|--|----------------|-----------------|------------------|------------------|--------------|--------------|
| <b>1.</b>  | <b>Layout Alteration</b><br><br>To vary the layout of the premises by increasing the capacity on both the basement and ground floors.<br><br><table><thead><tr><th><u>Current</u></th><th><u>Proposed</u></th></tr></thead><tbody><tr><td>Ground Floor: 52</td><td>Ground Floor: 80</td></tr><tr><td>Basement: 16</td><td>Basement: 60</td></tr></tbody></table>   | <u>Current</u> | <u>Proposed</u> | Ground Floor: 52 | Ground Floor: 80 | Basement: 16 | Basement: 60 |
| <u>Current</u>   | <u>Proposed</u>  |                |                 |                  |                  |              |              |
| Ground Floor: 52   | Ground Floor: 80   |                |                 |                  |                  |              |              |
| Basement: 16   | Basement: 60   |                |                 |                  |                  |              |              |
|  | Amendments to application advised at hearing:<br><br>The Sub-Committee was advised that the proposed capacity was 70 on the ground floor and 50 in the basement.   |                |                 |                  |                  |              |              |
|  | Decision (including reasons if different from those set out in report):<br><br>The Sub-Committee considered an application by SMD Concepts Ltd for a variation of a premises licence in respect of 29 Maddox Street, London, W1S 2PA.<br><br>The Licensing Officer provided an outline of the application and informed the Sub-Committee that the premises had been referred to as Hibiscus in the published report however a change in trading name request had subsequently been received which was currently being processed. It was also noted that the police had now withdrawn their representation on the understanding that the applicant had agreed to the inclusion of a detailed restaurant condition.<br><br>Mr Rankin, representing the applicant, provided the Sub-Committee with a background to the application. The applicants belonged to the Leela Group which operated the renowned chain of Jamavar restaurants of which the London |                |                 |                  |                  |              |              |



operation was voted one of the best seven Indian restaurants in the UK by Forbes magazine. It was expected that the restaurant would achieve a Michelin star shortly. The applicant had taken over the property formerly called Hibiscus and it was proposed to increase the capacity of the premises for financial reasons in order to make the business viable. The report stated that the application was requesting a capacity of 80 persons on the ground floor and 60 in the basement however this was incorrect and the application was actually seeking a capacity of 70 on the ground floor and 50 in the basement. This represented an increase in 52 persons from the current permitted capacity. Environmental Health (EH) had undertaken a thorough audit of the existing conditions and it was agreed many were obsolete or required changing. This was why it was proposed to remove conditions 9 and 19 and change various others to modernise the licence. It was recognised that the contentious element of the application centred on the proposed increase in capacity for the premises. The current licence permitted the sale of alcohol half an hour beyond core hours Monday to Thursday and concern had been expressed that this would result in an increase in people inside the Cumulative Impact Area (CIA) beyond core hours. The Sub-Committee was advised that if this did cause concern the applicant would be willing to accept an increase in the capacity within core hours followed by a reduction in the capacity to the current level when core hours finish. The main objective of the application was to increase the capacity of the premises within the core hours. The application did have a bar facility but this would be restricted to diners only who were waiting for their table to become available. It was suggested that the bar area could be restricted to a maximum of ten people.

In response to a question from the Council's Legal Adviser Mr Rankin confirmed that on the amended plans submitted the unhatched areas in the basement area would not be serviced by waiter/waitress service.

Mr Sycamore, representing the Licensing Authority, stated that restaurants located within a CIA must demonstrate that they would not add to the cumulative impact. After 20:00 hours an additional 62 people would be located within the CIA. Even if the capacity of the premises was reduced when it operated outside core hours the additional 62 people would still be located in the CIA. Nothing in the application addressed these concerns that the application would not add to cumulative impact and therefore it was not an exception to policy.

Mr Rankin understood the Licensing Authority's representation but was of the opinion that if this was rigidly applied no restaurants would be able to open in a CIA again. Section RNT2 of the Council's Licensing Policy should apply in this case and it recognised that restaurants were unlikely to create crime and disorder. The clientele expected at the restaurant would be expecting a fine dining experience, within reasonable hours, and would not be attending to drink large quantities of alcohol. The operation would be for a high end Indian restaurant.

The Sub-Committee did express concern over the proposed large increase in the capacity at the premises. Mr Rankin reiterated that the Council's Licensing Policy recognised that restaurants did not, in general, add to cumulative impact. The Council's Legal Adviser clarified the Council's Licensing Policy in order to avoid

any confusion. The application was situated within a CIA but had included a restaurant condition on the licence and therefore there was no Policy statement to refuse the application. In this instance the Sub-Committee did not have to find an exception to Policy to grant the application. With regards to RNT2 the Policy did state that a restaurant situated within a CIA did have to demonstrate that it would not add to the cumulative impact in the area. There was also a core hours policy which stated that “New restaurant premises will generally be granted the core hours in line with Policy HRS1.” Mr Rankin confirmed that he would prefer the application to be granted in its entirety, however to address any possible concerns the applicant would accept a reduction in capacity when the premises operated beyond core hours. Mr Sycamore was of the opinion that just because the application was for a high end restaurant this did not mean the operation would not add to the cumulative impact.

The Sub-Committee expressed an interest in how it was proposed to increase the capacity of the premises? Mr Oram, representing the applicant, explained that under previous ownership the basement area of the premises included a large kitchen area which operated as cookery school. This area would be renovated to include a larger dining area and Building Control and EH had agreed the proposals. The number of covers requested was considered a normal, average amount and these would be static, fixed seating.

The Council’s Policy Adviser requested further clarification on where in the premises the supply of alcohol would be by waiter/waitress service only? The applicant confirmed that the whole premises would be by waiter/waitress service except for the ground floor bar area.

The Sub-Committee carefully considered the application and was not in agreement with the assertion that because the application was for a high-end restaurant it would not add to cumulative impact. However it was acknowledged that there was no Policy statement to refuse the application and the Policy did recognise that restaurants generally did not add to cumulative impact. Model condition 66, the full restaurant condition, would be included on the licence and this provided reassurance that the premises would not be alcohol-led therefore minimising any potential for noise and disturbance. The Sub-Committee recognised that the hours requested were slightly beyond core hours however the applicants were established, experienced restaurant operators and there was no history of complaints against the premises. The Police and EH were not objecting to the application following the agreement of conditions and it was felt these were stringent enough to ensure the premises did not add to the cumulative impact. The Sub-Committee was of the opinion that even though the premises was located in a CIA the nature of the operation and the restrictive conditions imposed on the licence would ensure that the application upheld the licensing objectives. As such the Sub-Committee granted the application accordingly.

The Sub-Committee agreed to amend the following conditions on the licence in order to update the licence accordingly:

- Condition 9 be removed from the licence.
- Condition 10 be amended to read “The number of persons

accommodated at the premises (excluding staff) shall not exceed:

Ground Floor - 70 persons

Basement - 50 persons”

- Condition 11 be removed from the licence.
- Condition 12 be amended to read “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.”
- Condition 13 be removed from the licence.
- Condition 14 be removed from the licence.
- Condition 15 be amended to read in accordance with model conditions MC1 and MC 2 as follows: “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. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period”.

“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.”

- Condition 16 be amended to read “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.”
- Condition 19 be removed from the licence.
- The following condition be added to the licence: “The premises shall only operate as a fine dining restaurant
  - (i) in which customers are shown to their table,
  - (ii) where, save for the ground floor bar area, the supply of alcohol is by waiter or waitress service only,
  - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
  - (iv) which do not provide any take away service of food or drink for immediate consumption,
  - (v) which do not provide any take away service of food or drink after 23.00, and
  - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition, customers are permitted to take from the

premises part consumed and resealed bottles of wine supplied ancillary to their meal.

- The following condition be added to the licence: “Notwithstanding condition 15, alcohol may be supplied and consumed prior to their meal in the bar area (designated on the plan), by up to a maximum at any one time, of 10 persons dining at the premises.”
- The following condition be added to the licence: “A Challenge 21 roof 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.”
- The following condition be added to the licence: “An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.”
- The following condition be added to the licence: “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.”
- The following condition be added to the licence: “No licensable activities shall take place at the premises until the premises have been assessed by the Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.”
- The following condition be added to the licence: “Before the premises is open to the public the plans as deposited will be checked by the Environmental Health Consultation Team to ensure that they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.”

The Sub-Committee informed that applicant that the issues of pollution and air quality were currently high on the Council’s agenda. As such the applicant was requested to consider engaging with companies in Business Improvement Districts to consolidate deliveries and waste collections. This was an informative only and not part of the formal decision.

**2. Conditions Being Varied, Added or Removed**

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| <p><b>Current:</b></p> <p><b>Condition 9</b></p> <p>Persons under the age of 16 shall not</p> | <p><b>Proposed:</b></p> <p>To be removed.</p> |
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| <p>be permitted onto the premises unless accompanied by an adult.</p>  |   |
| <p><b>Condition 19</b></p> <p>A refuse store of sufficient size shall be provided.</p>   | <p>To be removed.</p>   |
| <p><b>Condition 10</b></p> <p>The number of persons accommodated at the premises shall be:</p> <p>Ground Floor - 52 persons excluding staff<br/>Basement - 16 persons excluding staff</p>  | <p><b>Condition 10</b></p> <p>The number of persons accommodated at the premises (excluding staff) shall not exceed:</p> <p>Ground Floor - 80 persons<br/>Basement - 60 persons</p>   |
| <p><b>Condition 12</b></p> <p>Suitable beverages other than alcohol (including drinking water) shall be equally available during the hours when licensable activities take place.</p>  | <p><b>Condition 12</b></p> <p>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.</p>  |
| <p><b>Condition 14</b></p> <p>The supply of alcohol shall only be by waiter or waitress service to persons seated at tables.</p>   | <p><b>Condition 14</b></p> <p>The supply of alcohol within the restaurant (hatched) shall only be by waiter or waitress service to persons seated at tables.</p>  |
| <p><b>Condition 15</b></p> <p>The premises will maintain a comprehensive CCTV system that ensures that all entry and exit points and bar areas of the premises are monitored which enable frontal identification of every person entering in any light condition. All cameras shall continually record whilst the premises are open to the public and the recordings shall be kept available for a minimum of 31 days with time and date stamping. Recordings shall be made available to an authorised</p> | <p><b>Condition 15</b></p> <p>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. All recordings shall be</p> |

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| <p>officer or a police officer together with facilities for viewing. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours' notice (subject to the Data Protection Act 1998). The CCTV system will be installed and maintained as agreed with the Metropolitan Police Crime Prevention Officer</p>   | <p>stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period. 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.</p> |
| <p><b>Condition 16</b></p> <p>No noise may emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.</p>   | <p><b>Condition 16</b></p> <p>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.</p>   |
| <p>A Challenge 21 roof 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.</p>   | <p>To be added</p>  |
| <p>An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:<br/> (a) all crimes reported to the venue<br/> (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system, searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a</p> | <p>To be added.</p>   |

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|  | relevant authority or emergency service.  |              |
|  | 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.  | To be added. |
|  | No licensable activities shall take place at the premises until the premises have been assessed by the Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.   | To be added. |
|  | Before the premises is open to the public the plans as deposited will be checked by the Environmental Health Consultation Team to ensure that they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority. | To be added. |
|  | Amendments to application advised at hearing:<br><br>The Sub-Committee was advised that the proposed capacity was 70 on the ground floor and 50 in the basement.  |              |
|  | Decision (including reasons if different from those set out in report):<br><br>The application was granted, the reason for the decision is detailed in section 1.   |              |

### **Conditions attached to the Licence**

#### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a

person who holds a personal licence.

4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.



7. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above –

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -  $P = D + (D \times V)$

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that subparagraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**Conditions Attached After a Hearing by the Licensing Authority**

9. The number of persons accommodated at the premises (excluding staff) shall not exceed:  
Ground Floor - 70 persons  
Basement - 50 persons
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. 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. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
12. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
13. No noise generated on the premises or by its associated plant or equipment shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
14. All waste shall be properly presented and placed out for collection no earlier

than 30 minutes before the scheduled collection times.

15. No rubbish including bottles will be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours.
16. The premises shall only operate as a fine dining restaurant
  - (i) in which customers are shown to their table,
  - (ii) where, save for the ground floor bar area, the supply of alcohol is by waiter or waitress service only,
  - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
  - (iv) which do not provide any take away service of food or drink for immediate consumption,
  - (v) which do not provide any take away service of food or drink after 23.00, and
  - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition, customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

17. Notwithstanding condition 16, alcohol may be supplied and consumed prior to their meal in the bar area (designated on the plan), by up to a maximum at any one time, of 10 persons dining at the premises.
18. A Challenge 21 roof 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.
19. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
20. 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.
21. No licensable activities shall take place at the premises until the premises have been assessed by the Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.

22. Before the premises is open to the public the plans as deposited will be checked by the Environmental Health Consultation Team to ensure that they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

**7 THE FROG, 35 SOUTHAMPTON STREET, WC2**

**LICENSING SUB-COMMITTEE No. 5**

*Thursday 4th May 2017*

Membership: Councillor Peter Freeman (Chairman), Councillor Karen Scarborough and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Yolanda Wade

Relevant Representations: The Licensing Authority

Present: Mr Jack Spiegler (Solicitor, representing the applicant), Mr Adam Handling and Ms Toria Ewart-Perks (Applicants) and Mr David Sycamore (Licensing Authority).

**The Frog, 35 Southampton Street, London, WC2E 7HE  
17/02037/LIPN**

**1. Late Night Refreshment – Indoors**

Monday to Thursday: 23:00 to 23:30

Friday to Saturday: 23:00 to 00:00

**Seasonal Variations/Non-Standard Timings:**

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

Midnight on Sundays immediately before Bank Holiday Mondays.

Amendments to application advised at hearing:

Decision (including reasons if different from those set out in report):

The Sub-Committee considered an application by Adam Handling Ltd for a new premises licence in respect of The Frog, 35 Southampton Street, London, WC2E 7HE.

The Licensing Officer provided an outline of the application to the Sub-Committee and confirmed that Environmental Health (EH) had withdrawn their representation following discussions with the applicant. The premises was presently licenced however the current licence holder was untraceable and the licence was currently suspended following non-payment of the annual fee.

Mr Handling, the applicant, explained that he currently operated a restaurant in Shoreditch. He wished to expand his operations to Westminster to provide a more formal dining experience for customers than what was currently available at his other premises. He was the Chief Executive of the company and had been a head chef for thirteen years focussing on providing high quality food.

Mr Spiegler, representing the applicant, advised that the application was for a new premises licence which would effectively replace the existing premises licence. The existing licence authorised the sale of alcohol and late night refreshment beyond core hours and had no restrictions on recorded music or its capacity. There were two reasons why a new premises licence application had been submitted, i) There were substantial changes to the layout of the building, and ii) the landlord had applied to transfer the licence but the outgoing licence holder had not consented to that. Within the last week confirmation had been received that the transfer had been processed but it was not a licence that the applicant held and therefore was not in a position to surrender that licence. The application followed the planning permission granted and the advice provided by EH. Consultations had also been undertaken with the Covent Garden Community Association and they had not raised any concerns.

The proposed hours were within the Council's core hours policy and the model restaurant condition would be attached to the licence. The Sub-Committee's attention was also drawn to a limit on the capacity of the premises being introduced to limit the number of customers permitted in the premises (excluding staff) to 120. The proposals were far more restrictive than the licence currently in place. No objections had been received from local residents and the only representation was from the Licensing Authority and this was based on policy grounds only as the premises was located within a Cumulative Impact Area (CIA). RNT2 in the Council's Licensing Policy stated that an application for a restaurant could be granted in a CIA if it could be demonstrated that it would not create any additional cumulative impact. The fact that the restaurant would operate within core hours and the conditions to be imposed on the licence, as agreed with EH, would be more restrictive demonstrated that it would not add to cumulative impact. Paragraphs 2.4.6 to 2.4.8 of the Council's Licensing Policy set out exceptions to the CIA policy and it was felt that for the reasons explained the application before the Sub-Committee broadly met these exceptions.

Mr Sycamore, representing the Licensing Authority, explained that the premises had not been trading for a significant period of time. Therefore the application would result in 120 extra people being located with the CIA. The application did not have restaurant model condition 66 attached to the licence; however other conditions had been proposed which would ensure it operated as a restaurant.

The Council's Policy Adviser queried why model condition 66 had not been included on the licence? Mr Spiegler explained that the conditions attached to

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|                  | <p>the licence had been agreed in consultation with EH who had suggested attached model conditions 38 and 39 instead.</p> <p>The Sub-Committee carefully considered the application and recognised that the premises was located within a CIA. However the proposals before the Sub-Committee would ensure the application would be more restricted than what was currently permitted on the licence. This included ensuring the premises would only operate within core hours and limiting the capacity of the premises to 120 persons. The proposed conditions would be far more restrictive and help ensure the restaurant would not add to the cumulative impact in the area. Concern was expressed that the restaurant model condition 66 had not been imposed on the licence and it was agreed to introduce this in place of model conditions 38 and 39. This would ensure the premises operated as a restaurant and all sales of alcohol would be ancillary to substantial table meals. This would provide further reassurance that the establishment would not be a drink-led premises and would uphold and promote the licensing objectives. The Sub-Committee stated that it was a well-constructed application which had been well thought through and was very clear. Due to the restrictions in place and the nature of the operation the Sub-Committee was of the opinion that the application would not add to the cumulative impact, would uphold the licensing objectives and as such it was therefore agreed to grant the application accordingly.</p> <p>The Sub-Committee agreed to make the following changes to the proposed conditions on the licence:</p> <ul style="list-style-type: none"> <li>• Condition 9 be deleted from the licence;</li> <li>• Condition 10 be deleted from the licence;</li> <li>• Condition 14 be deleted from the licence; and</li> <li>• Model condition 66 be added to the licence.</li> </ul> |
| <p><b>2.</b></p> | <p><b>Recorded Music - Indoors</b></p> <p>Monday to Thursday: 10:00 to 23:30<br/> Friday to Saturday: 10:00 to 00:00<br/> Sunday: 12:00 to 22:30</p> <p><b>Seasonal Variations/Non-Standard Timings:</b></p> <p>From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.</p> <p>Midnight on Sundays immediately before Bank Holiday Mondays.</p>  |
|                  | <p>Amendments to application advised at hearing:</p> <p>None.</p>   |
|                  | <p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, the reason for the decision is detailed in section 1.</p>  |

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| 3. | <p><b>Sale of Retail by Alcohol – On and Off Sales</b></p> <p>Monday to Thursday: 10:00 to 23:30<br/> Friday to Saturday: 10:00 to 00:00<br/> Sunday: 12:00 to 22:30</p> <p><b>Seasonal Variations/Non-Standard Timings:</b></p> <p>From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.</p> <p>Midnight on Sundays immediately before Bank Holiday Mondays.</p> |
|    | <p>Amendments to application advised at hearing:</p> <p>None.</p>  |
|    | <p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, the reason for the decision is detailed in section 1.</p>   |
| 4. | <p><b>Hours Premises are Open to the Public</b></p> <p>Monday to Thursday: 08:00 to 00:00<br/> Friday to Saturday: 08:00 to 00:30<br/> Sunday: 08:00 to 23:00</p> <p><b>Seasonal Variations/Non-Standard Timings:</b></p> <p>From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.</p> <p>00:30 on Sundays immediately before Bank Holiday Mondays.</p>           |
|    | <p>Amendments to application advised at hearing:</p> <p>None.</p>  |
|    | <p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, the reason for the decision is detailed in section 1.</p>   |

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|--|
| <b>Conditions attached to the Licence</b>  |
| <p><b><u>Mandatory Conditions</u></b></p> <p>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</p> |

2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-
  - (a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to;
    - (i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) Drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) Dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in



relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above –

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula –

$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Conditions Consistent with the Operating Schedule**

9. The premises shall only operate as a restaurant
- (i) in which customers are shown to their table,
  - (ii) where the supply of alcohol is by waiter or waitress service only,
  - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
  - (iv) which do not provide any take away service of food or drink for immediate consumption,
  - (v) which do not provide any take away service of food or drink

- after 23.00, and
- (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

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. There shall be no sales of alcohol for consumption off the premises after 23.00.
12. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
13. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed: Ground floor 70 persons; Basement 50 persons.
14. 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. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
15. 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.
16. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder

- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

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. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
19. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
21. 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.
22. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
23. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
24. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
25. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 on the following day.
26. 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.
27. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

28. 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.
29. 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.

## 8 HONEST BURGERS, GROUND FLOOR, 4 MEARD STREET, W1

### LICENSING SUB-COMMITTEE No. 5

*Thursday 4<sup>th</sup> May 2017*

Membership: Councillor Peter Freeman (Chairman), Councillor Karen Scarborough and Councillor Shamim Talukder

Legal Adviser: Barry Panto  
 Policy Adviser: Chris Wroe  
 Committee Officer: Tristan Fieldsend  
 Presenting Officer: Yolanda Wade

Relevant Representations: The Licensing Authority.

Present: Mr Stephen Walsh Q.C. (Barrister, Representing the Applicant), Ms Lisa Inzani (Solicitor, Representing the Applicant), Mr Dorian Waite (Applicant) and Mr David Sycamore (Licensing Authority).

#### **Honest Burgers, Ground Floor, 4 Meard Street, London 17/01564/LIPV**

##### **1. Layout Alteration**

The applicant has applied to vary the layout of the premises to include the basement area for licensable activities. The ground floor layout will remain as existing.

Amendments to application advised at hearing:

None

Decision (including reasons if different from those set out in report):

The Sub-Committee considered an application by Honest Burgers Ltd for a variation of a premises licence in respect of Honest Burgers, Ground Floor, 4 Meard Street, London.

The Licensing Officer provided an outline of the application and informed the Sub-Committee that the Metropolitan Police had withdrawn their representation following agreement of conditions with the applicant.

Mr Walsh, representing the applicant, explained that the application was seeking to authorise the use of the basement for licensable activities which would allow customers to consume alcohol with their food. The Sub-Committee was advised that Environmental Health (EH) had inspected the basement area and had indicated that it was suitable for use as a restaurant. The ground floor of the premises had been granted a licence before the Licensing Act 2003 had been implemented and this had been transferred to Honest Burgers in 2012. The capacity of the ground floor was currently unlimited, however EH had undertaken an assessment and advised that its capacity was approximately 100 persons. The applicant was not seeking to operate to the capacity though as it was purely a restaurant. The application was requesting that the whole premises, ground floor and basement, be conditioned and the capacity of the premises be restricted to 80 persons. Within the 80 persons the number of persons permitted in the basement would not exceed 28, excluding staff. Therefore it was suggested that the application would not increase the overall capacity of the premises. It was also proposed to add extra conditions to the licence to include restricting any noise generated, the removal of litter outside the premises and the installation of a CCTV system. Mr Walsh explained that there was a holding area located in the basement for approximately four customers who would wait whilst a table was cleared to ensure there was no waiting outside the premises.

Mr Walsh introduced the concept of the restaurant and how there was now a total of 23 open in the UK. The restaurant would sell a variety of burgers using the best fresh ingredients available. Customers would be shown to their table and there would be no fast food aspect to the operation as takeaways were not available. All food and drinks would be by waiter/waitress service and no vertical drinking would be allowed. It was explained that allowing 28 persons to use the basement would not add to the cumulative impact in the area as the premises was currently operating under an old licence whilst the proposed variation would strictly condition its use. The application would have a beneficial effect on the licensing objectives and this had been highlighted by the withdrawal of the representations received by the Police and EH. The nature of the operation was specifically food based with less than 30% of turnover arising from sales of alcohol. Due to the nature of the premises customers usually spent less time drinking alcohol than in a more traditional restaurant limiting any impact it would have on the local area. Overall the application would arguably reduce the capacity of the premises, the licence would be made more restrictive through the conditions proposed, including the addition of the restaurant condition (model condition 66), and these would ensure it did not add to, and would possibly reduce, the cumulative impact in the area.

Mr Sycamore, representing the Licensing Authority, acknowledged that the proposals would limit the capacity of the ground floor and demonstrate it wouldn't add to the cumulative impact in the area therefore justifying the applicant's claim it was an exception to policy. The hours were slightly outside the core hours policy but limiting the capacity over the two floors had shown that the cumulative impact aspect of the application had been considered.

In response to a question Mr Walsh confirmed that there were some residential properties in the vicinity but the application had been advertised in the correct

manner without any concerns expressed by residents or any residential societies. The Sub-Committee was informed that the applicant had made significant efforts to ensure the premises was fully integrated into the local area.

The Sub-Committee carefully considered the application and noted that implementing a limit on the capacity of the premises would have the effect of reducing its cumulative impact on the local area. More restrictive conditions would also be placed on the licence to include ensuring no noise generated from the premises would cause a nuisance and requiring all litter and waste arising from customers outside the premises to be immediately removed. The Sub-Committee was of the opinion that these conditions would ensure the licensing objectives were upheld and the premises wouldn't add to the cumulative impact in the area. Model condition 66 would also be added to the licence to ensure the premises would operate as a restaurant and this provided further reassurance to the Sub-Committee that the venue would not become either a drink-led or a fast food establishment. As such the Sub-Committee felt that the application was appropriate for the local area, would provide minimal disruption to residents and therefore granted the application accordingly.

The Sub-Committee agreed to update the following conditions on the licence:

- Condition 9 be deleted from the licence.
- An additional condition be added to the licence to read “An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) any visit by a relevant authority or emergency service.”
- An additional condition be added to the licence to read “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. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.”
- An additional condition be added to the licence to read “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.”

|   | <ul style="list-style-type: none"> <li>• An additional condition be added to the licence to read “The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 80 persons, with no more than 28 persons permitted in the basement at any one time.”</li> <li>• An additional condition be added to the licence to read “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.”</li> <li>• An additional condition be added to the licence to read “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.”</li> <li>• Model Condition 66 be added to the licence.</li> </ul>  |                 |                  |  |                                      |   |                                      |   |                                      |
|---|--|-----------------|------------------|--|--------------------------------------|---|--------------------------------------|---|--------------------------------------|
| 2.  | <p><b>Conditions Being Varied, Added or Removed</b></p> <table border="1"> <thead> <tr> <th data-bbox="248 969 823 1037"><b>Current:</b></th> <th data-bbox="823 969 1398 1037"><b>Proposed:</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="248 1037 823 1227">The number of persons permitted in the basement at any one time (excluding staff) shall not exceed 28 persons.</td> <td data-bbox="823 1037 1398 1227">To be added to the premises licence.</td> </tr> <tr> <td data-bbox="248 1227 823 1485">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.</td> <td data-bbox="823 1227 1398 1485">To be added to the premises licence.</td> </tr> <tr> <td data-bbox="248 1485 823 1960">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.</td> <td data-bbox="823 1485 1398 1960">To be added to the premises licence.</td> </tr> </tbody> </table> | <b>Current:</b> | <b>Proposed:</b> | The number of persons permitted in the basement at any one time (excluding staff) shall not exceed 28 persons. | To be added to the premises licence. | 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. | To be added to the premises licence. | 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. | To be added to the premises licence. |
| <b>Current:</b>   | <b>Proposed:</b>   |                 |                  |  |                                      |   |                                      |   |                                      |
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| 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.   | To be added to the premises licence.   |                 |                  |  |                                      |   |                                      |   |                                      |
| 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. | To be added to the premises licence.   |                 |                  |  |                                      |   |                                      |   |                                      |



|  |   |
|--|---|
|  | Amendments to application advised at hearing:<br><br>None   |
|  | Decision (including reasons if different from those set out in report):<br><br>The application was granted, the reason for the decision is detailed in section 1. |

| <b>Conditions attached to the Licence</b>   |
|---|
| <p><b><u>Mandatory Conditions</u></b></p> <p>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</p> <p>2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.</p> <p>3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.</p> <p>4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—</p> <p>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;</p> <p>(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or</p> <p>(ii) drink as much alcohol as possible (whether within a time limit or otherwise);</p> <p>(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;</p> <p>(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;</p> <p>(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;</p> <p>(e) dispensing alcohol directly by one person into the mouth of another (other than</p> |

where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above –

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -  $P = D + (D \times V)$

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that subparagraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Conditions Consistent with the Operating Schedule**

9. Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available with or otherwise as an ancillary to meals served in the licensed premises.

10. Alcohol may be sold or supplied:

(a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10:00 to 00:00;

- (b) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12:00 to 23:30;
- (c) On Christmas Day: 12:00 to 22:30;
- (d) On New Year's Eve, except on a Sunday, 11:00 to 23:00;
- (e) On New Year's Eve on a Sunday, 12:00 to 22:30;
- (f) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

NOTE - The above restrictions do not prohibit:

(a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

(b) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;

(c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;

(d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;

(f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

(g) the taking of alcohol from the premises by a person residing there;

(h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;

(i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises. In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

11. Alcohol shall not be sold or supplied unless the premises have been structurally and bona fide used, or intended to be used, for the purposes of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises.

12. The terminal hour for late night refreshment on New Year's Eve is extended to

05:00 on New Year's Day.

13. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) any visit by a relevant authority or emergency service.

14. 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. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.

15. 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.

16. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 80 persons, with no more than 28 persons permitted in the basement at any one time.

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. 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.

#### **Conditions attached after a hearing by the licensing authority**

19. The premises shall only operate as a restaurant:

- (i) in which customers are shown to their table,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
- (iv) which do not provide any take away service of food or drink for immediate consumption,
- (v) which do not provide any take away service of food or drink after 23.00, and
- (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table

meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

The Meeting ended at 4.00 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_