



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (1)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** Committee held on **Friday 16th June, 2017**, Room 23.1 - 23rd Floor, Portland House, Bressenden Place, Westminster, London SW1E 5RS.

**Members Present:** Councillors Angela Harvey (Chairman), Tim Mitchell and Murad Gassanly

#### 1 MEMBERSHIP

There were no changes to the Membership.

#### 2 DECLARATIONS OF INTEREST

Councillors Harvey, Mitchell and Gassanly declared in respect of Soho Mixer, Unit 5 Jubilee House, Ramillies Street, W1 that the Council works closely with New West End Company ('NWECC'), as it is a Business Improvement District. The Chief Executive of NWECC had submitted a representation in support of the application. This did not affect the Members' ability to consider the application impartially.

#### 3 ROSA'S VICTORIA, 25 GILLINGHAM STREET, SW1

##### LICENSING SUB-COMMITTEE No. 1

*Friday 16th June 2017*

Membership: Councillor Angela Harvey (Chairman), Councillor Tim Mitchell and Councillor Murad Gassanly

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon  
Presenting Officer: Yolanda Wade

Relevant Representations: Environmental Health Service and 4 local residents.

Present: Mr Craig Baylis (Solicitor, Representing the Applicant), Mr Alex Moore (Managing Director) and Mr Ian Watson (Environmental Health).

**Rosa's Victoria, 25 Gillingham Street, SW1  
17/03852/LIPV**

**1. Conditions being varied, added or removed**

**Condition on existing licence**

**Proposed variation**

Condition 16 – Outside tables and chairs shall be rendered unusable by 21:00 each day.

Outside tables and chairs shall be rendered unusable by 22:30 each day.

Condition 30 – There shall be no external consumption of drinks after 20:30

There shall be no external consumption of drinks after 22:00.

Amendments to application advised at hearing:

Mr Baylis, representing the Applicant, advised during the hearing that it was no longer proposed to extend the hours in relation to conditions 16 and 30 on Sundays.

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

The Applicant was seeking to amend two conditions on the existing premises licence. One was to change when outside tables and chairs would be rendered unusable from 21:00 each day to 22:30 each day and the other was to extend the latest time when the external consumption of drinks could take place from 20:30 until 22:00. Mr Baylis, representing the Applicant advised at the hearing that it was no longer proposed to extend the hours in relation to these conditions on Sundays.

A local resident, Dr Al-Kaisy, had originally submitted a written representation objecting to the application. He had then submitted a further written representation the evening prior to the meeting which included a photograph of the premises, showing that he lived immediately next door. Mr Baylis was asked whether he was content for the late submission to be considered by the Sub-Committee and he replied that he had no objection.

It was noted that the representation from the Licensing Authority had been withdrawn.

Mr Baylis stated that Rosa's Victoria is a Thai restaurant where alcohol is ancillary to substantial table meals. The premises had been trading for just over a year. There were currently six external chairs in Gillingham Street and a further ten on Wilton Street. He added that there had been no complaints received at the premises. The premises had also operated until the hours sought in the current application on 12-13 May, 18-20 May and 25-27 May as a result of three temporary event notices and there had been no complaints in

relation to these.

Mr Baylis responded to some of the objections in the written representations. He made the point that Dr Al-Kaisy had commented that 'to introduce alcohol to the equation is a recipe for disaster. Undoubtedly this will increase the level of noise, and also antisocial behaviour'. Mr Baylis wished to draw Members' attention to the fact that alcohol was already permitted at the premises, including in the outside area. It was ancillary to a substantial table meal. It was also the case contrary to Dr Al-Kaisy's representation that Rosa's Victoria already had tables outside on Gillingham Street.

Mr Baylis referred to residents' experiencing problems as a result of the smoking area for Tozi restaurant on Gillingham Street and also potentially the pub opposite Rosa's Victoria rather than activities at Rosa's Victoria raising any issues.

In response to a question from the Sub-Committee, Mr Baylis informed Members that the Applicant complied with the conditions on the existing premises licence that there was waiter or waitress service in the outside area. A condition was also being proposed by the Applicant for the current application that a member of staff would be required to ensure that patrons at the tables and chairs outside keep noise to a minimum. He added that there was already a member of staff carrying out this function in the outside area currently.

Mr Watson, on behalf of Environmental Health, confirmed that there had been no noise complaints received by the Council's Noise Team for the premises. He advised that there was no requirement for the Applicant to have a tables and chairs licence as the tables and chairs are not located on the public highway. Environmental Health had not put forward any additional conditions as the proposed extended hours for the use of the tables and chairs outside were in keeping with the hours that were often permitted for tables and chairs use. He referred to the Applicant having withdrawn any extension of hours for the use of the tables and chairs on Sundays. Mr Watson was of the view that this was a moderate application and he did not have any objections to it.

Mr Wroe asked about condition 12 on the existing premises licence where a capacity for the basement had not been resolved and also whether there was a capacity for the external area only. The overall capacity for the internal and external areas was 60. Mr Watson recommended that the basement capacity was determined by Environmental Health and Mr Alan Lynagh when the works were being assessed as required in the works condition. Mr Baylis responded in relation to the question regarding a capacity for the external area that he was content for the outside area to be limited to a maximum of 16 people.

Mr Baylis had no objection to the 'no striptease or nudity' conditions on the existing premises licence being updated in line with the Council's model condition MC44.

The Sub-Committee appreciated that some concerns had been expressed by local residents in their written representations but also noted that the four residents concerned had expressed issues about Tozi on the other side of the

road and had not provided any specific issues regarding the existing operation from Rosa's. In reaching a decision to grant the application, the Sub-Committee noted that Environmental Health's concerns had been addressed and there had been no recorded noise complaints. The proposed hours for the use of the tables and chairs were not being increased on Sundays. Alcohol consumed outside would continue to be ancillary to substantial table meals and would continue to be served by waiter and waitress. A member of staff would keep an eye on patrons at the tables and chairs outside to ensure that noise was kept to a minimum. The Applicant had agreed that there would be a maximum of 16 people outside. The Sub-Committee decided that there would be no more than 8 people at tables and chairs in Gillingham Street with the remaining maximum of 8 in Wilton Street.

### **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 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.

**Additional Conditions**

9. 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.
10. A proof of age scheme, such as Challenge 21, 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.
11. There shall be no supply of draught beer.
12. The maximum number of persons accommodated at any one time in the basement shall not exceed such number (excluding staff) as may be agreed with the District Surveyor at which time the licensing authority shall replace this condition with a condition setting out the agreed capacity.
13. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance
14. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
15. Patrons temporarily leaving the premises shall not be permitted to take drinks outside with them, save for persons seated in the external seating area.
16. Outside tables and chairs shall be rendered unusable by 21.00 on Sunday and by 22.30 on Monday to Saturday.
17. 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.
18. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.

19. 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.
20. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received regards crime and disorder
  - (d) any incidents of disorder
  - (e) seizures of drugs or offensive weapons
  - (f) any refusal of the sale of alcohol
  - (g) any visit by a relevant authority or emergency service.
21. 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
22. The premises shall install and maintain a 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.
23. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
24. The premises, including the external area, shall only operate as a restaurant:
  - (i) In which customers are shown to their table,
  - (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.
  - (iii) where alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
25. The supply of alcohol shall be by waiter or waitress service only.
26. There shall be no off sales of alcohol, except as detailed below:-

'Sales of alcohol for consumption off the premises shall only be supplied with



and ancillary to a take away meal when delivered to the customer's home address by trained delivery drivers or by customers attending in person for take away meals'.

27. The external consumption of drinks is limited to seated patrons of the premises consuming food purchased or supplied on the premises.
28. There shall be no more than 16 people in the external area at any one time and no more than 8 people in the Gillingham Street part of the external area at any one time.
29. There shall be no external consumption of drinks after 20.30 hours on Sunday and after 22.00 hours on Monday to Saturday.
30. All windows and doors on Gillingham Street shall remain closed except for the immediate access and egress of patrons or for emergency access or evacuation.
31. All deliveries and collections shall be made to and from the Wilton Road doors with none via the door on the corner of Wilton Road and Gillingham Street.
32. There shall be no deliveries or collections to or from the premises between 2200 and 0800.
33. Except in the case of emergency access or evacuation, access to and egress from the premises after 2300 shall only be via the Wilton Road doors with none after 2300 via the door on the corner of Wilton Road and Gillingham Street.
34. No rubbish from the premises, including bottles, shall be moved, removed, placed or maintained in Gillingham Street or Wilton Road between 2000 and 0700.
35. The number of persons permitted any one time (excluding staff) shall not exceed 60 persons for the internal and external areas.
36. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
37. Age verification i.e. challenge 21 must be made at the point of sale and at the point of delivery for all off sales of alcohol
38. A member of staff shall be instructed to ensure that patrons at the tables and chairs outside keep noise to a minimum.

**4 ROYAL STANDARD COCKTAIL BAR & RESTAURANT, 8 SALE PLACE, W2**

**LICENSING SUB-COMMITTEE No. 1**  
*Friday 16th June 2017*

Membership: Councillor Angela Harvey (Chairman), Councillor Tim Mitchell and Councillor Murad Gassanly

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon  
Presenting Officer: Yolanda Wade

Relevant Representations: In support – 1 resident  
Objecting - Environmental Health, 1 amenity society and 3 local residents.

Present: Mr Nigel Carter (Licensing Consultant, Representing the Applicant), Mr Arish Mustabi (Manager and leaseholder), Mr Ian Watson (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr Zamit) and Mr John Zamit (Chairman, South East Bayswater Residents' Association).

<b>Royal Standard Cocktail Bar &amp; Restaurant, 8 Sale Place, W2 17/03544/LIPV</b>	
<b>1.</b>	<b>Late Night Refreshment – basement to be included within the licensable area (these hours are permitted for the ground floor as a result of the existing premises licence)</b>
	Monday to Saturday: 23:00 to 23:30
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  There was an existing licence for the premises which permitted on the ground floor late night refreshment from 23:00 to 23:30 Monday to Saturday and on and off sales of alcohol from 10:00 to 23:00 Monday to Saturday and 12:00 to 22:30 on Sunday. Mr Carter, representing the Applicant, confirmed that his client sought to vary the application by adding the basement area to the licence for exactly the same licensable activities and hours as the ground floor.  Mr Carter stated that the Applicant had agreed conditions with Environmental Health and the Police. The Police had subsequently withdrawn their representation. Mr Carter also wished to respond to some of the concerns expressed by residents in their written representations. Professor Henderson had suggested that the premises would now be opening on Sundays but the premises had in fact previously under the existing premises licence been permitted to open on Sundays. The current application was only seeking to add the basement to the licence for the same hours as on the ground floor. Mr

Carter made the point that Mr Mustabi did not intend in the foreseeable future to open the premises on Sundays or Bank Holidays as he wished to spend quality time with his family then. The Applicant was also not extending the proposed hours to Core Hours at this stage.

Mr Carter also wished to refute Mr Henderson's view that the basement would operate as a music / drinking club. Mr Carter informed the Sub-Committee that Mr Mustabi intended to offer the basement as a meeting room during the daytime and for private functions during the evening as well as having additional capacity there on busy evenings. Any music would have to be routed through a noise limiter set by Environmental Health. A condition was also proposed by Environmental Health that seating would be provided in the basement to accommodate a minimum of 50 persons.

Mr Carter said that his client appointed, as a voluntary undertaking, one SIA door staff at Royal Standard Cocktail Bar & Restaurant on Thursday and Friday evenings which were the two busiest nights at the premises. The role of the staff included ensuring that customers did not obstruct the footpath, did not cause a noise nuisance and were quiet when they left the premises. Customers would be directed towards Praed Street at the end of the evening.

Mr Carter commented that it was pure conjecture in Ms May's representation that 'those visiting the bar who have consumed too much alcohol are likely to commit vandalism, litter our streets, urinate/defecate in the street, become aggressive and commit violent crimes'. He did not believe there was any evidence to support this as the premises had traded since 2016 and there had been no evidence of anti-social behaviour. Adding the basement to the licensed area, he stated, was unlikely to cause the problems Ms May suggested. There would not be any sports television coverage designed to attract football fans. Mr Carter was also of the view that the additional conditions being proposed addressed the key concerns raised by Mr Jordan and Mr Zamit on behalf of SEBRA in their respective representations.

Mr Carter emphasised that in exchange for the basement being added to the premises licence, the Applicant had agreed an additional 24 conditions. Currently customers could be accommodated in the basement (although alcohol and late night refreshment could not be sold to patrons there) and were able to drink in both Sale Street and Star Street with no restrictions. However, the Applicant took the view that this had a detrimental effect on the business. The Applicant had agreed a condition with Environmental Health that there would be no patrons, seated or standing, in Star Street. There were currently 8 tables with 32 seats in total in the Applicant's external area in Sale Street and it was proposed that there would be a maximum of 50 people seated or standing in this area.

Mr Watson on behalf of Environmental Health referred to one of his proposed conditions being that 'the emergency exit door from the basement room leading onto Star Street shall be maintained closed at all times that the public are on the premises except for emergency use'. There was access from the ground floor into the basement. The capacity based on the escape for the basement was 90 people.

Mr Watson confirmed that based on residents' concerns, he had agreed with the Applicant that the private forecourt on Sale Place would be limited to 50 patrons and that there would be no patrons in Sale Street. Other conditions agreed between Mr Watson and the Applicant included the model condition for Environmental Health to visit and set the noise limiter, doors and windows being kept closed at 22:00 and also restrictions on collections and deliveries. Mr Watson added that following agreement of the proposed conditions he was reasonably content with the application.

Mr Watson advised the Sub-Committee that there had been one noise complaint to the Council's Noise Team on 5 May 2017 in respect of the premises which had resulted from loud music being played. This had been because a fire door on the ground floor on Sale Place had been kept open which had led to noise escape upstairs. An Environmental Health officer had visited and no action was taken.

The Sub-Committee was addressed by Mr Brown, representing Mr Zamit. He requested some amendments to Environmental Health's proposed conditions. These included that seating in the basement should be 'substantially laid out' to tables and chairs accommodating a minimum of 50 persons, that all windows and external doors were kept closed after 21:00 rather than after 22:00 hours as agreed between Environmental Health and the Applicant, that at least 32 out of 50 people on the private forecourt on Sale Place be required to be seated and that there were no deliveries between 20:00 and 08:00 the following day (Environmental Health and the Applicant had agreed no deliveries between 23:00 and 08:00). Mr Carter agreed these proposed amendments on behalf of his client, including being required to have the availability of seating in place for up to 32 out of 50 people following a further request from Mr Zamit who believed there were potential issues with vertical drinking. Mr Carter had had concerns about this proposal because if tables and chairs needed to be removed for any reason, it would limit the Applicant to 18 people outside. Mr Brown also requested that an additional condition was attached to the premises licence that no super-strength alcohol was sold in respect of the off-sales.

Mr Zamit asked that the closing time in respect of the opening hours for the premises on Sundays was limited to 22:30. Mr Carter replied that his client would like the opportunity to provide 30 minutes' drinking up time on Sundays.

Mr Wroe advised that there was a condition on the existing premises licence that tables and chairs would be rendered unusable after 22:30. However, there was no condition on the licence limiting the use by patrons of the outside area. Mr Wroe asked whether it was the understanding of the parties that the outside area was not used after 22:30. Mr Zamit requested that the outside area was not used after 22:30. Mr Carter on behalf of his client offered 23:00.

The Sub-Committee, in granting the application, noted the positive nature of the conversation at the hearing and that the Applicant had agreed a number of measures to promote the licensing objectives. Some of the conditions specifically related to the basement being added to the premises licence, such as the basement being substantially laid out to chairs with seating for approximately 50 people and others went beyond this. These included

	<p>restricting the hours of deliveries and making seating available for up to 32 out of 50 people on the private forecourt in Sale Place. The Sub-Committee attached all the conditions to the premises licence that the Applicant had agreed could be amended at the request of Mr Brown and Mr Zamit. In addition, it was noted that the Applicant was also employing one SIA voluntarily on Thursdays and Fridays and was choosing not to operate on Sundays.</p> <p>The Sub-Committee took into account that currently there was no limit in terms of the hour when patrons could remain outside in the private forecourt in Sale Place. The Applicant was therefore making a concession in offering 23:00 as the latest time patrons could remain in this area. The Sub-Committee amended the time when tables and chairs could be rendered unusable to 23:00 rather than 22:30 on the existing licence because otherwise patrons would be able to remain outside and partake in vertical drinking for thirty minutes without tables and chairs being available.</p> <p>The Sub-Committee noted Mr Zamit's request for the closing time for the premises to be 22:30 on Sundays which is in keeping with the Council's Core Hours. However, the premises already permitted the Applicant to close the premises at 23:00 and the Applicant requested that this was not reduced. The closing time on Sundays therefore remained as 23:00.</p>
2.	<p><b>Sale by retail of alcohol (On and Off) – basement to be included within the licensable area (these hours are permitted for the ground floor as a result of the existing premises licence)</b></p>
	<p>Monday to Saturday:                      10:00 to 23:00  Sunday:    12:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>There was a condition on the existing premises licence that there shall be no off sales after 22:00 and the Applicant was content for this to be in place for the basement as well as the ground floor.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted (taking into account that there would be no off sales after 22:00), subject to conditions as set out below.</p>

<b>Conditions attached to the Licence</b>	
<b><u>Mandatory Conditions</u></b>	
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 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.

### **Additional Conditions**

9. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.



In this condition, permitted hours means:

- (a) On weekdays, other than Christmas Day or Good Friday, 10:00 to 23:00;
- (b) On Sundays, other than Christmas Day, 12.00 to 22.30;
- (c) On Good Friday, 12:00 to 22:30;
- (d) On Christmas Day, 12:00 to 15:00 and 19:00 to 22.30;
- (e) 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 consumption of the alcohol on the premises;
- (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.

10. The terminal hour for late night refreshment on New Year's Eve is extended to 05.00 on New Year's Day.
11. Alcohol shall not be sold or supplied unless it is paid for before or at the time when it is sold or supplied, except alcohol sold or supplied:
  - (a) with and for consumption at a meal supplied at the same time, consumed with the meal and paid for together with the meal;
  - (b) for consumption by a person residing in the premises or his guest and paid for together with his accommodation;
  - (c) to a canteen or mess.

This condition does not prevent payment being made by credit card, provided the customer is presented with an itemised bill showing the details of alcoholic drinks purchased.
12. There shall be no off sales after 22:00.
13. The outside area shall not be used for any purpose after 23:00 and tables and chairs located outside the premises shall be rendered unusable at this time.
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. 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.
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. 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.

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 premises licence holder shall ensure that any patrons drinking and/or 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.
21. Whenever licensable activities are taking place with the basement, there shall be a member of staff present within basement area.
22. The number of persons permitted in the basement of the premises at any one time (excluding staff) shall not exceed 90 persons.
23. The basement shall be substantially laid out to tables and chairs with seating to be provided in the basement to accommodate a minimum of 50 persons.
24. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
25. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

26. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
27. The emergency exit door from the basement room leading onto Star Street shall be maintained closed at all times that the public are on the premises except for emergency use.
28. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises, except for persons consuming alcohol outside the premises.
29. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises as off sales, except for premium beers and ciders supplied in glass bottles and with the prior written approval of the Police.
30. Patrons drinking outside the premises shall be restricted to the private forecourt on Sale Place and limited to 50 persons (seated or standing) with a minimum of 32 seats maintained in the outside area. Staff will be proactive in ensuring that the footpath is not obstructed. There will be no patrons, seated or standing, in Star Street.
31. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
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 collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 on the following day.
34. No deliveries to the premises shall take place between 20.00 and 08.00 on the following day.
35. 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.
36. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
37. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
38. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

39. 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.

**5 SOHO MIXER, UNIT 5 JUBILEE HOUSE, RAMILLIES STREET, W1**

**LICENSING SUB-COMMITTEE No. 1**

*Friday 16th June 2017*

Membership: Councillor Angela Harvey (Chairman), Councillor Tim Mitchell and Councillor Murad Gassanly

Legal Adviser: Barry Panto  
 Policy Adviser: Chris Wroe  
 Committee Officer: Jonathan Deacon  
 Presenting Officer: Yolanda Wade

Relevant Representations: In support – 1 Business Improvement District, the landlord of the premises and 1 local business  
 Objecting - Environmental Health, Metropolitan Police, Licensing Authority, 1 amenity society and 1 local freehold owner.

Present: Mr Piers Warne (Solicitor, Representing the Applicant), Mr Jon Dalton (Director), Mr Dave Nevitt (Environmental Health), PC Bryan Lewis (Metropolitan Police), Mr David Sycamore (Licensing Authority), Mr Niall McCann (Solicitor, representing Leighton Harbor Ltd) and Mr Ronald Laser (David Menzies Associates - Managing Agent for 187-195 Oxford Street).

Declaration: Councillors Harvey, Mitchell and Gassanly declared that the Council works closely with New West End Company ('NVEC'), as it is a Business Improvement District. The Chief Executive of NVEC had submitted a representation in support of the application. This did not affect the Members' ability to consider the application impartially.

<b>Soho Mixer, Unit 5 Jubilee House, Ramillies Street, W1</b>	
<b>17/03847/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment (Indoors)</b>
	Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00
	Amendments to application advised at hearing:  Mr Warne, representing the Applicant, advised during the hearing that the aspect of the application relating to Late Night Refreshment was being

	withdrawn.
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee was not required to consider this aspect of the application as it had been withdrawn by the Applicant.</p>
<b>2.</b>	<b>Sale by retail of alcohol (On and Off)</b>
	<p>Monday to Thursday: 10:00 to 23:30  Friday to Saturday: 10:00 to 00:00  Sunday: 12:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>Mr Warne advised in writing prior to the hearing that the proposed hours for the sale by retail of alcohol had been reduced to:</p> <p>Monday to Wednesday: 12:00 to 22:30  Thursday to Saturday: 12:00 to 23:00  Sunday: 12:00 to 22:00</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee heard from Mr Warne, representing the Applicant. He referred to additional papers submitted by the Applicant which had been circulated to all parties. These included two additional proposed conditions which had been submitted by the Applicant following discussions with the Police. These were that there would be one SIA doorman on duty between 19:00 and the closing time on Friday and Saturday and CCTV would cover the area immediately outside the premises. Two conditions proposed by Environmental Health had been agreed by the Applicant. These were that the licence holder would remove litter and waste from the area immediately outside the premises and it would be cleaned and washed and also that the number of persons permitted on the premises at any one time (excluding staff) would not exceed 70. This was a reduction from the previous proposed condition which put forward a maximum of 110 people inside the premises.</p> <p>Mr Warne confirmed that his client had not agreed the model restaurant condition, MC66, which had been proposed by Environmental Health. He stated that planning permission would not allow for a flue in the building so it was not possible to have a full kitchen at the premises. Mr Warne wished to emphasise that the lease required the Applicant to trade all day. The Applicant intended to run Soho Mixer as a café in the morning and provide food from two commercial kitchens. Small plate foods and olives were part of the offer during lunchtime and evening. Mr Warne added that the landlord did not want the premises to be operated as a bar.</p>

Mr Warne referred to the proposed reduction in the hours of operation (see amendments to application advised at hearing above – sections 2 and 3). He informed those present that they had been reduced because he believed that the key times in respect of the cumulative impact policy are at and beyond Core Hours. He quoted a line from paragraph 2.4.2 of the Council's Statement of Licensing Policy that 'The problems in the Cumulative Impact Areas are generally later at night than the core hours'. The Applicant's intention was that customers would leave the premises before the stress of the cumulative impact areas really came into being.

Mr Warne made the point that he appreciated that the application was contrary to the Council's policy in the West End Cumulative Impact Area. He had noted however that whilst he had to provide genuinely exceptional circumstances as to why the application should be granted, the Licensing Authority would not apply its policies inflexibly and would be required to consider the individual circumstances of each application; even where an application is made for a proposal that is apparently contrary to policy.

The reasons given by Mr Warne as to why the application constituted an exception to policy included the approach that would be taken by the Applicant in Ramillies Street. Mr Warne stated that there was an issue with crime and disorder in the street which he believed had been recognised by all parties to the hearing including by the Police, in New West End Company's representation and also that of Leighton Harbor Ltd and Ponte Gada. The Applicant had submitted data of the breakdown of crime on Ramillies Street and photographs of litter in the locality. Mr Warne referred to the stench of urine in the street and described it as intimidating, a hotspot for rough sleepers and used by street drinkers. Mr Warne explained that Soho Mixer would trade from early morning until the late evening and that the activity would put individuals or groups off from being involved in any criminal or anti-social behaviour. The Applicant would be prepared to clean any area in the locality where there was a pervading smell. The outside area was public highway and the Applicant was considering applying for a 'tables and chairs' licence so had a vested interest in keeping the area clean. There would be CCTV outside.

Mr Warne said that another reason as to why the application constituted an exception to policy was the location of the premises. He understood that local residents were to the north of Oxford Street. There were no other licensed premises in close proximity to Soho Mixer. He made the point that shoppers or other potential customers looking for a restaurant had to head to Soho. If the application for Soho Mixer was granted, Mr Warne was of the view that customers would not cause the problems that the cumulative impact area was there to protect against. Residents when dispersing were likely to head up Oxford Street or towards Oxford Circus underground station. He also believed that the nature of the street was not one where there was cumulative impact due to density of premises. Mr Warne stated that the Applicant expected the clientele to be office workers in the morning, shoppers in the afternoon and office workers and shoppers in the early evening.

Mr Warne referred to the experience of Mr Dalton in operating premises in and

outside London. Mr Dalton was looking to cater for the market which did not want a full restaurant meal. He added that it could not be the policy to abandon an area which has crime and disorder.

The Sub-Committee heard from PC Lewis. He advised that the Police maintained their representation on policy grounds as Soho Mixer is in the West End Cumulative Impact Area and the Applicant had not agreed the model restaurant condition. However, he had visited the street and found it to be like a dismal service road in nature. He took the view that a well-run appropriately licensed premises with good security presence, including CCTV and potential witnesses could assist to prevent crime and disorder in the street and make it less intimidating. Potentially people would leave the West End Cumulative Impact Area to travel home.

The Sub-Committee was addressed by Mr Nevitt on behalf of Environmental Health. He had also maintained his representation on the grounds that the application was contrary to the Council's policy in the West End Cumulative Impact Area. He was keen to understand how the Applicant wanted to operate the premises. The Applicant did not want the premises to be a restaurant. It was also not the intention to run the establishment as a bar or a fast food premises. Mr Nevitt added that had the Applicant been willing to accept MC66 Environmental Health would probably have been content with the application.

Mr Nevitt wished to respond to the points included in the Applicant's submission as to why the application should be considered an exception to policy. Mr Warne had raised the matter of there being limited potential use of the site. Mr Nevitt drew the Sub-Committee's attention to the planning permission being for dual alternative use as a retail café or an A4 bar. Whilst permission would not be given for a high level extract ventilation system, Mr Nevitt advised that it was perfectly possible to comply with the Council's model restaurant condition without providing primary cooking on the premises. Mr Nevitt also did not take the view that the application was exceptional just because it might put some people off misbehaving in the area. He believed it could also be questioned whether it was a good thing in an area which was vulnerable to crime and disorder to have a bar there or a premises where alcohol was not ancillary to food. A restaurant would take the edge off the concern. Mr Nevitt stated that bona fide restaurants with small bars in the cumulative impact areas were contrary to the Council's policy. There was no requirement in this instance for customers to consume food with alcohol.

The Sub-Committee heard from Mr Sycamore on behalf of the Licensing Authority. He agreed with Mr Nevitt's point that the Applicant needed to explain how the premises would operate. He referred to paragraph 2.4.21 of the Council's Statement of Licensing Policy that applications needed to be 'appropriately conditioned so that the consumption of alcohol is not, and cannot become, a significant part of the operation of the premises'. The application was effectively for a new bar in the West End Cumulative Impact Area. He did not believe that the Applicant had provided genuinely exceptional circumstances as to why the application should be granted.

The Sub-Committee also heard from Mr McCann, representing Leighton Harbor



Ltd, freehold owners of the office block at 187-195 Oxford Street which is immediately opposite Soho Mixer. Mr McCann informed the Sub-Committee that the office block contained 500-600 workers and overlooked the Applicant's premises. There were concerns that they would be disturbed by the Applicant's premises during trading hours due to noise, fumes from smokers, general threatening behaviour and congestion. After the Applicant's premises operated, there were concerns regarding the potential for litter, patrons lingering in the nearby area, public urination and vomit.

Mr McCann observed that the Applicant's case was that the premises would be doing the area a favour if the application was granted. Leighton Harbor did not believe that this was correct as they considered that they had already taken significant steps to improve Ramillies Street. They had contributed £300k to the Council for pedestrianisation of the street, had planted a tree and had paid for daily cleaning. Mr McCann disputed that the locality looked as untidy as the Applicant's photographs had indicated. He had found it to be quite tidy, not blighted by rubbish and not tainted with the smell of urine.

Mr McCann said that it was the intention of his client to install a waterfall going the full length of the 187-195 Oxford Street building. His client took the view that there was already sufficient lighting and there was external CCTV in place at the building. Mr McCann made the point that what was proposed by the Applicant at Soho Mixer was a bar and that an outside area would ultimately be used. Leighton Harbor did not believe that this would improve the area. He commented that MC66 had not been agreed or alcohol being ancillary to food in any way. The use of the outside area had also not been limited to early evening. There had not been any limits on the numbers outside or smokers.

Mr McCann also wished to respond to the Applicant's point that there was limited potential use of the site. He believed this was misleading. He explained that the premises could be used as an office block or a café or a storage unit with appropriate permissions. It was not the case that the premises could only operate as a bar. Mr McCann requested on behalf of his client that the Sub-Committee refuse the application outright rather than granting the application with MC66 attached as a condition on the licence. This he believed was because MC66 would require the premises to have a completely different style of operation from the one proposed. It was the perception of Leighton Harbor that the documentation submitted by the Applicant indicated that the premises would be run as a bar.

Mr McCann commented that to grant the application would be to fly in the face of policy. There was nothing exceptional about having an A4 planning permission or the site being in an alley way. Mr McCann also referred to the Applicant's submission of additional documents including case law. He believed this to be unnecessary on the grounds that the Council's policy had been tested on numerous occasions and was robust. He added that the application added to cumulative impact in the West End Cumulative Impact Area. There were other licensed premises in Market Place across Oxford Street.

The Sub-Committee asked a number of questions. Mr Warne and Mr McCann were asked whether they had liaised prior to the hearing. Mr Warne and Mr

McCann replied that Mr Warne had sought to discuss the application with Mr McCann, including potential conditions. However, Mr McCann had brought discussions to a close once it had been known that no restaurant condition had been agreed. It was clear to Leighton Harbor at that point that they would be continuing to strongly object to the application.

Mr Warne confirmed that the proposed closing time would be twenty minutes after the amended terminal hours for on and off sales and also that late night refreshment was no longer sought by the Applicant.

Mr Warne was asked to clarify if Soho Mixer was a bar or café, drink led or food led. Mr Warne replied that Soho Mixer was a hybrid of styles of premises. During the morning trade it would be more of a café with coffee, breakfast and fresh produce brought from the two other premises. There would be tapas style menus available all day. Lunches would include quiche. In Mr Dalton's two kitchens where food was delivered from, one kitchen concentrated on cakes and sweet products and the other on savouries. Mr Dalton added that there was no fast food provided. Mr Warne provided the information that due to the high overheads in the West End and the premises being comparatively small in size, there needed to be the option to cater for customers who wished to be able to have a drink without eating. In response to the point that there could be 70 people in the premises not being required to eat at all, Mr Warne stated in theory that was the case but this was not how Mr Dalton operated in his premises elsewhere and Soho Mixer was defined by all day trading. Mr Dalton made the point that if customers wanted to go to a bar, they would go elsewhere.

It was explored by Mr Panto with Mr Warne and Mr Dalton whether they were willing to discuss conditions that were less strict than the Council's full restaurant condition which would be acceptable to them including having a small designated bar area within a restaurant. Currently the application was drink led. Mr Warne advised that Mr Dalton did not believe that any restaurant model would work for the premises. Mr Dalton added that purely sit down restaurant meals were not workable given the planning restrictions. Food would not be heated up in microwaves.

Mr Wroe asked whether the Applicant would be willing to agree to the premises operating as a restaurant or ceasing trading after 20:00. The Council's Statement of Licensing Policy sets out that if alcohol ceases not being ancillary to food at 20:00 then permitting the sale of alcohol for consumption on the premises is unlikely to add to cumulative impact in the cumulative impact area. Mr Warne responded that the Applicant had offered the condition that substantial food must be available at all times. The Applicant did not wish to agree to become a restaurant after 20:00. If there was a variation on the substantial food condition so that the provision of drinks in general was ancillary to a provision of food the Applicant would be prepared to consider it.

PC Lewis was asked about the crime statistics submitted by the Applicant, including whether he perceived Ramillies Street to be a problem location. He replied that he had carried out a 12 month check and had found that there had been 34 alleged crimes during that period. The more serious crimes had taken place in buildings rather than on the street itself. He believed there was anti-

social behaviour taking place at this location such as urination because it was a quiet street. It was not busy in terms of pedestrians.

Mr Dalton, in response to the concerns of Leighton Harbor, disputed that office workers would be adversely affected by what took place at Soho Mixer. He expressed the view that with the offices being about four storeys up and a bank of noisy air conditioning units below them, it would not be possible to hear anything through the reinforced glass windows. He did not believe Ramillies Street was being cleaned and maintained throughout the day beyond the immediate area at 187-195 Oxford Street. He emphasised that if the Applicant was to apply for a tables and chairs licence, there would not be 20 to 30 people vertically drinking outside.

The parties at the hearing were given the opportunity to sum up the key points. Mr McCann said that he did not doubt that Mr Dalton was a good operator. However, there were hundreds of good operators who would like to operate premises exactly as described by Mr Warne and Mr Dalton in the Council's designated cumulative impact areas but had been aware of the nature of the Council's policy. He expressed the concern that a quasi MC66 if applied would be difficult to enforce. His client took issue with the claim that the area was not being improved as a result of the funding by Leighton Harbor. The application he believed would not assist the area. A condition was usually proposed in respect of the outside area even if a tables and chairs licence was yet to be approved. There was no restriction in terms of patrons being required to sit down outside. Mr McCann also made the point that off sales could be consumed on the street.

Mr Sycamore stated that it had become clear, particularly in the evenings, that the Applicant wanted to attract patrons to come in and have a drink. There was nothing to stop a group of 20 to 30 people coming in and the premises operating as a bar. Customers could stand outside as well as those who were present inside the premises. The application was contrary to policy.

Mr Nevitt referred to the policy that the consumption of alcohol needed to be appropriately conditioned so that the consumption of alcohol 'is not, and cannot become, a significant part of the operation of the premises'. He made the point that there was nothing being offered by the Applicant to ensure that alcohol would not become a significant part of the operation of the premises. It was allowed across the whole premises for 70 people. It would send a mixed message to other operators if granted.

Mr Warne commented in response to the points made by Mr Nevitt and Mr McCann that it would be a sad state of affairs if Applicants did not bring an application before the Sub-Committee if they had something different to offer other than a restaurant. Due consideration should be given to a number of factors, one of which being the Council's policy. He referred to the case of 'R v Chester Crown Court, ex parte Pascoe and Jones' where Justice Lord Glidewell had set out that if a number of applications were granted as exceptions to policy because the reasons for the policy would still be met, then that would not be a demolition of the policy. It was proposed to have mixed uses. Mr Warne said that the key points were what are the cumulative impact areas there for and how

did the Applicant say that the application promoted the licensing objectives.

Mr Warne made the case that the application promoted the licensing objectives and was not in keeping with the characteristics of the cumulative impact areas as set out in the policy on eight grounds. Firstly, there were no residents around and Ramillies Street is a pedestrianised road. The office block has sealed windows and workers would not be disturbed. The area would also be cleaned. Secondly, anti-social behaviour was occurring already. Crime statistics had been received from the Metropolitan Police's website. PC Lewis had suggested, Mr Warne stated, that licensed premises at this location could assist. Thirdly, the grant of the application was likely to take customers away from Soho and reduce the blocking of pavements there. Fourthly, litter would be reduced. Fifthly, the street would be cleaned and there would be CCTV coverage of the area. Reason six was that traffic congestion would not be an issue. Reason seven was that the area was currently intimidating. It should not be abandoned to crime and disorder. There was support from the landlord and NVEC.

The Sub-Committee carefully read and listened to all the representations prior to reaching a decision. These included Mr Warne's reference to the Council's policy that the Licensing Authority 'would not apply its policies inflexibly and would be required to consider the individual circumstances of each application; even where an application is made for a proposal that is apparently contrary to policy'. The Sub-Committee noted that the application was contrary to policy and had explored with Mr Warne and Mr Dalton whether they would be willing to look at operating the premises until 20:00 without alcohol being ancillary to food or even potentially whether they would look at operating a designated bar area within a restaurant. The Applicant had declined these options.

The Sub-Committee had noted the Applicant's reasons as to why it was believed the application was an exception to policy. The Sub-Committee did not consider that any of the reasons given were truly exceptional. Mr Warne had referred to the application being exceptional because it might prevent crime and disorder. However, the Sub-Committee shared the view of Mr Nevitt that it could also be questioned whether it was a good thing in an area which was vulnerable to crime and disorder to have a bar there or a premises where alcohol was not ancillary to food. The Sub-Committee noted that the Applicant was offering to provide food. However, there was no requirement for the alcohol to be ancillary to it. As Mr Sycamore had stated there was nothing to prevent large groups of people coming into the premises and ordering alcohol which could lead to the licensing objectives being undermined. There would be up to seventy people there who would add to cumulative impact in the West End Cumulative Impact Area. The Sub-Committee also had doubts that the anti-social behaviour was only likely to take place during the hours the establishment was open.

The Sub-Committee did not consider that the location of the premises was a genuinely exceptional reason to grant the application. The Sub-Committee shared the view of Mr McCann that there were other licensed premises not too far away from the premises such as Market Place across Oxford Street. Soho Mixer would be located in the West End Cumulative Impact Area and the application, even with reduced hours, added to cumulative impact. The Sub-Committee shared the view of Mr McCann and Mr Nevitt that the planning

	<p>limitations were not an exceptional reason as to why the application should be granted. Members noted Mr Nevitt’s advice that whilst permission would not be given for a high level extract ventilation system, it was perfectly possible to comply with the Council’s model restaurant condition, MC66 or even Model Condition 38 (the supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal) without providing primary cooking on the premises. There were other ways in which the premises could potentially operate without alcohol being sold which was not ancillary to food.</p> <p>Finally, the members did not accept Mr Warne’s interpretation of the Pascoe and Jones case. In that case it was recognised that consideration had to be given to the reason for having a policy and if those reasons could still be met by departing from the policy then such a departure could be justified as an exception to that policy. In this case the submissions of the applicant did not constitute an exception that resulted in the reasons for the policy being upheld. The applicant concentrated primarily on the impact that the premises would have in the immediate locality rather than the impact that might be caused by operating a potentially drink led premises where up to 70 customers would then disperse into the cumulative impact area. It was not accepted that after 11 pm all the customers would leave the area. The applicant was entitled to insist that it would not be prepared to operate with any kind of café or restaurant condition attached to the licence but in doing so it had not been able to justify why the application could be granted as a genuine exception to policy.</p> <p>The application was refused.</p>						
<b>3.</b>	<b>Hours premises are open to the public</b>						
	<table border="0"> <tr> <td>Monday to Thursday:</td> <td>07:00 to 23:30</td> </tr> <tr> <td>Friday to Saturday:</td> <td>07:00 to 00:00</td> </tr> <tr> <td>Sunday:</td> <td>10:00 to 22:30</td> </tr> </table>	Monday to Thursday:	07:00 to 23:30	Friday to Saturday:	07:00 to 00:00	Sunday:	10:00 to 22:30
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Friday to Saturday:	07:00 to 00:00						
Sunday:	10:00 to 22:30						
	<p>Amendments to application advised at hearing:</p> <p>Mr Warne advised in writing prior to the hearing that the proposed opening hours had been reduced to:</p> <table border="0"> <tr> <td>Monday to Wednesday:</td> <td>07:00 to 22:50</td> </tr> <tr> <td>Thursday to Saturday:</td> <td>07:00 to 23:20</td> </tr> <tr> <td>Sunday:</td> <td>10:00 to 22:20</td> </tr> </table>	Monday to Wednesday:	07:00 to 22:50	Thursday to Saturday:	07:00 to 23:20	Sunday:	10:00 to 22:20
Monday to Wednesday:	07:00 to 22:50						
Thursday to Saturday:	07:00 to 23:20						
Sunday:	10:00 to 22:20						
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was refused (see reasons for decision in Section 2).</p>						
<b>4.</b>	<b>Seasonal variations / Non-standard timings:</b>						

	<p><u>Late Night Refreshment (Indoors), Sale by retail of alcohol (On and Off) and Hours premises are open to the public</u></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>Amendments to application advised at hearing:</p> <p>Late night refreshment was withdrawn by the Applicant.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was refused (see reasons for decision in Section 2).</p>

## 6 THE GEORGE, 55 GREAT PORTLAND STREET, W1

### LICENSING SUB-COMMITTEE No. 1

*Friday 16th June 2017*

Membership: Councillor Angela Harvey (Chairman), Councillor Tim Mitchell and Councillor Murad Gassanly

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon  
Presenting Officer: Yolanda Wade

Relevant Representations: 1 amenity society.

Present: Mr Craig Baylis (Solicitor, Representing the Applicant), Ms Katerina Mercury (Retail Asset Manager, the Crown Estate), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr Rees) and Mr Linus Rees (Fitzrovia Neighbourhood Association).

<b>The George, 55 Great Portland Street, W1 17/02755/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment (Indoors)</b>
	<p>Monday to Wednesday 23:00 to 23:30  Thursday 23.00 to midnight  Friday to Saturday 23:00 to 01:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>

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

The Applicant, the Crown Estate, held an existing premises licence which enabled the ground floor to be operated as a pub. The hours permitted for the ground floor premises licence in respect of late night refreshment were Monday to Wednesday 23:00 to 23:30, Thursday 23.00 to midnight and Friday to Saturday 23:00 to 01.00 on the following day. In respect of sale by retail of alcohol, the permitted hours for the existing licence were Monday to Wednesday 11:00 to 23:00, Thursday 11.00 to 23.30, Friday to Saturday 11:00 to midnight, Sunday midday to 22:30 and Sundays before Bank Holidays midday to 23:00. The hours the premises are open to the public on the ground floor were Monday to Wednesday 11:00 to 23:30, Thursday to Saturday 11:00 to midnight and Sunday midday to 23:00.

The Crown Estate had applied for a new premises licence which included a restaurant on the first floor in addition to the bar on the ground floor. The hours sought for the sale of alcohol on the ground floor were greater than the current hours on the existing licence for the ground floor. Mr Baylis, representing the Applicant, referred to the fact that the proposed hours for the first floor restaurant were in keeping with the Council's Core Hours policy. He advised that the remainder of the building would be let out as three residential properties. The Sub-Committee noted that the Applicant was offering to surrender the existing premises licence if the new one was granted.

Mr Baylis and Ms Mercury explained that the Crown Estate was speaking to a number of potential tenants about operating the premises. There would be the same tenant operating both the pub and the restaurant. The Applicant was requesting a terminal hour of 01:00 for on sales of alcohol at the pub on a Friday and Saturday as it would make the application more financially attractive to a prospective tenant. The Crown Estate was keen that the tenant was able to provide good food and was part of the community. The tenant would need to respect the local neighbourhood. The Crown Estate owned flats not only above the premises but along Great Portland Street.

Mr Baylis informed the Sub-Committee that in response to the concerns of the Fitzrovia Neighbourhood Association regarding the outside area set out in their written representation, he was offering an amendment to a condition that he had agreed with Environmental Health. This was that in addition to any patrons drinking outside the premises being required to do so in an orderly fashion and being supervised by staff, they would also be required to be seated at tables and chairs. His client was also willing to limit the number of tables and chairs outside.

Mr Baylis stated that the Applicant had agreed a condition with the Police that a minimum of 1 SIA licensed door supervisor would be on duty at the premises from 21:00 hours until closing time on Friday and Saturday. An offer made by Mr Baylis was that the Applicant would accept a condition that there would be no

new entries of patrons after 23:00 if a terminal hour of 01:00 for on sales of alcohol was granted for the ground floor pub.

Mr Brown, representing Mr Rees, confirmed that some of the issues for Fitzrovia Neighbourhood Association in respect of the outside area had been resolved. Mr Rees, addressing the Sub-Committee said that he was pleased that the local pub was being brought back into use. He also welcomed the Applicant's proposed conditions which would have the effect that patrons would not block the pavement, including the requirement for them to be seated when consuming alcohol. He made the point however that the pub had previously operated within Core Hours and that he was requesting on behalf of Fitzrovia Neighbourhood Association that the terminal hour for on sales on Fridays and Saturdays continued to be midnight. This was due to concerns that residents nearby were likely to be affected by the dispersal of patrons from the pub at 01:00. In the event that the Sub-Committee was minded to grant 01:00, he was keen that there was a condition attached to the licence that there were no new entries of patrons after 23:00.

Mr Brown recommended that the conditions reflect the fact that the outside area was included on the plans as part of the premises. He also commented that the terminal hour on Friday and Saturday was significantly beyond Core Hours. 01:00 was after the regular buses had stopped running. Noise was he believed a natural consequence of dispersal of patrons from the pub and this was likely to cause nuisance at 01:00. There was the potential for customers to migrate from the first floor to the ground floor at midnight.

Mr Baylis was given the opportunity to respond to the points made by Mr Rees and Mr Brown. He stated that the focus of the revamped premises would be food. If there was a no new entry condition after 23:00 the bar on the ground floor would effectively become a post dinner bar. Customers would dine, have a drink and then disperse.

Mr Wroe asked Mr Baylis whether a capacity had been agreed for the first floor. He replied that no capacity figure had been agreed at this stage. Once an operator was in place, the licence would be transferred and Environmental Health and Mr Lynagh would then assess the capacity.

The Sub-Committee welcomed the communication between the Crown Estate and Fitzrovia Neighbourhood Association and noted that many of the latter's concerns had been addressed by the Applicant. There was however one main point of difference between the two parties and that was the terminal hour for the ground floor pub/bar. The Sub-Committee shared the concerns of the Association that if patrons were able to consume alcohol in the bar until 01:00 on Friday and Saturday nights there was the clear potential that they would create some noise which would constitute a nuisance at that late hour. The SIA licensed door supervisor could potentially be influential in reducing any noise in the immediate vicinity of the premises as patrons left but would not be able to have an influence as the patrons dispersed from the premises.

The Sub-Committee noted that Core Hours on the ground floor (with a terminal hour of midnight on Friday and Saturday nights) was still a later terminal hour on



	<p>Monday to Wednesday evenings than what had been permitted for the existing ground floor premises licence. The Sub-Committee also granted Core Hours for the first floor restaurant which the Applicant had applied for and the seasonal variation for New Year's Eve from closing time until start time on New Year's Day.</p> <p>The Sub-Committee attached a condition to the premises licence which ensured that patrons were seated in the event they consumed alcohol outside the premises. The Sub-Committee also amended conditions to reflect that the outside area was part of the premises as requested by Mr Brown. The Sub-Committee replaced a condition proposed by the Police for the first floor restaurant which required alcohol to be ancillary to a table meal and served by waiter or waitress to seated customers with the Council's model restaurant condition, MC66. A condition was attached to the premises licence reflecting that the existing premises licence was being surrendered. The Sub-Committee did not attach a condition to the licence which specified a last entry time of 23:00 as Mr Baylis had only offered this in the event that a terminal hour of 01:00 was granted for the ground floor pub/bar on Friday and Saturday nights.</p>
<b>2.</b>	<b>Sale by retail of alcohol (On) – Ground Floor</b>
	<p>Monday to Thursday 10:00 to 23:30  Friday to Saturday 10:00 to 01:00  Sunday 12:00 to 22:30</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 granted Core Hours (the hours applied for Monday to Thursday and on Sunday were granted but a terminal hour of midnight was granted Friday and Saturday).</p>
<b>3.</b>	<b>Sale by retail of alcohol (On) – First Floor</b>
	<p>Monday to Thursday 10:00 to 23:30  Friday to Saturday 10:00 to 00:00  Sunday 12:00 to 22:30</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>Granted, subject to conditions as set out below. The Sub-Committee granted the hours applied for on the first floor as these were core hours and the area would be subject to the Council's model restaurant condition.</p>
<b>4.</b>	<b>Hours premises are open to the public</b>
	<p>Monday to Thursday 07:30 to 23:30  Friday to Saturday 07:30 to 01:00  Sunday 11:00 to 22:30</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 granted the opening hours with the exception of the closing time on Friday and Saturday. The closing time on Friday and Saturday of midnight was in keeping with the Council's Core Hours policy. The closing time applied for Monday to Thursday and Sunday were in keeping with the Council's Core Hours policy.</p>
<b>5.</b>	<b>Seasonal variations / Non-standard timings</b>
	<p><u>Late Night Refreshment (Indoors), Sale by retail of alcohol (On) – Ground Floor, Sale by retail of alcohol (On) - First Floor and hours premises are open to the public</u></p> <p>New Year's Eve from closing time until start time on New Year's Day.</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>Granted, subject to conditions as set out below.</p>

## 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 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.

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.

**Additional Conditions**

10. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.
11. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
12. 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.
13. All outside tables and chairs shall be removed or rendered unusable by 23.00 hours each day.
14. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
15. 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.
16. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises building:
  - a) shall be seated.
  - b) 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.
17. 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.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. 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.
20. 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.

21. 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.
22. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
23. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
24. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
25. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
26. 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.
27. No deliveries to the premises shall take place between 23.00 hours and 07.00 hours on the following day.
28. No licensable activities shall take place at the premises until the premises have 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.
29. 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.
30. 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.
31. 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.

32. 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 faults in the CCTV system (f) any refusal of the sale of alcohol (g) any visit by a relevant authority or emergency service.
33. 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.
34. After 2300 Patrons permitted to temporarily leave and then re-enter the premises building, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
35. The premises shall only operate as a restaurant on the first floor
  - (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.

36. A minimum of 1 SIA licensed door supervisor shall be on duty at the premises from 2100 hours until close on Friday and Saturday.
37. No licensable activities shall take place at the premises until premises licence 16/07454/LIPT (or such other number subsequently issued for the premises) has been surrendered.

## **7 URBAN TEA ROOMS ST JAMES'S, 2A ST JAMES'S MARKET, SW1**

### **LICENSING SUB-COMMITTEE No. 1**

*Friday 16th June 2017*

Membership: Councillor Angela Harvey (Chairman), Councillor Tim Mitchell and Councillor Murad Gassanly



Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon  
Presenting Officer: Yolanda Wade

**Urban Tea Rooms St James's, 2A St James's Market, SW1  
17/03551/LIPN**

The application was granted under delegated powers as all objectors had withdrawn their representations.

**8 35 ST LUKE'S ROAD, W11**

**LICENSING SUB-COMMITTEE No. 1**

*Friday 16th June 2017*

Membership: Councillor Angela Harvey (Chairman), Councillor Tim Mitchell  
and Councillor Murad Gassanly

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon  
Presenting Officer: Yolanda Wade

Relevant Persons Objecting: Environmental Health and Metropolitan Police.

Present: Mr Mohamed Dweifel (Premises User), Mr Dave Nevitt (Environmental  
Health) and PC Bryan Lewis (Metropolitan Police).

**35 St Luke's Road, W11  
17/05815/LITENN (Temporary Event Notice)**

**Proposal: The sale by retail of alcohol (off)**

**Event Period: 12.00 on 27<sup>th</sup> August to 22.00 on 28<sup>th</sup> August 2017**

**Times when licensable activities will take place:**

**12:00 to 22:00 on 27<sup>th</sup> August 2017  
12:00 to 22:00 on 28<sup>th</sup> August 2017**

**Decision:**

The Sub-Committee initially heard from Mr Dweifel, the Premises User. He stated that it was his intention to sell beer and soft drinks from 35 St Luke's Road (he lives upstairs) from midday to 22:00 on 27<sup>th</sup> and 28<sup>th</sup> August. He believed his neighbours did not object to what he was proposing to do. He added that he planned to have a friend assisting him who is licensed by the Security Industry Authority ('SIA').

The Sub-Committee was addressed by PC Lewis on behalf of Metropolitan Police. He advised Members that the Police maintained their representation as they had a policy against residential premises operating temporary bars during the Notting Hill Carnival. The Police considered the premises to be in a high risk area and was located close to two sound systems which drew large crowds. PC Lewis emphasised that the Carnival presented a huge operational challenge for the Police with approximately one million people being in the area every year. There had been more than 450 arrests at the event in 2016, many of which were associated with the consumption of alcohol. There had been 15 serious assaults, 4 of which were life threatening. Due to the level of the crowds, it could be very difficult for the Police to reach incidents which took place. Stewards were used with limited powers which increased the risk.

PC Lewis commented that alcohol should be sold responsibly. The Police had concerns regarding unlicensed residential premises creating makeshift bars at the front with a lack of training on the part of the sellers. There had been insufficient information provided by the Premises User about the nature of the operation. Would alcohol be sold to underage people? How would the Premises User ensure that customers were not intoxicated? Would super-strength alcohol be sold and would alcohol be sold in polycarbonate vessels? Glass vessels had historically been used as weapons and missiles. He also questioned how disorder would be prevented and where toilets would be available. Obstruction was caused by customers buying alcohol and standing there whilst consuming it.

PC Lewis acknowledged that the Premises User was now offering to have someone assist him who is licensed by the SIA. However, it would be extremely difficult to oversee what was taking place at the premises at all times and as the premises were not licensed, no conditions could be introduced. The Premises User would have to keep to undertakings. PC Lewis informed the Sub-Committee that this was the first temporary event notice or application submitted by Mr Dweifel. Mr Dweifel had not in the Police's opinion demonstrated an understanding of the risks of selling alcohol, particularly at the Carnival.

The Sub-Committee asked PC Lewis whether the Police's concerns would be lessened if Mr Dweifel stopped selling alcohol at 19:00. PC Lewis had mentioned that licensed alcohol outlets stopped selling alcohol at the Carnival at that time. PC Lewis replied that it would not lessen his concerns if Mr Dweifel stopped selling alcohol at 19:00.

Mr Nevitt for Environmental Health explained the pressures on the area during the Carnival. These included 1000 plus people being in the area for the Killerwatt sound system (outside 47-49 St Luke's Road) and 1000 people an hour entering from Westbourne Park underground station. There was large scale crowd congestion and no public toilets were provided in the locality. Another licensed sound system was located at Leamington Road Villas.

Mr Nevitt advised that he attended meetings with local residents who expressed concerns about Notting Hill Carnival. These related to noise, not being able to get out of their properties and the public urinating in their gardens. Mr Nevitt believed it was an issue that St Luke's Road is not located on the official Carnival route as away

from the procession, there was no reason for people to leave the area and they would stay there to consume food or alcohol.

The Sub-Committee asked Mr Nevitt whether Mr Dweifel's offer to have a friend working with him who is SIA licensed lessened his concerns. He replied that the fact was that the sale of alcohol was a contributor to one of the biggest issues that residents complained about. It was likely to be a heavily congested area and would challenge Police resources. He was firmly of the view that even if the temporary event notice was amended, there would still be issues. The Council would have to rely on undertakings which would be difficult to enforce.

Mr Dweifel was given the opportunity to respond to the comments of PC Lewis and Mr Nevitt. He informed the Sub-Committee that he was willing to offer his toilet to customers. He was asked how many cans of beer he expected to sell and replied that he was hoping to sell approximately 100 a day.

The Sub-Committee, in reaching a decision, noted the Police's and Environmental Health's strong reservations about the proposals set out in the Temporary Event Notice. Members had explored with the Responsible Authorities whether there were any amendments to the Notice which would have lessened their concerns and it had been clear that there were not. The Sub-Committee did not have confidence that any of the licensing objectives, whether it was the prevention of crime and disorder, public safety, prevention of public nuisance or the protection of children from harm, would be promoted if the Notice was allowed to proceed.

The Sub-Committee shared the concerns of the experienced officers, PC Lewis and Mr Nevitt that the sale of alcohol at the unlicensed premises had the capacity to increase issues at this heavily congested location during the Carnival. The Sub-Committee noted that the Premises User was intending to have a SIA licensed individual working with him and that he was offering to provide a toilet. However, Mr Dweifel had never applied to sell alcohol before and the Members' perception was similar to that of the Police's that he did not appear to demonstrate an understanding of the risks of selling alcohol, particularly at the Carnival. In any event, the concerns raised by the Police and Environmental Health could not be fully addressed by simply having an SIA licensed individual working with the premises user. That would obviously lessen the risks involved but would not overcome the problems that would be associated by selling alcohol to persons at this particular location. It had the potential to further fuel disorder at the Carnival and to add considerably to the nuisance that was being caused to the local residents.