



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** Committee held on **Monday 31st July, 2017**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Melvyn Caplan (Chairman) and Peter Freeman

1 MEMBERSHIP

There were no changes to the membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 UNIT 9, GROUND FLOOR, NEWPORT SANDRINGHAM BUILDING, NEWPORT COURT, WC2

LICENSING SUB-COMMITTEE No. 3

Monday 31st July 2017

Membership: Councillor Melvyn Caplan (Chairman) and Councillor Peter Freeman

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

Unit 9, Ground Floor, Newport Sandringham Building, Newport Court, WC2 17/05364/LIPN

Application withdrawn by the Applicant prior to the hearing.
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4 UNIT 10, GROUND FLOOR, NEWPORT SANDRINGHAM BUILDING, NEWPORT COURT, WC2

LICENSING SUB-COMMITTEE No. 3

Monday 31st July 2017

Membership: Councillor Melvyn Caplan (Chairman) and Councillor Peter Freeman

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

**Unit 10, Ground Floor, Newport Sandringham Building, Newport Court, WC2
17/05372/LIPN**

Application withdrawn by the Applicant prior to the hearing.

**5 UNIT 11, GROUND FLOOR, NEWPORT SANDRINGHAM BUILDING,
NEWPORT COURT, WC2**

LICENSING SUB-COMMITTEE No. 3

Monday 31st July 2017

Membership: Councillor Melvyn Caplan (Chairman) and Councillor Peter Freeman

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

**Unit 11, Ground Floor, Newport Sandringham Building, Newport Court, WC2
17/05378/LIPN**

Application withdrawn by the Applicant prior to the hearing.

**6 UNIT 12, GROUND FLOOR, NEWPORT SANDRINGHAM BUILDING,
NEWPORT COURT, WC2**

LICENSING SUB-COMMITTEE No. 3

Monday 31st July 2017

Membership: Councillor Melvyn Caplan (Chairman) and Councillor Peter Freeman

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

Presenting Officer: Yolanda Wade

**Unit 12, Ground Floor, Newport Sandringham Building, Newport Court, WC2
17/05357/LIPN**

Application withdrawn by the Applicant prior to the hearing.

7 UNIT 13, GROUND FLOOR AND MEZZANINE, NEWPORT PLACE, WC2

LICENSING SUB-COMMITTEE No. 3

Monday 31st July 2017

Membership: Councillor Melvyn Caplan (Chairman) and Councillor Peter Freeman

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, Metropolitan Police, Licensing Authority, 12 x residents (Mr Hayes representation had been withdrawn following four applications at Newport Court being withdrawn).

Present: Mr Alun Thomas (Solicitor, representing the Applicant), Mr Jack Spiegler (Solicitor, on behalf of the Applicant), Mr Tom Welton (Executive Director, Applicant Company), Mr Andrew Price (Portfolio Executive), Mr Gavin McCosh (Project Manager), Mrs Sally Fabbriatore (Environmental Health), PC Reaz Guerra (Metropolitan Police), Mr Steve Rowe (Licensing Authority), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr Andrew Cox, local resident) and Mr Andrew Cox, Mr Ljubisa Boskovic, Mr Rob Jarvis, Mr Henry Shelford, Ms Clare Samuel, Ms Alina Arnold and Mr Shayne Herceg (local residents).

Declaration: Councillor Peter Freeman declared that he had previously met Mr Shelford, a local resident who had made a representation objecting to the application. It had been some years ago and they had not discussed the application.

**Unit 13, Ground Floor and Mezzanine, Newport Place, WC2
17/05384/LIPN**

1. Late Night Refreshment (Indoors)

Monday to Saturday: 23:00 to 01:00

	<p>Sunday: 23:00 to 00:00</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>Shaftesbury, the Applicant, originally submitted applications in respect of seven premises which were included on the agenda for the Licensing Sub-Committee meeting on 31 July 2017. Four applications were withdrawn prior to the meeting. These were in respect of Units 9, 10, 11 and 12 Newport Court. The three applications considered by the Sub-Committee at the meeting were for Units 13, 14 and 15 at Newport Place. It was agreed at the meeting that the three applications should be heard together.</p> <p>At the three premises, the Applicant was seeking late night refreshment (indoors), recorded music (indoors), on and off sales of alcohol and opening hours until 01:00 Monday to Saturday and midnight on Sunday (apart from Sundays immediately prior to Bank Holidays when 01:00 was applied for). The Applicant was proposing conditions for the three premises that alcohol would be ancillary to a table meal and that customers would be seated and served by waiter or waitress except for a bar area. The respective proposed capacities for Units 13, 14 and 15 would be 180, 200 and 220 respectively with the maximum numbers in the bar areas of the premises being 27, 30 and 33 respectively.</p> <p>In order to obtain a licence for restaurants with bars and with significant cumulative impact in the West End Cumulative Impact Area until 01:00, the Applicant was offering to surrender licences for three premises with bars in Charing Cross Road.</p> <p>Mr Welton of the Applicant Company provided some background to the recent history of the site. He stated that the Charing Cross Road/Newport Place/Newport Court area had been mismanaged by the previous owners and was a rough area. It had been acquired by Shaftesbury a few years ago and was being redeveloped with improved public realm and 24/7 security. The Applicant was offering to surrender licences for premises with bars in Charing Cross Road and locate three restaurants in Newport Place which were the subject of the current applications.</p> <p>Mr Thomas described the new applications as a 'cumulative improvement' over those it was proposed would be surrendered. He explained that premises licences in Charing Cross Road would be replaced with new ones in Newport Place which would create less impact. He believed the scheme would be a significant improvement for residents who lived in the area, reducing public nuisance and crime and disorder.</p> <p>Mr Thomas referred to the Man Bar licence at 79 Charing Cross Road which</p>

was one of the existing premises the Applicant was offering to surrender in order to obtain the premises licences for Units 13, 14 and 15 Newport Place. He stated that there had been noise complaints in respect of Man Bar and the premises licence had been reviewed. It was his understanding that regulated entertainment had been removed from the premises licence until the Applicant had satisfied the Council that works to rectify the problem had been undertaken and the condition had been removed from the licence. Mr Thomas referred to the condition having appeared to be removed from the licence. He added that the Applicant was offering to surrender a 3am licence.

Mr Wroe was asked if he could provide any advice on the position regarding the Man Bar licence. He made the point that he could not find any record of Environmental Health having cleared any works. It was his view that the Man Bar licence was suspended until the acoustic works were completed and cleared by Environmental Health. The decision of the Sub-Committee at the time had been appealed by the premises licence holder. The decision had been upheld. Mr Wroe believed it had been the case that the premises licence had not been operating since 2014, having been transferred shortly afterwards to Shaftesbury. He did advise that he was of the view that the Man Bar premises licence was still in effect. It did have a 3am premises licence but the practical effect of the licence given the suspension of regulated entertainment was open to question. There was a condition on the existing premises licence that the sale of alcohol is ancillary to substantial refreshment and the provision of entertainment.

Mr Thomas said that had the Applicant not been offering to swap premises with licences permitting bar use, he would have had more sympathy for arguments that the applications should not be granted as they are contrary to policy. Following consultation with Environmental Health, the proposed respective capacities for Units 13, 14 and 15 were 180, 200 and 220 with the respective capacities for the bars at Units 13, 14 and 15 being 27, 30 and 33. He wished to place emphasis on the existing premises licences that the Applicant owned in the locality allowing capacities of over 900 people even if the karaoke premises was removed. The proposed capacity was 600. Mr Thomas also commented that the numbers in the bars were being reduced from 470 in Man Bar and Long Shots to 90 in the three applications being applied for.

Mr Thomas put the case that landlords were often able to promote the licensing objectives more than the tenants by selecting the tenant, taking action against tenants who might misbehave and in the case of Shaftesbury, providing security and estate management.

The Sub-Committee asked Mr Thomas for confirmation that a condition on each of the three new applications surrendering the existing premises licences was being offered. This had not to date been included in the paperwork. Mr Thomas replied that he was content for the model surrender condition to be attached to each of the three licences should they be granted by the Sub-Committee.

Mr Thomas also referred to the terminal hour of 01:00 being sought for the 3 new applications. He asked Mr Welton why the Applicant was requesting this and Mr Welton responded that this was consistent and standard in the Chinatown and theatreland locality. 01:00 took into account post theatre

customers.

The Sub-Committee asked Mr Welton whether he could provide any more information on the nature of the operations being planned for the three premises. Mr Welton replied that the location was an extension of Chinatown and it was highly likely the premises would be east asian restaurants although not necessarily chinese.

Mr Thomas explained that there was a difference between the Applicant and the Responsible Authorities regarding the Council's model restaurant condition, MC66, being proposed. The Applicant was asking that this was not applied given the nature of the premises licences which were being surrendered. Takeaway was also being requested until 23:00.

Mr Thomas also addressed the Sub-Committee on the positive representation of Mr Owen's (a local resident's) representation and also a noise report, transport statement, travel plan and other documents having being produced. He stated that matters such as extraction plants and servicing had been dealt with in respect of the planning application. There had been a public exhibition and stakeholder consultation (Mr Price talked about Shaftesbury's long term relationship with Chinatown and how they would continue to work with residents). Mr Thomas advised that there had been individual sound testing in residents' flats, including in Mr Cox's flat. There were further works to be carried out by future tenants of the three premises.

The Sub-Committee heard from Mr Thomas that there were similar ambient noise levels in Charing Cross Road and Newport Place. There were he said 20 1am premises which came out of Gerrard Street/Macclesfield Street into Newport Place. He expressed the view that the applications would not add to the noise.

Mr Thomas believed there were three applicable elements to the Council's policy in relation to the application. One was the restaurant use (there was no presumption against). The second was in respect of the use of the bar where there was a presumption against in the designated cumulative impact areas. This was where the Applicant was making the case for an exception to the Council's policy due to the reduction in the numbers from the existing premises licences it was proposed would be surrendered to the numbers at the new premises. He referred also to external drinking being permitted for the existing licences until 23:00. The Applicant was offering that tables and chairs would not be used outside for the three new premises after 22:00 and that alcohol would be ancillary to food there. Mr Thomas took the view that paragraph 2.4.7 of the Council's Statement of Licensing Policy was relevant in that an example of an exception to policy 'would be the substitution of existing licensable activity at the premises with licensable activities which would have less impact on the area and would be more likely to further the licensing objectives. Similarly, the reduction in the capacity of a premises or a reduction in hours of operation might be a reason for an exception to policy'.

The Sub-Committee asked Mr Thomas for clarification on what was sought in terms of recorded music being applied for given the history of the site. He

replied that the existing premises licences allowed regulated entertainment. The sound testing had found that recorded music would be inaudible in residents' flats. He offered to withdraw recorded music should it be a concern of the Sub-Committee's.

The Sub-Committee also asked enquired of Mr Thomas why his client was not proposing that customers have drinks before their meals rather than be able to visit the premises and have a drink at midnight. Mr Thomas replied that it was permitted at the existing premises and it was an attractive option for a prospective tenant to be able to provide a drink without a meal.

Mr Thomas was asked by the Sub-Committee about the number of residential flats in the development. Mr McCosh provided the information that there are six flats in Newport Place. The flats were located on the second floor and above. There were 117 flats in total within the development site.

It was raised by Mr Panto that the Man Bar was a former 'special hours certificate' licence where in order to extend the licence alcohol was ancillary to substantial refreshment and music and dancing. It was not entirely drink led. Alcohol was not ancillary to substantial refreshment or music and dancing in the bar areas for the three new premises. Mr Thomas responded that the reality was somewhat different with Man Bar being a 350 capacity vertical drinking bar. He believed that it was being replaced with some ancillary use in the three new premises. He accepted that the licence for Man Bar did not make it an 'out and out bar'.

Mr Thomas wished to refute the idea that the existing licences such as Man Bar could not be brought back into operation. It was intended that they would be replaced with retail. However, the footprint of Man Bar was still there and it was not a 'hole in the ground'. There would probably need to be a variation application in order for it to operate again.

The Sub-Committee heard from Mrs Fabbriatore, on behalf of Environmental Health. She referred to her pre-application advice to the Applicant having been included in the paperwork for the meeting. She had not found any evidence to suggest works at Man Bar had been undertaken and cleared following the review of the premises licence. She confirmed that she had proposed MC66.

Mrs Fabbriatore advised that the replacement of the old licences by the new premises was likely to decrease public nuisance due to the reduced numbers being able to drink alcohol which was not ancillary to a meal. She informed Members that the planning permission did give Environmental Health the opportunity to sign off regarding acoustics at the premises. She expressed the view that one option was the use of noise limiters should the music be above a certain level. She also suggested that there could be a last entry time for the premises given the bar element.

Mr Rowe addressed the Sub-Committee on behalf of the Licensing Authority. He stated that the Sub-Committee needed to be satisfied that there were existing premises licences which could be surrendered. He also referred to the Applicant not having offered the full restaurant condition, MC66 and that the

Council's policy is that alcohol should be available in the bar area prior to a meal and not after. There was the option to attach conditions restricting this. Mr Rowe added that it was a concern that a restaurant premises would be offering vertical drinking.

PC Guerra stated that the Police had maintained their representation. The hours sought were beyond the Council's Core Hours policy in the West End Cumulative Impact Area. He advised the Sub-Committee that it was his understanding that the Applicant could surrender some of the existing licences in Charing Cross Road but not all of them. He also supported the policy that alcohol should be available in the bar area prior to a meal and not after. Late night drinking was a concern.

Following the Police representation, the Sub-Committee asked for clarification from Mr Thomas as to exactly which existing premises licences the Applicant was offering to surrender. Mr Thomas replied that his client was offering to withdraw three existing licences for Man Bar, Longshots Bar and Kopi Tiam in Charing Cross Road.

The Sub-Committee heard from local residents. Members had also read their written representations. Mr Boskovic and Ms Arnold both expressed concerns that there was the potential for similar issues to those experienced at Man Bar with noise, including music travelling through the building. Mr Herceg requested that recorded music was not permitted. Whilst there may have been sound testing, he was wary of music being played at an unacceptable level. Mr Jarvis also had concerns about noise travelling within the premises and general noise transmission. He brought to the Sub-Committee's attention that the Applicant had not prioritised the needs of residents during the renovation works. One example was that he did not believe that the timings of works were in keeping with those stipulated by the Planning Committee.

Ms Samuel stated that despite new security being on site the issue of anti-social behaviour was not being solved. She queried why the Applicant sought to operate from 07:00 which she believed was out of keeping with the Chinatown area. She also expressed concerns about the impact on residents of the restaurants operating to 01:00 with servicing until later. There would be noise from customers dispersing. She challenged the Applicant's view that 01:00 was the 'norm' for licensed premises in the area.

Mr Shelford described the problems he had experienced since the new Veolia depot had been located below him. He also challenged the idea that it was the 'norm' for restaurants in the area to open until 01:00. He had concerns that it had the potential to change the nature of the premises in the area if customers were able to drink at this location without it being ancillary to a meal.

Mr Brown addressed the Sub-Committee, representing Mr Cox. He stated that Mr Cox shared the concerns of his fellow residents about the potential for noise. He had agreed for Shaftesbury to use his flat for sound testing but had not been informed of the results. Mr Brown queried where smokers would go as there was the potential for noise from smokers and smoke to drift up towards residents' flats. He advised that Mr Cox also had concerns about noise from

customers in the external tables and chairs area.

Mr Brown focussed particularly on Mr Thomas' case that if the premises in Charing Cross Road were compared with the proposals for the new premises at Newport Place, there would be an overall decrease in capacity and in the terminal hours. Mr Brown commented that there were two issues with this argument. One was whether this was a fair comparison and secondly, whether the Council's policy allows for that comparison to be made to demonstrate an exception including in relation to cumulative impact.

Mr Brown disputed that 01:00 was a standard terminal hour for restaurants to be granted. He referred to the Council's policy that new restaurants will generally be granted Core Hours. He made the point that specifically in Charing Cross Road the restaurant licences were to Core Hours or less.

In respect of the Man Bar licence, Mr Brown said that this was the only one being offered for surrender which had operated beyond 01:00. He was of the view that if regulated entertainment was still suspended following the review of the premises licence, the licence could not be operated for the sale of alcohol after midnight and it was doubtful then that it could be argued that the cumulative impact would be less.

Mr Brown responded to Mr Thomas' view that paragraph 2.4.7 of the Council's Statement of Licensing Policy was relevant in demonstrating an exception to policy. He drew Members' attention to paragraphs 2.4.6 and 2.4.8 and questioned whether the existing licences could be used for practical purposes.

Mr Brown stated that the noise issues raised by the residents were still relevant with the Applicants applying for recorded music at each of the three restaurants. He added that Mr Cox had suggested conditions including in relation to smoking and use of tables and chairs. He had also proposed hours for licensable activities and the hours the premises are open to the public. Mr Cox was of the view that the terminal hour should be 23:30 Monday to Saturday and 12:00 to 22:30 on Sunday with a one hour extension on New Year's Eve and no extension on Sundays prior to Bank Holidays.

Mr Thomas was given an opportunity to respond to those who had made representations objecting to the application. He asserted that a terminal hour of 01:00 was the 'norm' for Charing Cross Road taking into account Man Bar, was the 'norm' for Newport Place as number 11 had a 01:00 licence and there were a number of premises in Gerrard Street and Lisle Street with 01:00 licences.

Mr Thomas clarified that he was proposing a capacity for the external area of 10% of the three premises that are the subject of the application (60 people). The 60 people would be in addition to the 600 capacity inside the premises. Planning permission was needed for the external area.

In respect of the smoking area, Mr Thomas made the point that there was an exceptional footfall in this location and it would be difficult to know whose customers were smoking where. It would be difficult to enforce. The premises would be restaurants so there would be less than other types of establishments.

He requested that a designated smoking area was not imposed by condition.

Mr Thomas expressed the view that sound tests could demonstrate that there would be no noise nuisance from recorded or live music. However, if the Sub-Committee was concerned about the transmission of noise through the premises, the Applicant would be prepared to withdraw it and possibly return at a later point when the works are completed.

In respect of Mr Shelford's concerns, Mr Thomas stated that the operation of the Veolia depot was not connected with the new restaurant premises and it was a planning matter. Mr Welton added that he appreciated Mr Shelford was aggrieved and had been considering legal action against what is the Council's contractor. It was not a matter that was within Shaftesbury's control. The Sub-Committee noted Mr Jarvis' view that having suffered due to the location of the previous Veolia depot he believed that Shaftesbury could have attempted to address the issue. However, it was not a matter which could be taken into account under the licensing regime.

Mr Thomas wished to emphasise that the discussion regarding replacement of uses was only applicable to the case for an exception relating to the Council's policy on bars. The new restaurants would generally be granted in the cumulative impact areas, subject to promoting the licensing objectives and that it could be demonstrated that they did not add to cumulative impact. He believed that what was being offered in terms of the licences being surrendered was more than what was being proposed. He disputed Mr Brown's points regarding the Man Bar licence and stated that there was nothing on the licence which proved that regulated entertainment was suspended. It was necessary for the Sub-Committee to take that at face value.

There was a discussion on the status of the Man Bar licence. Mr Wroe stated that it did not appear the Council had implemented the decision of the review hearing. This was likely to have been an administrative error. The premises had not been operating since January 2015 and the licence had been transferred to Shaftesbury. Mr Thomas responded that this was speculation and the licence currently showed that regulated entertainment was allowed until 03:00 for the 79 Charing Cross Road premises licence.

Mr Thomas made the case that the applications supported the underlying reasons for the policy with Shaftesbury proposing to remove licences at premises which cause nuisance and proposing to replace them with new premises which he did not believe would cause nuisance. There was a benefit in terms of cumulative impact and amenity as a result of the development. He advised that it would be possible to reinstate Man Bar by adding a wall. It was not the case that Man Bar could not be reinstated or was a 'hole in the ground'.

Mr Thomas in response to Mr Brown expressed the view that paragraph 2.4.7 of the Council's Statement of Licensing Policy was a standalone provision as it referred to 'another example' of a possible exception to policy. He added that the applications met the criteria in 2.4.7.

The Sub-Committee asked Mr Thomas whether the Applicant would be willing to

have a last entry time for the bar area as suggested by Mrs Fabbriatore. He replied that his client would be content for no new customers to enter the bar after Core Hours.

Ms Samuel wished to raise the matter of opening and closing times. The Applicant had provided a list of premises in the area with 01:00 terminal hours. She had looked on the website and had found a significant number which closed at 22:30 or 23:00. She therefore challenged the view that 01:00 was the 'norm' in terms of being a terminal hour. She also wished to make the point that there were no premises open in Chinatown between 07:00 and 10:00.

Mr Thomas was asked by the Sub-Committee to explain the opening hours given that the sale of alcohol was not applied for until 10:00. He provided the information that the opening hours were those permitted under the planning regime. There would be teas and coffees sales from 07:30 or 08:00.

In respect of the number of premises which operated until at least 01:00, Mr Thomas said that there were 80 restaurants in Chinatown and in the immediate proximity of the restaurant and at least 20 had later terminal hours than Core Hours. Mr Thomas added that his legal firm created a risk profile for Shaftesbury premises and he was therefore fairly confident that the vast majority sold alcohol.

Mr Brown commented that there is no 'norm' in licensing. The Council's policy was that applications for new restaurant premises will generally be granted Core Hours. He questioned whether the 60 people in the external areas added to 600 in the three restaurants would be a decrease in numbers in comparison to the premises whose licences were proposed for surrender in real terms. This took into account whether the Man Bar licence was operable after midnight.

Mr Thomas responded on the issue of capacities. He referred to the capacity in terms of the bar use for the existing premises licences being 470 and the full capacities was over 900. This was more than was being proposed. He added that alcohol consumption in the Man Bar had been unregulated and unrestricted.

The Sub-Committee had carefully listened and read all the parties' representations including a substantial number from residents. The Sub-Committee accepted the policy considerations as set out by Mr Thomas that there is no presumption against restaurants in the West End Cumulative Impact Area. It was, however, necessary for the Applicant to demonstrate that the restaurants in this instance would not add to cumulative impact. It had also been necessary for the Applicant to provide an exception as to why the bar areas where it was not proposed alcohol would be ancillary to a table meal should be granted.

The Sub-Committee found that the three premises licences which the Applicant was proposing to surrender, Man Bar, Longshots Bar and Kopi Tiam, had a value. These premises could not be said to be 'holes in the ground' and the licences could be brought back into operation. Members of the Sub-Committee were able to give some credit to the Applicant for this and had then weighed up just how valuable the proposed surrender of the existing premises was.

The Sub-Committee considered that an appropriate grant of the three respective restaurants was Core Hours for the restaurants and the bars (a terminal hour of 23:30 Monday to Thursday, midnight on Friday and Saturday and 22:30 on Sunday – there would be no late night refreshment on Sunday). Members of the Sub-Committee took the view that the Council was giving significant flexibility to, and granting an exception to policy to, the Applicant in return for the surrender of the three Charing Cross Road premises by permitting 90 people in the bars of the three premises in Newport Place to consume alcohol without it being ancillary to a table meal. The capacity for the internal areas of the three premises would be 600 people and externally it would be a further 60 in the West End Cumulative Impact Area. The Sub-Committee decided that to make enforcement of the bar areas simpler, the maximum capacities of the bars would be 30 in each of the three premises.

Had the Applicant been willing to accept the Council's model restaurant condition MC66 being attached to the premises licences for the three Newport Place premises so that alcohol was ancillary to a substantial table meal throughout, then the Sub-Committee might have been amenable to granting a terminal hour of 01:00. However, the Applicant had requested operations with more relaxed conditions. The Sub-Committee permitted the flexibility in the bar areas but required that in the restaurants alcohol was ancillary to substantial table meals. It was not practical to grant longer hours for the restaurant operation in view of the proximity of the bar to the restaurant area.

The Sub-Committee did not consider that the one premises licence which was being offered for surrender, Man Bar, which had been able to operate beyond Core Hours was of such significance that all three restaurants in Newport Place and the bars within them should be permitted a terminal hour of 01:00. Members were also of the view that the capacities of the three existing Charing Cross Road premises did not justify all three restaurants in Newport Place and the bars within them being permitted a terminal hour of 01:00. The Sub-Committee took into account that there were residents in the locality who could potentially be inconvenienced by the three premises and the bars within them operating until 01:00. Customers would be able to drink without food at the premises.

The Sub-Committee also considered in not granting 01:00 that they did not know who the operators would be at this stage or how the premises would operate.

The Applicant's Representative had offered to withdraw recorded music and the Sub-Committee accepted this offer. This took into account residents' specific concerns about the potential for noise nuisance.

The Sub-Committee attached the Council's capacity condition MC90 to the three new premises licences. This condition is that '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'. As agreed by the Applicant the Council's model surrender condition MC62 was attached to the licence so that no licensable activities would

	take place at the three new premises until the three existing premises in Charing Cross Road, Man Bar, Longshots Bar and Kopi Tiam have been surrendered and are incapable of resurrection.
2.	Recorded Music (Indoors)
	Monday to Saturday: 10:00 to 01:00 Sunday: 12:00 to 00:00
	Amendments to application advised at hearing: The Applicant's Representative had offered to withdraw recorded music and the Sub-Committee accepted this offer. This took into account residents' specific concerns about the potential for noise nuisance.
	Decision (including reasons if different from those set out in report): This element of the application having been withdrawn, there was no need for the Sub-Committee to determine it.
3.	Sale by retail of alcohol (On and Off)
	Monday to Saturday: 10:00 to 01:00 Sunday: 12:00 to 00:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee granted Core Hours for on and off sales of alcohol (Monday to Thursday 10:00 to 23:30, Friday and Saturday 10:00 to 00:00 and Sunday 12:00 to 22:30).
4.	Hours premises are open to the public
	Monday to Saturday: 07:00 to 01:00 Sunday: 08:00 to 00:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report):

	The Sub-Committee granted the commencement hours applied for and Core Hours for the closing times of the three premises (Monday to Thursday 07:00 to 23:30, Friday and Saturday 07:00 to 00:00 and Sunday 08:00 to 22:30).
5.	Seasonal variations / Non-standard timings
	<p><u>Late Night Refreshment (Indoors), Recorded Music (Indoors), Sale by retail of alcohol (On and Off) and Hours premises are open to the public</u></p> <p>To allow the permitted activities from the end of New Year's Eve to the start of New Year's Day.</p> <p>Sundays prior to Bank Holidays to operate until 01:00.</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 Applicant's Representative had offered to withdraw recorded music and the Sub-Committee accepted this offer. This took into account residents' specific concerns about the potential for noise nuisance.</p> <p>The Sub-Committee allowed the permitted activities from the end of New Year's Eve to the start of New Year's Day.</p> <p>The Sub-Committee granted Core Hours for the three new premises so that the premises would operate on Sundays prior to Bank Holidays until midnight.</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
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. Save for the area hatched black on the plans, the supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.
10. The number of persons permitted in the area hatched black on the plans excluding staff shall not exceed 30 persons at any one time.
11. Save for the area hatched black on the plans, the supply of alcohol on the premises shall be by waiter or waitress service only.

12. Except for the external seating area, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke shall not be permitted to take drinks or glass containers with them.
13. All external tables and chairs shall be rendered unusable after 22:00 hours daily.
14. All sales of alcohol for consumption off the premises shall be:
 - a) in sealed containers only, and shall not be consumed on the premises; or
 - b) to persons seated at tables and chairs in the external seating area.
15. There shall be no sales of alcohol for consumption off the premises after 23.00.
16. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
17. Substantial food and non-intoxicating beverages, including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
18. The 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
19. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.
20. Challenge 21, a proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
21. 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

22. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
23. All windows and external doors shall be kept closed after 22:00 hours except for the immediate access and egress of persons.
24. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
25. 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 sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.
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 and 08.00 on the following day.
28. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 on the following day.
29. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
30. 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.
31. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
32. 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.
33. The Licence will have no effect until the works shown on the plans appended to the application have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
34. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate

reflection of the premises constructed. Where the premises layout has changed during the course of construction, new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

35. No licensable activities shall take place at the premises until premises licences 15/00346/LIPT, 15/08795/LIPT and 14/02839/LIPT (or such other numbers subsequently issued for the premises) have been surrendered and are incapable of resurrection.

8 UNIT 14, GROUND FLOOR AND MEZZANINE, NEWPORT PLACE, WC2

LICENSING SUB-COMMITTEE No. 3

Monday 31st July 2017

Membership: Councillor Melvyn Caplan (Chairman) and Councillor Peter Freeman

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, Metropolitan Police, Licensing Authority, 12 x residents (Mr Hayes representation had been withdrawn following four applications at Newport Court being withdrawn).

Present: Mr Alun Thomas (Solicitor, representing the Applicant), Mr Jack Spiegler (Solicitor, on behalf of the Applicant), Mr Tom Welton (Executive Director, Applicant Company), Mr Andrew Price (Portfolio Executive), Mr Gavin McCosh (Project Manager), Mrs Sally Fabbriatore (Environmental Health), PC Reaz Guerra (Metropolitan Police), Mr Steve Rowe (Licensing Authority), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr Andrew Cox, local resident) and Mr Andrew Cox, Mr Ljubisa Boskovic, Mr Rob Jarvis, Mr Henry Shelford, Ms Clare Samuel, Ms Alina Arnold and Mr Shayne Herceg (local residents).

Declaration: Councillor Peter Freeman declared that he had previously met Mr Shelford, a local resident who had made a representation objecting to the application. It had been some years ago and they had not discussed the application.

**Unit 14, Ground Floor and Mezzanine, Newport Place, WC2
17/05382/LIPN**

1.	Late Night Refreshment (Indoors)

	<p>Monday to Saturday: 23:00 to 01:00 Sunday: 23:00 to 00:00</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>Shaftesbury, the Applicant, originally submitted applications in respect of seven premises which were included on the agenda for the Licensing Sub-Committee meeting on 31 July 2017. Four applications were withdrawn prior to the meeting. These were in respect of Units 9, 10, 11 and 12 Newport Court. The three applications considered by the Sub-Committee at the meeting were for Units 13, 14 and 15 at Newport Place. It was agreed at the meeting that the three applications should be heard together.</p> <p>At the three premises, the Applicant was seeking late night refreshment (indoors), recorded music (indoors), on and off sales of alcohol and opening hours until 01:00 Monday to Saturday and midnight on Sunday (apart from Sundays immediately prior to Bank Holidays when 01:00 was applied for). The Applicant was proposing conditions for the three premises that alcohol would be ancillary to a table meal and that customers would be seated and served by waiter or waitress except for a bar area. The respective proposed capacities for Units 13, 14 and 15 would be 180, 200 and 220 respectively with the maximum numbers in the bar areas of the premises being 27, 30 and 33 respectively.</p> <p>In order to obtain a licence for restaurants with bars and with significant cumulative impact in the West End Cumulative Impact Area until 01:00, the Applicant was offering to surrender licences for three premises with bars in Charing Cross Road.</p> <p>Mr Welton of the Applicant Company provided some background to the recent history of the site. He stated that the Charing Cross Road/Newport Place/Newport Court area had been mismanaged by the previous owners and was a rough area. It had been acquired by Shaftesbury a few years ago and was being redeveloped with improved public realm and 24/7 security. The Applicant was offering to surrender licences for premises with bars in Charing Cross Road and locate three restaurants in Newport Place which were the subject of the current applications.</p> <p>Mr Thomas described the new applications as a 'cumulative improvement' over those it was proposed would be surrendered. He explained that premises licences in Charing Cross Road would be replaced with new ones in Newport Place which would create less impact. He believed the scheme would be a significant improvement for residents who lived in the area, reducing public nuisance and crime and disorder.</p>

Mr Thomas referred to the Man Bar licence at 79 Charing Cross Road which was one of the existing premises the Applicant was offering to surrender in order to obtain the premises licences for Units 13, 14 and 15 Newport Place. He stated that there had been noise complaints in respect of Man Bar and the premises licence had been reviewed. It was his understanding that regulated entertainment had been removed from the premises licence until the Applicant had satisfied the Council that works to rectify the problem had been undertaken and the condition had been removed from the licence. Mr Thomas referred to the condition having appeared to be removed from the licence. He added that the Applicant was offering to surrender a 3am licence.

Mr Wroe was asked if he could provide any advice on the position regarding the Man Bar licence. He made the point that he could not find any record of Environmental Health having cleared any works. It was his view that the Man Bar licence was suspended until the acoustic works were completed and cleared by Environmental Health. The decision of the Sub-Committee at the time had been appealed by the premises licence holder. The decision had been upheld. Mr Wroe believed it had been the case that the premises licence had not been operating since 2014, having been transferred shortly afterwards to Shaftesbury. He did advise that he was of the view that the Man Bar premises licence was still in effect. It did have a 3am premises licence but the practical effect of the licence given the suspension of regulated entertainment was open to question. There was a condition on the existing premises licence that the sale of alcohol is ancillary to substantial refreshment and the provision of entertainment.

Mr Thomas said that had the Applicant not been offering to swap premises with licences permitting bar use, he would have had more sympathy for arguments that the applications should not be granted as they are contrary to policy. Following consultation with Environmental Health, the proposed respective capacities for Units 13, 14 and 15 were 180, 200 and 220 with the respective capacities for the bars at Units 13, 14 and 15 being 27, 30 and 33. He wished to place emphasis on the existing premises licences that the Applicant owned in the locality allowing capacities of over 900 people even if the karaoke premises was removed. The proposed capacity was 600. Mr Thomas also commented that the numbers in the bars were being reduced from 470 in Man Bar and Long Shots to 90 in the three applications being applied for.

Mr Thomas put the case that landlords were often able to promote the licensing objectives more than the tenants by selecting the tenant, taking action against tenants who might misbehave and in the case of Shaftesbury, providing security and estate management.

The Sub-Committee asked Mr Thomas for confirmation that a condition on each of the three new applications surrendering the existing premises licences was being offered. This had not to date been included in the paperwork. Mr Thomas replied that he was content for the model surrender condition to be attached to each of the three licences should they be granted by the Sub-Committee.

Mr Thomas also referred to the terminal hour of 01:00 being sought for the 3 new applications. He asked Mr Welton why the Applicant was requesting this and Mr Welton responded that this was consistent and standard in the

Chinatown and theatreland locality. 01:00 took into account post theatre customers.

The Sub-Committee asked Mr Welton whether he could provide any more information on the nature of the operations being planned for the three premises. Mr Welton replied that the location was an extension of Chinatown and it was highly likely the premises would be east asian restaurants although not necessarily chinese.

Mr Thomas explained that there was a difference between the Applicant and the Responsible Authorities regarding the Council's model restaurant condition, MC66, being proposed. The Applicant was asking that this was not applied given the nature of the premises licences which were being surrendered. Takeaway was also being requested until 23:00.

Mr Thomas also addressed the Sub-Committee on the positive representation of Mr Owen's (a local resident's) representation and also a noise report, transport statement, travel plan and other documents having been produced. He stated that matters such as extraction plants and servicing had been dealt with in respect of the planning application. There had been a public exhibition and stakeholder consultation (Mr Price talked about Shaftesbury's long term relationship with Chinatown and how they would continue to work with residents). Mr Thomas advised that there had been individual sound testing in residents' flats, including in Mr Cox's flat. There were further works to be carried out by future tenants of the three premises.

The Sub-Committee heard from Mr Thomas that there were similar ambient noise levels in Charing Cross Road and Newport Place. There were he said 20 1am premises which came out of Gerrard Street/Macclesfield Street into Newport Place. He expressed the view that the applications would not add to the noise.

Mr Thomas believed there were three applicable elements to the Council's policy in relation to the application. One was the restaurant use (there was no presumption against). The second was in respect of the use of the bar where there was a presumption against in the designated cumulative impact areas. This was where the Applicant was making the case for an exception to the Council's policy due to the reduction in the numbers from the existing premises licences it was proposed would be surrendered to the numbers at the new premises. He referred also to external drinking being permitted for the existing licences until 23:00. The Applicant was offering that tables and chairs would not be used outside for the three new premises after 22:00 and that alcohol would be ancillary to food there. Mr Thomas took the view that paragraph 2.4.7 of the Council's Statement of Licensing Policy was relevant in that an example of an exception to policy 'would be the substitution of existing licensable activity at the premises with licensable activities which would have less impact on the area and would be more likely to further the licensing objectives. Similarly, the reduction in the capacity of a premises or a reduction in hours of operation might be a reason for an exception to policy'.

The Sub-Committee asked Mr Thomas for clarification on what was sought in

terms of recorded music being applied for given the history of the site. He replied that the existing premises licences allowed regulated entertainment. The sound testing had found that recorded music would be inaudible in residents' flats. He offered to withdraw recorded music should it be a concern of the Sub-Committee's.

The Sub-Committee also asked enquired of Mr Thomas why his client was not proposing that customers have drinks before their meals rather than be able to visit the premises and have a drink at midnight. Mr Thomas replied that it was permitted at the existing premises and it was an attractive option for a prospective tenant to be able to provide a drink without a meal.

Mr Thomas was asked by the Sub-Committee about the number of residential flats in the development. Mr McCosh provided the information that there are six flats in Newport Place. The flats were located on the second floor and above. There were 117 flats in total within the development site.

It was raised by Mr Panto that the Man Bar was a former 'special hours certificate' licence where in order to extend the licence alcohol was ancillary to substantial refreshment and music and dancing. It was not entirely drink led. Alcohol was not ancillary to substantial refreshment or music and dancing in the bar areas for the three new premises. Mr Thomas responded that the reality was somewhat different with Man Bar being a 350 capacity vertical drinking bar. He believed that it was being replaced with some ancillary use in the three new premises. He accepted that the licence for Man Bar did not make it an 'out and out bar'.

Mr Thomas wished to refute the idea that the existing licences such as Man Bar could not be brought back into operation. It was intended that they would be replaced with retail. However, the footprint of Man Bar was still there and it was not a 'hole in the ground'. There would probably need to be a variation application in order for it to operate again.

The Sub-Committee heard from Mrs Fabbricatore, on behalf of Environmental Health. She referred to her pre-application advice to the Applicant having been included in the paperwork for the meeting. She had not found any evidence to suggest works at Man Bar had been undertaken and cleared following the review of the premises licence. She confirmed that she had proposed MC66.

Mrs Fabbricatore advised that the replacement of the old licences by the new premises was likely to decrease public nuisance due to the reduced numbers being able to drink alcohol which was not ancillary to a meal. She informed Members that the planning permission did give Environmental Health the opportunity to sign off regarding acoustics at the premises. She expressed the view that one option was the use of noise limiters should the music be above a certain level. She also suggested that there could be a last entry time for the premises given the bar element.

Mr Rowe addressed the Sub-Committee on behalf of the Licensing Authority. He stated that the Sub-Committee needed to be satisfied that there were existing premises licences which could be surrendered. He also referred to the

Applicant not having offered the full restaurant condition, MC66 and that the Council's policy is that alcohol should be available in the bar area prior to a meal and not after. There was the option to attach conditions restricting this. Mr Rowe added that it was a concern that a restaurant premises would be offering vertical drinking.

PC Guerra stated that the Police had maintained their representation. The hours sought were beyond the Council's Core Hours policy in the West End Cumulative Impact Area. He advised the Sub-Committee that it was his understanding that the Applicant could surrender some of the existing licences in Charing Cross Road but not all of them. He also supported the policy that alcohol should be available in the bar area prior to a meal and not after. Late night drinking was a concern.

Following the Police representation, the Sub-Committee asked for clarification from Mr Thomas as to exactly which existing premises licences the Applicant was offering to surrender. Mr Thomas replied that his client was offering to withdraw three existing licences for Man Bar, Longshots Bar and Kopi Tiam in Charing Cross Road.

The Sub-Committee heard from local residents. Members had also read their written representations. Mr Boskovic and Ms Arnold both expressed concerns that there was the potential for similar issues to those experienced at Man Bar with noise, including music travelling through the building. Mr Herceg requested that recorded music was not permitted. Whilst there may have been sound testing, he was wary of music being played at an unacceptable level. Mr Jarvis also had concerns about noise travelling within the premises and general noise transmission. He brought to the Sub-Committee's attention that the Applicant had not prioritised the needs of residents during the renovation works. One example was that he did not believe that the timings of works were in keeping with those stipulated by the Planning Committee.

Ms Samuel stated that despite new security being on site the issue of anti-social behaviour was not being solved. She queried why the Applicant sought to operate from 07:00 which she believed was out of keeping with the Chinatown area. She also expressed concerns about the impact on residents of the restaurants operating to 01:00 with servicing until later. There would be noise from customers dispersing. She challenged the Applicant's view that 01:00 was the 'norm' for licensed premises in the area.

Mr Shelford described the problems he had experienced since the new Veolia depot had been located below him. He also challenged the idea that it was the 'norm' for restaurants in the area to open until 01:00. He had concerns that it had the potential to change the nature of the premises in the area if customers were able to drink at this location without it being ancillary to a meal.

Mr Brown addressed the Sub-Committee, representing Mr Cox. He stated that Mr Cox shared the concerns of his fellow residents about the potential for noise. He had agreed for Shaftesbury to use his flat for sound testing but had not been informed of the results. Mr Brown queried where smokers would go as there was the potential for noise from smokers and smoke to drift up towards

residents' flats. He advised that Mr Cox also had concerns about noise from customers in the external tables and chairs area.

Mr Brown focussed particularly on Mr Thomas' case that if the premises in Charing Cross Road were compared with the proposals for the new premises at Newport Place, there would be an overall decrease in capacity and in the terminal hours. Mr Brown commented that there were two issues with this argument. One was whether this was a fair comparison and secondly, whether the Council's policy allows for that comparison to be made to demonstrate an exception including in relation to cumulative impact.

Mr Brown disputed that 01:00 was a standard terminal hour for restaurants to be granted. He referred to the Council's policy that new restaurants will generally be granted Core Hours. He made the point that specifically in Charing Cross Road the restaurant licences were to Core Hours or less.

In respect of the Man Bar licence, Mr Brown said that this was the only one being offered for surrender which had operated beyond 01:00. He was of the view that if regulated entertainment was still suspended following the review of the premises licence, the licence could not be operated for the sale of alcohol after midnight and it was doubtful then that it could be argued that the cumulative impact would be less.

Mr Brown responded to Mr Thomas' view that paragraph 2.4.7 of the Council's Statement of Licensing Policy was relevant in demonstrating an exception to policy. He drew Members' attention to paragraphs 2.4.6 and 2.4.8 and questioned whether the existing licences could be used for practical purposes.

Mr Brown stated that the noise issues raised by the residents were still relevant with the Applicants applying for recorded music at each of the three restaurants. He added that Mr Cox had suggested conditions including in relation to smoking and use of tables and chairs. He had also proposed hours for licensable activities and the hours the premises are open to the public. Mr Cox was of the view that the terminal hour should be 23:30 Monday to Saturday and 12:00 to 22:30 on Sunday with a one hour extension on New Year's Eve and no extension on Sundays prior to Bank Holidays.

Mr Thomas was given an opportunity to respond to those who had made representations objecting to the application. He asserted that a terminal hour of 01:00 was the 'norm' for Charing Cross Road taking into account Man Bar, was the 'norm' for Newport Place as number 11 had a 01:00 licence and there were a number of premises in Gerrard Street and Lisle Street with 01:00 licences.

Mr Thomas clarified that he was proposing a capacity for the external area of 10% of the three premises that are the subject of the application (60 people). The 60 people would be in addition to the 600 capacity inside the premises. Planning permission was needed for the external area.

In respect of the smoking area, Mr Thomas made the point that there was an exceptional footfall in this location and it would be difficult to know whose customers were smoking where. It would be difficult to enforce. The premises

would be restaurants so there would be less than other types of establishments. He requested that a designated smoking area was not imposed by condition.

Mr Thomas expressed the view that sound tests could demonstrate that there would be no noise nuisance from recorded or live music. However, if the Sub-Committee was concerned about the transmission of noise through the premises, the Applicant would be prepared to withdraw it and possibly return at a later point when the works are completed.

In respect of Mr Shelford's concerns, Mr Thomas stated that the operation of the Veolia depot was not connected with the new restaurant premises and it was a planning matter. Mr Welton added that he appreciated Mr Shelford was aggrieved and had been considering legal action against what is the Council's contractor. It was not a matter that was within Shaftesbury's control. The Sub-Committee noted Mr Jarvis' view that having suffered due to the location of the previous Veolia depot he believed that Shaftesbury could have attempted to address the issue. However, it was not a matter which could be taken into account under the licensing regime.

Mr Thomas wished to emphasise that the discussion regarding replacement of uses was only applicable to the case for an exception relating to the Council's policy on bars. The new restaurants would generally be granted in the cumulative impact areas, subject to promoting the licensing objectives and that it could be demonstrated that they did not add to cumulative impact. He believed that what was being offered in terms of the licences being surrendered was more than what was being proposed. He disputed Mr Brown's points regarding the Man Bar licence and stated that there was nothing on the licence which proved that regulated entertainment was suspended. It was necessary for the Sub-Committee to take that at face value.

There was a discussion on the status of the Man Bar licence. Mr Wroe stated that it did not appear the Council had implemented the decision of the review hearing. This was likely to have been an administrative error. The premises had not been operating since January 2015 and the licence had been transferred to Shaftesbury. Mr Thomas responded that this was speculation and the licence currently showed that regulated entertainment was allowed until 03:00 for the 79 Charing Cross Road premises licence.

Mr Thomas made the case that the applications supported the underlying reasons for the policy with Shaftesbury proposing to remove licences at premises which cause nuisance and proposing to replace them with new premises which he did not believe would cause nuisance. There was a benefit in terms of cumulative impact and amenity as a result of the development. He advised that it would be possible to reinstate Man Bar by adding a wall. It was not the case that Man Bar could not be reinstated or was a 'hole in the ground'.

Mr Thomas in response to Mr Brown expressed the view that paragraph 2.4.7 of the Council's Statement of Licensing Policy was a standalone provision as it referred to 'another example' of a possible exception to policy. He added that the applications met the criteria in 2.4.7.

The Sub-Committee asked Mr Thomas whether the Applicant would be willing to have a last entry time for the bar area as suggested by Mrs Fabbriatore. He replied that his client would be content for no new customers to enter the bar after Core Hours.

Ms Samuel wished to raise the matter of opening and closing times. The Applicant had provided a list of premises in the area with 01:00 terminal hours. She had looked on the website and had found a significant number which closed at 22:30 or 23:00. She therefore challenged the view that 01:00 was the 'norm' in terms of being a terminal hour. She also wished to make the point that there were no premises open in Chinatown between 07:00 and 10:00.

Mr Thomas was asked by the Sub-Committee to explain the opening hours given that the sale of alcohol was not applied for until 10:00. He provided the information that the opening hours were those permitted under the planning regime. There would be teas and coffees sales from 07:30 or 08:00.

In respect of the number of premises which operated until at least 01:00, Mr Thomas said that there were 80 restaurants in Chinatown and in the immediate proximity of the restaurant and at least 20 had later terminal hours than Core Hours. Mr Thomas added that his legal firm created a risk profile for Shaftesbury premises and he was therefore fairly confident that the vast majority sold alcohol.

Mr Brown commented that there is no 'norm' in licensing. The Council's policy was that applications for new restaurant premises will generally be granted Core Hours. He questioned whether the 60 people in the external areas added to 600 in the three restaurants would be a decrease in numbers in comparison to the premises whose licences were proposed for surrender in real terms. This took into account whether the Man Bar licence was operable after midnight.

Mr Thomas responded on the issue of capacities. He referred to the capacity in terms of the bar use for the existing premises licences being 470 and the full capacities was over 900. This was more than was being proposed. He added that alcohol consumption in the Man Bar had been unregulated and unrestricted.

The Sub-Committee had carefully listened and read all the parties' representations including a substantial number from residents. The Sub-Committee accepted the policy considerations as set out by Mr Thomas that there is no presumption against restaurants in the West End Cumulative Impact Area. It was, however, necessary for the Applicant to demonstrate that the restaurants in this instance would not add to cumulative impact. It had also been necessary for the Applicant to provide an exception as to why the bar areas where it was not proposed alcohol would be ancillary to a table meal should be granted.

The Sub-Committee found that the three premises licences which the Applicant was proposing to surrender, Man Bar, Longshots Bar and Kopi Tiam, had a value. These premises could not be said to be 'holes in the ground' and the licences could be brought back into operation. Members of the Sub-Committee were able to give some credit to the Applicant for this and had then weighed up

just how valuable the proposed surrender of the existing premises was.

The Sub-Committee considered that an appropriate grant of the three respective restaurants was Core Hours for the restaurants and the bars (a terminal hour of 23:30 Monday to Thursday, midnight on Friday and Saturday and 22:30 on Sunday – there would be no late night refreshment on Sunday). Members of the Sub-Committee took the view that the Council was giving significant flexibility to, and granting an exception to policy to, the Applicant in return for the surrender of the three Charing Cross Road premises by permitting 90 people in the bars of the three premises in Newport Place to consume alcohol without it being ancillary to a table meal. The capacity for the internal areas of the three premises would be 600 people and externally it would be a further 60 in the West End Cumulative Impact Area. The Sub-Committee decided that to make enforcement of the bar areas simpler, the maximum capacities of the bars would be 30 in each of the three premises.

Had the Applicant been willing to accept the Council's model restaurant condition MC66 being attached to the premises licences for the three Newport Place premises so that alcohol was ancillary to a substantial table meal throughout, then the Sub-Committee might have been amenable to granting a terminal hour of 01:00. However, the Applicant had requested operations with more relaxed conditions. The Sub-Committee permitted the flexibility in the bar areas but required that in the restaurants alcohol was ancillary to substantial table meals. It was not practical to grant longer hours for the restaurant operation in view of the proximity of the bar to the restaurant area.

The Sub-Committee did not consider that the one premises licence which was being offered for surrender, Man Bar, which had been able to operate beyond Core Hours was of such significance that all three restaurants in Newport Place and the bars within them should be permitted a terminal hour of 01:00. Members were also of the view that the capacities of the three existing Charing Cross Road premises did not justify all three restaurants in Newport Place and the bars within them being permitted a terminal hour of 01:00. The Sub-Committee took into account that there were residents in the locality who could potentially be inconvenienced by the three premises and the bars within them operating until 01:00. Customers would be able to drink without food at the premises.

The Sub-Committee also considered in not granting 01:00 that they did not know who the operators would be at this stage or how the premises would operate.

The Applicant's Representative had offered to withdraw recorded music and the Sub-Committee accepted this offer. This took into account residents' specific concerns about the potential for noise nuisance.

The Sub-Committee attached the Council's capacity condition MC90 to the three new premises licences. This condition is that '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'. As agreed by the Applicant the Council's model surrender

	condition MC62 was attached to the licence so that no licensable activities would take place at the three new premises until the three existing premises in Charing Cross Road, Man Bar, Longshots Bar and Kopi Tiam have been surrendered and are incapable of resurrection.
2.	Recorded Music (Indoors)
	Monday to Saturday: 10:00 to 01:00 Sunday: 12:00 to 00:00
	Amendments to application advised at hearing: The Applicant's Representative had offered to withdraw recorded music and the Sub-Committee accepted this offer. This took into account residents' specific concerns about the potential for noise nuisance.
	Decision (including reasons if different from those set out in report): This element of the application having been withdrawn, there was no need for the Sub-Committee to determine it.
3.	Sale by retail of alcohol (On and Off)
	Monday to Saturday: 10:00 to 01:00 Sunday: 12:00 to 00:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Applicant granted Core Hours for on and off sales of alcohol (Monday to Thursday 10:00 to 23:30, Friday and Saturday 10:00 to 00:00 and Sunday 12:00 to 22:30).
4.	Hours premises are open to the public
	Monday to Saturday: 07:00 to 01:00 Sunday: 08:00 to 00:00
	Amendments to application advised at hearing: None.

	<p>Decision (including reasons if different from those set out in report):</p> <p>The Applicant granted Core Hours for the closing times of the three premises (Monday to Thursday 07:00 to 23:30, Friday and Saturday 07:00 to 00:00 and Sunday 08:00 to 22:30).</p>
5.	Seasonal variations / Non-standard timings
	<p><u>Late Night Refreshment (Indoors), Recorded Music (Indoors), Sale by retail of alcohol (On and Off) and Hours premises are open to the public</u></p> <p>To allow the permitted activities from the end of New Year's Eve to the start of New Year's Day.</p> <p>Sundays prior to Bank Holidays to operate until 01:00.</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 Applicant's Representative had offered to withdraw recorded music and the Sub-Committee accepted this offer. This took into account residents' specific concerns about the potential for noise nuisance.</p> <p>The Sub-Committee allowed the permitted activities from the end of New Year's Eve to the start of New Year's Day.</p> <p>The Sub-Committee granted Core Hours for the three new premises so that the premises would operate on Sundays prior to Bank Holidays until midnight.</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
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. Save for the area hatched black on the plans, the supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.

10. The number of persons permitted in the area hatched black on the plans excluding staff shall not exceed 30 persons at any one time.

11. Save for the area hatched black on the plans, the supply of alcohol on the premises shall be by waiter or waitress service only.
12. Except for the external seating area, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke shall not be permitted to take drinks or glass containers with them.
13. All external tables and chairs shall be rendered unusable after 22:00 hours daily.
14. All sales of alcohol for consumption off the premises shall be:
 - a) in sealed containers only, and shall not be consumed on the premises; or
 - b) to persons seated at tables and chairs in the external seating area.
15. There shall be no sales of alcohol for consumption off the premises after 23.00.
16. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
17. Substantial food and non-intoxicating beverages, including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
18. The 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
19. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.
20. Challenge 21, a proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
21. 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

22. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
23. All windows and external doors shall be kept closed after 22:00 hours except for the immediate access and egress of persons.
24. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
25. 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 sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.
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) and (08.00) on the following day.
28. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) on the following day.
29. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
30. 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.
31. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
32. 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.
33. The Licence will have no effect until the works shown on the plans appended to the application have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
34. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate

reflection of the premises constructed. Where the premises layout has changed during the course of construction, new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

35. No licensable activities shall take place at the premises until premises licences 15/00346/LIPT, 15/08795/LIPT and 14/02839/LIPT (or such other numbers subsequently issued for the premises) have been surrendered and are incapable of resurrection.

9 UNIT 15, GROUND FLOOR AND MEZZANINE, NEWPORT PLACE, WC2

LICENSING SUB-COMMITTEE No. 3

Monday 31st July 2017

Membership: Councillor Melvyn Caplan (Chairman) and Councillor Peter Freeman

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, Metropolitan Police, Licensing Authority, 12 x residents (Mr Hayes representation had been withdrawn following four applications at Newport Court being withdrawn).

Present: Mr Alun Thomas (Solicitor, representing the Applicant), Mr Jack Spiegler (Solicitor, on behalf of the Applicant), Mr Tom Welton (Executive Director, Applicant Company), Mr Andrew Price (Portfolio Executive), Mr Gavin McCosh (Project Manager), Mrs Sally Fabbriatore (Environmental Health), PC Reaz Guerra (Metropolitan Police), Mr Steve Rowe (Licensing Authority), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr Andrew Cox, local resident) and Mr Andrew Cox, Mr Ljubisa Boskovic, Mr Rob Jarvis, Mr Henry Shelford, Ms Clare Samuel, Ms Alina Arnold and Mr Shayne Herceg (local residents).

Declaration: Councillor Peter Freeman declared that he had previously met Mr Shelford, a local resident who had made a representation objecting to the application. It had been some years ago and they had not discussed the application.

**Unit 15, Ground Floor and Mezzanine, Newport Place, WC2
17/05363/LIPN**

1.	Late Night Refreshment (Indoors)

	<p>Monday to Saturday: 23:00 to 01:00 Sunday: 23:00 to 00:00</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>Shaftesbury, the Applicant, originally submitted applications in respect of seven premises which were included on the agenda for the Licensing Sub-Committee meeting on 31 July 2017. Four applications were withdrawn prior to the meeting. These were in respect of Units 9, 10, 11 and 12 Newport Court. The three applications considered by the Sub-Committee at the meeting were for Units 13, 14 and 15 at Newport Place. It was agreed at the meeting that the three applications should be heard together.</p> <p>At the three premises, the Applicant was seeking late night refreshment (indoors), recorded music (indoors), on and off sales of alcohol and opening hours until 01:00 Monday to Saturday and midnight on Sunday (apart from Sundays immediately prior to Bank Holidays when 01:00 was applied for). The Applicant was proposing conditions for the three premises that alcohol would be ancillary to a table meal and that customers would be seated and served by waiter or waitress except for a bar area. The respective proposed capacities for Units 13, 14 and 15 would be 180, 200 and 220 respectively with the maximum numbers in the bar areas of the premises being 27, 30 and 33 respectively.</p> <p>In order to obtain a licence for restaurants with bars and with significant cumulative impact in the West End Cumulative Impact Area until 01:00, the Applicant was offering to surrender licences for three premises with bars in Charing Cross Road.</p> <p>Mr Welton of the Applicant Company provided some background to the recent history of the site. He stated that the Charing Cross Road/Newport Place/Newport Court area had been mismanaged by the previous owners and was a rough area. It had been acquired by Shaftesbury a few years ago and was being redeveloped with improved public realm and 24/7 security. The Applicant was offering to surrender licences for premises with bars in Charing Cross Road and locate three restaurants in Newport Place which were the subject of the current applications.</p> <p>Mr Thomas described the new applications as a 'cumulative improvement' over those it was proposed would be surrendered. He explained that premises licences in Charing Cross Road would be replaced with new ones in Newport Place which would create less impact. He believed the scheme would be a significant improvement for residents who lived in the area, reducing public nuisance and crime and disorder.</p>

Mr Thomas referred to the Man Bar licence at 79 Charing Cross Road which was one of the existing premises the Applicant was offering to surrender in order to obtain the premises licences for Units 13, 14 and 15 Newport Place. He stated that there had been noise complaints in respect of Man Bar and the premises licence had been reviewed. It was his understanding that regulated entertainment had been removed from the premises licence until the Applicant had satisfied the Council that works to rectify the problem had been undertaken and the condition had been removed from the licence. Mr Thomas referred to the condition having appeared to be removed from the licence. He added that the Applicant was offering to surrender a 3am licence.

Mr Wroe was asked if he could provide any advice on the position regarding the Man Bar licence. He made the point that he could not find any record of Environmental Health having cleared any works. It was his view that the Man Bar licence was suspended until the acoustic works were completed and cleared by Environmental Health. The decision of the Sub-Committee at the time had been appealed by the premises licence holder. The decision had been upheld. Mr Wroe believed it had been the case that the premises licence had not been operating since 2014, having been transferred shortly afterwards to Shaftesbury. He did advise that he was of the view that the Man Bar premises licence was still in effect. It did have a 3am premises licence but the practical effect of the licence given the suspension of regulated entertainment was open to question. There was a condition on the existing premises licence that the sale of alcohol is ancillary to substantial refreshment and the provision of entertainment.

Mr Thomas said that had the Applicant not been offering to swap premises with licences permitting bar use, he would have had more sympathy for arguments that the applications should not be granted as they are contrary to policy. Following consultation with Environmental Health, the proposed respective capacities for Units 13, 14 and 15 were 180, 200 and 220 with the respective capacities for the bars at Units 13, 14 and 15 being 27, 30 and 33. He wished to place emphasis on the existing premises licences that the Applicant owned in the locality allowing capacities of over 900 people even if the karaoke premises was removed. The proposed capacity was 600. Mr Thomas also commented that the numbers in the bars were being reduced from 470 in Man Bar and Long Shots to 90 in the three applications being applied for.

Mr Thomas put the case that landlords were often able to promote the licensing objectives more than the tenants by selecting the tenant, taking action against tenants who might misbehave and in the case of Shaftesbury, providing security and estate management.

The Sub-Committee asked Mr Thomas for confirmation that a condition on each of the three new applications surrendering the existing premises licences was being offered. This had not to date been included in the paperwork. Mr Thomas replied that he was content for the model surrender condition to be attached to each of the three licences should they be granted by the Sub-Committee.

Mr Thomas also referred to the terminal hour of 01:00 being sought for the 3 new applications. He asked Mr Welton why the Applicant was requesting this and Mr Welton responded that this was consistent and standard in the

Chinatown and theatreland locality. 01:00 took into account post theatre customers.

The Sub-Committee asked Mr Welton whether he could provide any more information on the nature of the operations being planned for the three premises. Mr Welton replied that the location was an extension of Chinatown and it was highly likely the premises would be east asian restaurants although not necessarily chinese.

Mr Thomas explained that there was a difference between the Applicant and the Responsible Authorities regarding the Council's model restaurant condition, MC66, being proposed. The Applicant was asking that this was not applied given the nature of the premises licences which were being surrendered. Takeaway was also being requested until 23:00.

Mr Thomas also addressed the Sub-Committee on the positive representation of Mr Owen's (a local resident's) representation and also a noise report, transport statement, travel plan and other documents having being produced. He stated that matters such as extraction plants and servicing had been dealt with in respect of the planning application. There had been a public exhibition and stakeholder consultation (Mr Price talked about Shaftesbury's long term relationship with Chinatown and how they would continue to work with residents). Mr Thomas advised that there had been individual sound testing in residents' flats, including in Mr Cox's flat. There were further works to be carried out by future tenants of the three premises.

The Sub-Committee heard from Mr Thomas that there were similar ambient noise levels in Charing Cross Road and Newport Place. There were he said 20 1am premises which came out of Gerrard Street/Macclesfield Street into Newport Place. He expressed the view that the applications would not add to the noise.

Mr Thomas believed there were three applicable elements to the Council's policy in relation to the application. One was the restaurant use (there was no presumption against). The second was in respect of the use of the bar where there was a presumption against in the designated cumulative impact areas. This was where the Applicant was making the case for an exception to the Council's policy due to the reduction in the numbers from the existing premises licences it was proposed would be surrendered to the numbers at the new premises. He referred also to external drinking being permitted for the existing licences until 23:00. The Applicant was offering that tables and chairs would not be used outside for the three new premises after 22:00 and that alcohol would be ancillary to food there. Mr Thomas took the view that paragraph 2.4.7 of the Council's Statement of Licensing Policy was relevant in that an example of an exception to policy 'would be the substitution of existing licensable activity at the premises with licensable activities which would have less impact on the area and would be more likely to further the licensing objectives. Similarly, the reduction in the capacity of a premises or a reduction in hours of operation might be a reason for an exception to policy'.

The Sub-Committee asked Mr Thomas for clarification on what was sought in

terms of recorded music being applied for given the history of the site. He replied that the existing premises licences allowed regulated entertainment. The sound testing had found that recorded music would be inaudible in residents' flats. He offered to withdraw recorded music should it be a concern of the Sub-Committee's.

The Sub-Committee also asked enquired of Mr Thomas why his client was not proposing that customers have drinks before their meals rather than be able to visit the premises and have a drink at midnight. Mr Thomas replied that it was permitted at the existing premises and it was an attractive option for a prospective tenant to be able to provide a drink without a meal.

Mr Thomas was asked by the Sub-Committee about the number of residential flats in the development. Mr McCosh provided the information that there are six flats in Newport Place. The flats were located on the second floor and above. There were 117 flats in total within the development site.

It was raised by Mr Panto that the Man Bar was a former 'special hours certificate' licence where in order to extend the licence alcohol was ancillary to substantial refreshment and music and dancing. It was not entirely drink led. Alcohol was not ancillary to substantial refreshment or music and dancing in the bar areas for the three new premises. Mr Thomas responded that the reality was somewhat different with Man Bar being a 350 capacity vertical drinking bar. He believed that it was being replaced with some ancillary use in the three new premises. He accepted that the licence for Man Bar did not make it an 'out and out bar'.

Mr Thomas wished to refute the idea that the existing licences such as Man Bar could not be brought back into operation. It was intended that they would be replaced with retail. However, the footprint of Man Bar was still there and it was not a 'hole in the ground'. There would probably need to be a variation application in order for it to operate again.

The Sub-Committee heard from Mrs Fabbricatore, on behalf of Environmental Health. She referred to her pre-application advice to the Applicant having been included in the paperwork for the meeting. She had not found any evidence to suggest works at Man Bar had been undertaken and cleared following the review of the premises licence. She confirmed that she had proposed MC66.

Mrs Fabbricatore advised that the replacement of the old licences by the new premises was likely to decrease public nuisance due to the reduced numbers being able to drink alcohol which was not ancillary to a meal. She informed Members that the planning permission did give Environmental Health the opportunity to sign off regarding acoustics at the premises. She expressed the view that one option was the use of noise limiters should the music be above a certain level. She also suggested that there could be a last entry time for the premises given the bar element.

Mr Rowe addressed the Sub-Committee on behalf of the Licensing Authority. He stated that the Sub-Committee needed to be satisfied that there were existing premises licences which could be surrendered. He also referred to the

Applicant not having offered the full restaurant condition, MC66 and that the Council's policy is that alcohol should be available in the bar area prior to a meal and not after. There was the option to attach conditions restricting this. Mr Rowe added that it was a concern that a restaurant premises would be offering vertical drinking.

PC Guerra stated that the Police had maintained their representation. The hours sought were beyond the Council's Core Hours policy in the West End Cumulative Impact Area. He advised the Sub-Committee that it was his understanding that the Applicant could surrender some of the existing licences in Charing Cross Road but not all of them. He also supported the policy that alcohol should be available in the bar area prior to a meal and not after. Late night drinking was a concern.

Following the Police representation, the Sub-Committee asked for clarification from Mr Thomas as to exactly which existing premises licences the Applicant was offering to surrender. Mr Thomas replied that his client was offering to withdraw three existing licences for Man Bar, Longshots Bar and Kopi Tiam in Charing Cross Road.

The Sub-Committee heard from local residents. Members had also read their written representations. Mr Boskovic and Ms Arnold both expressed concerns that there was the potential for similar issues to those experienced at Man Bar with noise, including music travelling through the building. Mr Herceg requested that recorded music was not permitted. Whilst there may have been sound testing, he was wary of music being played at an unacceptable level. Mr Jarvis also had concerns about noise travelling within the premises and general noise transmission. He brought to the Sub-Committee's attention that the Applicant had not prioritised the needs of residents during the renovation works. One example was that he did not believe that the timings of works were in keeping with those stipulated by the Planning Committee.

Ms Samuel stated that despite new security being on site the issue of anti-social behaviour was not being solved. She queried why the Applicant sought to operate from 07:00 which she believed was out of keeping with the Chinatown area. She also expressed concerns about the impact on residents of the restaurants operating to 01:00 with servicing until later. There would be noise from customers dispersing. She challenged the Applicant's view that 01:00 was the 'norm' for licensed premises in the area.

Mr Shelford described the problems he had experienced since the new Veolia depot had been located below him. He also challenged the idea that it was the 'norm' for restaurants in the area to open until 01:00. He had concerns that it had the potential to change the nature of the premises in the area if customers were able to drink at this location without it being ancillary to a meal.

Mr Brown addressed the Sub-Committee, representing Mr Cox. He stated that Mr Cox shared the concerns of his fellow residents about the potential for noise. He had agreed for Shaftesbury to use his flat for sound testing but had not been informed of the results. Mr Brown queried where smokers would go as there was the potential for noise from smokers and smoke to drift up towards

residents' flats. He advised that Mr Cox also had concerns about noise from customers in the external tables and chairs area.

Mr Brown focussed particularly on Mr Thomas' case that if the premises in Charing Cross Road were compared with the proposals for the new premises at Newport Place, there would be an overall decrease in capacity and in the terminal hours. Mr Brown commented that there were two issues with this argument. One was whether this was a fair comparison and secondly, whether the Council's policy allows for that comparison to be made to demonstrate an exception including in relation to cumulative impact.

Mr Brown disputed that 01:00 was a standard terminal hour for restaurants to be granted. He referred to the Council's policy that new restaurants will generally be granted Core Hours. He made the point that specifically in Charing Cross Road the restaurant licences were to Core Hours or less.

In respect of the Man Bar licence, Mr Brown said that this was the only one being offered for surrender which had operated beyond 01:00. He was of the view that if regulated entertainment was still suspended following the review of the premises licence, the licence could not be operated for the sale of alcohol after midnight and it was doubtful then that it could be argued that the cumulative impact would be less.

Mr Brown responded to Mr Thomas' view that paragraph 2.4.7 of the Council's Statement of Licensing Policy was relevant in demonstrating an exception to policy. He drew Members' attention to paragraphs 2.4.6 and 2.4.8 and questioned whether the existing licences could be used for practical purposes.

Mr Brown stated that the noise issues raised by the residents were still relevant with the Applicants applying for recorded music at each of the three restaurants. He added that Mr Cox had suggested conditions including in relation to smoking and use of tables and chairs. He had also proposed hours for licensable activities and the hours the premises are open to the public. Mr Cox was of the view that the terminal hour should be 23:30 Monday to Saturday and 12:00 to 22:30 on Sunday with a one hour extension on New Year's Eve and no extension on Sundays prior to Bank Holidays.

Mr Thomas was given an opportunity to respond to those who had made representations objecting to the application. He asserted that a terminal hour of 01:00 was the 'norm' for Charing Cross Road taking into account Man Bar, was the 'norm' for Newport Place as number 11 had a 01:00 licence and there were a number of premises in Gerrard Street and Lisle Street with 01:00 licences.

Mr Thomas clarified that he was proposing a capacity for the external area of 10% of the three premises that are the subject of the application (60 people). The 60 people would be in addition to the 600 capacity inside the premises. Planning permission was needed for the external area.

In respect of the smoking area, Mr Thomas made the point that there was an exceptional footfall in this location and it would be difficult to know whose customers were smoking where. It would be difficult to enforce. The premises

would be restaurants so there would be less than other types of establishments. He requested that a designated smoking area was not imposed by condition.

Mr Thomas expressed the view that sound tests could demonstrate that there would be no noise nuisance from recorded or live music. However, if the Sub-Committee was concerned about the transmission of noise through the premises, the Applicant would be prepared to withdraw it and possibly return at a later point when the works are completed.

In respect of Mr Shelford's concerns, Mr Thomas stated that the operation of the Veolia depot was not connected with the new restaurant premises and it was a planning matter. Mr Welton added that he appreciated Mr Shelford was aggrieved and had been considering legal action against what is the Council's contractor. It was not a matter that was within Shaftesbury's control. The Sub-Committee noted Mr Jarvis' view that having suffered due to the location of the previous Veolia depot he believed that Shaftesbury could have attempted to address the issue. However, it was not a matter which could be taken into account under the licensing regime.

Mr Thomas wished to emphasise that the discussion regarding replacement of uses was only applicable to the case for an exception relating to the Council's policy on bars. The new restaurants would generally be granted in the cumulative impact areas, subject to promoting the licensing objectives and that it could be demonstrated that they did not add to cumulative impact. He believed that what was being offered in terms of the licences being surrendered was more than what was being proposed. He disputed Mr Brown's points regarding the Man Bar licence and stated that there was nothing on the licence which proved that regulated entertainment was suspended. It was necessary for the Sub-Committee to take that at face value.

There was a discussion on the status of the Man Bar licence. Mr Wroe stated that it did not appear the Council had implemented the decision of the review hearing. This was likely to have been an administrative error. The premises had not been operating since January 2015 and the licence had been transferred to Shaftesbury. Mr Thomas responded that this was speculation and the licence currently showed that regulated entertainment was allowed until 03:00 for the 79 Charing Cross Road premises licence.

Mr Thomas made the case that the applications supported the underlying reasons for the policy with Shaftesbury proposing to remove licences at premises which cause nuisance and proposing to replace them with new premises which he did not believe would cause nuisance. There was a benefit in terms of cumulative impact and amenity as a result of the development. He advised that it would be possible to reinstate Man Bar by adding a wall. It was not the case that Man Bar could not be reinstated or was a 'hole in the ground'.

Mr Thomas in response to Mr Brown expressed the view that paragraph 2.4.7 of the Council's Statement of Licensing Policy was a standalone provision as it referred to 'another example' of a possible exception to policy. He added that the applications met the criteria in 2.4.7.

The Sub-Committee asked Mr Thomas whether the Applicant would be willing to have a last entry time for the bar area as suggested by Mrs Fabbriatore. He replied that his client would be content for no new customers to enter the bar after Core Hours.

Ms Samuel wished to raise the matter of opening and closing times. The Applicant had provided a list of premises in the area with 01:00 terminal hours. She had looked on the website and had found a significant number which closed at 22:30 or 23:00. She therefore challenged the view that 01:00 was the 'norm' in terms of being a terminal hour. She also wished to make the point that there were no premises open in Chinatown between 07:00 and 10:00.

Mr Thomas was asked by the Sub-Committee to explain the opening hours given that the sale of alcohol was not applied for until 10:00. He provided the information that the opening hours were those permitted under the planning regime. There would be teas and coffees sales from 07:30 or 08:00.

In respect of the number of premises which operated until at least 01:00, Mr Thomas said that there were 80 restaurants in Chinatown and in the immediate proximity of the restaurant and at least 20 had later terminal hours than Core Hours. Mr Thomas added that his legal firm created a risk profile for Shaftesbury premises and he was therefore fairly confident that the vast majority sold alcohol.

Mr Brown commented that there is no 'norm' in licensing. The Council's policy was that applications for new restaurant premises will generally be granted Core Hours. He questioned whether the 60 people in the external areas added to 600 in the three restaurants would be a decrease in numbers in comparison to the premises whose licences were proposed for surrender in real terms. This took into account whether the Man Bar licence was operable after midnight.

Mr Thomas responded on the issue of capacities. He referred to the capacity in terms of the bar use for the existing premises licences being 470 and the full capacities was over 900. This was more than was being proposed. He added that alcohol consumption in the Man Bar had been unregulated and unrestricted.

The Sub-Committee had carefully listened and read all the parties' representations including a substantial number from residents. The Sub-Committee accepted the policy considerations as set out by Mr Thomas that there is no presumption against restaurants in the West End Cumulative Impact Area. It was, however, necessary for the Applicant to demonstrate that the restaurants in this instance would not add to cumulative impact. It had also been necessary for the Applicant to provide an exception as to why the bar areas where it was not proposed alcohol would be ancillary to a table meal should be granted.

The Sub-Committee found that the three premises licences which the Applicant was proposing to surrender, Man Bar, Longshots Bar and Kopi Tiam, had a value. These premises could not be said to be 'holes in the ground' and the licences could be brought back into operation. Members of the Sub-Committee were able to give some credit to the Applicant for this and had then weighed up

just how valuable the proposed surrender of the existing premises was.

The Sub-Committee considered that an appropriate grant of the three respective restaurants was Core Hours for the restaurants and the bars (a terminal hour of 23:30 Monday to Thursday, midnight on Friday and Saturday and 22:30 on Sunday – there would be no late night refreshment on Sunday). Members of the Sub-Committee took the view that the Council was giving significant flexibility to, and granting an exception to policy to, the Applicant in return for the surrender of the three Charing Cross Road premises by permitting 90 people in the bars of the three premises in Newport Place to consume alcohol without it being ancillary to a table meal. The capacity for the internal areas of the three premises would be 600 people and externally it would be a further 60 in the West End Cumulative Impact Area. The Sub-Committee decided that to make enforcement of the bar areas simpler, the maximum capacities of the bars would be 30 in each of the three premises.

Had the Applicant been willing to accept the Council's model restaurant condition MC66 being attached to the premises licences for the three Newport Place premises so that alcohol was ancillary to a substantial table meal throughout, then the Sub-Committee might have been amenable to granting a terminal hour of 01:00. However, the Applicant had requested operations with more relaxed conditions. The Sub-Committee permitted the flexibility in the bar areas but required that in the restaurants alcohol was ancillary to substantial table meals. It was not practical to grant longer hours for the restaurant operation in view of the proximity of the bar to the restaurant area.

The Sub-Committee did not consider that the one premises licence which was being offered for surrender, Man Bar, which had been able to operate beyond Core Hours was of such significance that all three restaurants in Newport Place and the bars within them should be permitted a terminal hour of 01:00. Members were also of the view that the capacities of the three existing Charing Cross Road premises did not justify all three restaurants in Newport Place and the bars within them being permitted a terminal hour of 01:00. The Sub-Committee took into account that there were residents in the locality who could potentially be inconvenienced by the three premises and the bars within them operating until 01:00. Customers would be able to drink without food at the premises.

The Sub-Committee also considered in not granting 01:00 that they did not know who the operators would be at this stage or how the premises would operate.

The Applicant's Representative had offered to withdraw recorded music and the Sub-Committee accepted this offer. This took into account residents' specific concerns about the potential for noise nuisance.

The Sub-Committee attached the Council's capacity condition MC90 to the three new premises licences. This condition is that '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'. As agreed by the Applicant the Council's model surrender

	condition MC62 was attached to the licence so that no licensable activities would take place at the three new premises until the three existing premises in Charing Cross Road, Man Bar, Longshots Bar and Kopi Tiam have been surrendered and are incapable of resurrection.
2.	Recorded Music (Indoors)
	Monday to Saturday: 10:00 to 01:00 Sunday: 12:00 to 00:00
	Amendments to application advised at hearing: The Applicant's Representative had offered to withdraw recorded music and the Sub-Committee accepted this offer. This took into account residents' specific concerns about the potential for noise nuisance.
	Decision (including reasons if different from those set out in report): This element of the application having been withdrawn, there was no need for the Sub-Committee to determine it.
3.	Sale by retail of alcohol (On and Off)
	Monday to Saturday: 10:00 to 01:00 Sunday: 12:00 to 00:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Applicant granted Core Hours for on and off sales of alcohol (Monday to Thursday 10:00 to 23:30, Friday and Saturday 10:00 to 00:00 and Sunday 12:00 to 22:30).
4.	Hours premises are open to the public
	Monday to Saturday: 07:00 to 01:00 Sunday: 08:00 to 00:00
	Amendments to application advised at hearing: None.

	<p>Decision (including reasons if different from those set out in report):</p> <p>The Applicant granted Core Hours for the closing times of the three premises (Monday to Thursday 07:00 to 23:30, Friday and Saturday 07:00 to 00:00 and Sunday 08:00 to 22:30).</p>
5.	Seasonal variations / Non-standard timings
	<p><u>Late Night Refreshment (Indoors), Recorded Music (Indoors), Sale by retail of alcohol (On and Off) and Hours premises are open to the public</u></p> <p>To allow the permitted activities from the end of New Year's Eve to the start of New Year's Day.</p> <p>Sundays prior to Bank Holidays to operate until 01:00.</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 Applicant's Representative had offered to withdraw recorded music and the Sub-Committee accepted this offer. This took into account residents' specific concerns about the potential for noise nuisance.</p> <p>The Sub-Committee allowed the permitted activities from the end of New Year's Eve to the start of New Year's Day.</p> <p>The Sub-Committee granted Core Hours for the three new premises so that the premises would operate on Sundays prior to Bank Holidays until midnight.</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
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. Save for the area hatched black on the plans, the supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.

10. The number of persons permitted in the area hatched black on the plans excluding staff shall not exceed 30 persons at any one time.

11. Save for the area hatched black on the plans, the supply of alcohol on the premises shall be by waiter or waitress service only.
12. Except for the external seating area, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke shall not be permitted to take drinks or glass containers with them.
13. All external tables and chairs shall be rendered unusable after 22:00 hours daily.
14. All sales of alcohol for consumption off the premises shall be:
 - a) in sealed containers only, and shall not be consumed on the premises; or
 - b) to persons seated at tables and chairs in the external seating area.
15. There shall be no sales of alcohol for consumption off the premises after 23.00.
16. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
17. Substantial food and non-intoxicating beverages, including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
18. The 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
19. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises 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.
20. Challenge 21, a proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
21. 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

22. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
23. All windows and external doors shall be kept closed after 22:00 hours except for the immediate access and egress of persons.
24. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
25. 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 sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.
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) and (08.00) on the following day.
28. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) on the following day.
29. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
30. 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.
31. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
32. 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.
33. The Licence will have no effect until the works shown on the plans appended to the application have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.

34. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction, new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
35. No licensable activities shall take place at the premises until premises licences 15/00346/LIPT, 15/08795/LIPT and 14/02839/LIPT (or such other numbers subsequently issued for the premises) have been surrendered and are incapable of resurrection.

CHAIRMAN: _____

DATE _____