



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** Committee held on **Thursday 18th January, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Angela Harvey (Chairman), Julia Alexander and Murad Gassanly

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 BASEMENT AND GROUND FLOOR, 125-127 WESTBOURNE PARK ROAD, W2

LICENSING SUB-COMMITTEE No. 1

Thursday 18 January 2018

Membership: Councillor Angela Harvey (Chairman), Councillor Julia Alexander and Councillor Murad Gassanly

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

Relevant Representations: Environmental Health and 4 x local residents.

Present: Mr Mark Browning (Solicitor, Representing the Applicant), Mr Jasper Gorst (Owner), Mr Ian Watson (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Ms Julia Ridgway, local resident), Mr John Zamit (Chairman, South East Bayswater Residents' Association) and Mr Kieran Scotney (local resident).

**Basement and Ground Floor, 125-127 Westbourne Park Road, W2
17/12417/LIPN**

1. Regulated Entertainment – Playing of recorded music (indoors)

Monday to Saturday: 10:00 to 00:30
Sunday: 12:00 to 00:00

Amendments to application advised at hearing:

The proposed terminal hour for regulated entertainment in the Basement (Number 127) was 23:30 Monday to Saturday and 23:00 Sunday. Core Hours was proposed for regulated entertainment on the Ground Floor of Numbers 125 and 127 (23:30 Monday to Thursday, midnight Friday and Saturday and 22:30 on Sunday).

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

The Sub-Committee heard from Mr Browning, representing the Applicant. He stated that this was an application for a new premises licence to replace a licence which previously lapsed in June 2017 (09/10275/LIPD). He explained that he and his client had looked to engage with all the parties who had submitted representations in respect of the application and as a result the Applicant had made some changes to the application. These included some amendments to the proposed hours of operation.

Mr Browning believed that a key reason for the concerns of objectors was that a previous operation at the premises had caused nuisance to local residents. Mr Browning indicated that the operating of the premises would be very different now. Mr Gorst was also the owner of The Oak Pub at 137 Westbourne Park Road.

The Applicant was proposing that Number 125 would operate as a bar on the Ground Floor and a back of house operation in the Basement. Number 127 would operate as a restaurant on the Ground Floor with a private dining area in the Basement.

Mr Browning sought to explain the proposed amended hours for the premises. He confirmed there would be no private entertainment which was on the lapsed licence. The amended hours were set out during the hearing and were as follows. The proposed terminal hour for regulated entertainment in the Basement (Number 127) was 23:30 Monday to Saturday and 23:00 Sunday. Core Hours was proposed for regulated entertainment on the Ground Floors of 125 and 127 (23:30 Monday to Thursday, midnight Friday and Saturday and 22:30 on Sunday). Late night refreshment in the Basement of 127 was sought until 23:30 Monday to Saturday. Late night refreshment on the Ground Floor of 125 and 127 was sought to Core Hours. The proposed hours for the sale of alcohol in the Basement of 127 was until 23:00 Monday to Saturday and 22:30

on Sunday. The sale of alcohol on the Ground Floor of 125 and 127 was sought until Core Hours. The proposed opening hours for the Basement at 127 were until 23:30 Monday to Saturday and 23:00 Sunday. The proposed opening hours for the Ground Floor at 127 were midnight except 23:30 on Sunday. Opening hours were sought until Core Hours at Number 125.

In response to a question from the Sub-Committee Mr Gorst advised that there was no access from the Ground Floor of Number 125 to the Ground Floor of Number 127.

Mr Browning also addressed the Sub-Committee on the proposed conditions. Conditions had been agreed with the Police who had withdrawn their representation and the majority of conditions proposed by Environmental Health had been agreed. His client was content to adopt a Challenge 25 policy. The Applicant had agreed a condition with the Police that all outside tables and chairs (which had not been a part of the previous licence) would be rendered unusable by 23:00 hours each day. The Applicant had not agreed a condition proposed by Environmental Health that the supply of alcohol within the bar area in Number 125 would be ancillary to a table meal and had proposed an alternative so that all public licensed areas would have alcohol ancillary to a table meal apart from the blue shaded area (the bar) in Number 125 on the plans. The Applicant was also requesting that the supply of alcohol in Number 125 was not via waiter or waitress service only which had been sought by Environmental Health.

The Applicant was requesting that the condition proposed by the interested parties requiring the whole premises to operate as a restaurant was not applied to the premises licence. Mr Browning also referred to two other proposed conditions from the interested parties being a duplication of conditions sought by the Responsible Authorities. He was content that the interested parties' condition that there was no super-strength sale of beer or cider be attached to the licence.

The Sub-Committee asked Mr Browning whether it was proposed that off sales could be taken outside and consumed immediately outside the premises. Mr Browning and Mr Gorst replied that there was no current proposal seeking to permit the sale of alcohol for consumption immediately outside the premises.

The Sub-Committee heard from Mr Watson, representing Environmental Health. He advised that the limited conditions on the previous lapsed licence had not been deemed by Environmental Health to be adequate to meet the licensing objectives of public safety and the prevention of public nuisance. Environmental Health had therefore proposed a number of additional conditions. Mr Watson referred to the lapsed licence that after 23:00 alcohol was required to be ancillary to a table meal. Mr Watson indicated that there was agreement between the Applicant and Environmental Health regarding the proposed hours.

Mr Watson confirmed that there had been no tables and chairs application by the previous operators of the premises. He explained that the Applicant would still need to obtain planning consent to have alcohol provided to patrons at outside tables and chairs even if it was found that the area immediately outside

the premises was private forecourt.

Mr Watson also confirmed that it was only possible for patrons to go from the Basement of 125 to 127 and vice versa and not between the respective Ground Floor areas. There was toilet provision on both the Ground Floor and Basement areas for 125 and 127.

Mr Watson informed the Sub-Committee that there had been a complaint received in relation to collections of bottles at 04:00 when the premises had previously operated. He referred to Mr Gorst having an arrangement for the collection of bottles at The Oak which meant that this did not take place early in the morning.

The Environmental Health proposed condition (21 listed on the operating schedule) had taken into account the possibility that the Applicant was planning to use tables and chairs directly outside the premises. Mr Watson said he would accept the removal of his proposed condition if the Applicant no longer planned to use them.

Mr Watson stated that following the amendments to the hours and subject to the Applicant agreement on the condition regarding the collections of bottles not taking place at night, he was reasonably content with the application. He was not disputing the Applicant's request that alcohol was not ancillary to a table meal in the bar area or that there should not be a requirement for waiter/waitress service.

Mr Gorst, in response to the Sub-Committee, stated that he was happy for both deliveries and collections not to take place between 22:00 and 07:00.

The Sub-Committee heard from Mr Scotney. He stated that he was concerned on the grounds he had seen seating outside the premises earlier that morning and he was keen to clarify its use. Mr Gorst responded that he did not believe he had seating outside the premises at the current time. He reiterated that it was not his intention to have seating outside. The Sub-Committee asked the Applicant whether he would be willing to have a condition that there would be no seating outside. Mr Browning replied that he believed such a condition would be unduly restrictive in terms of preventing people sitting there even if alcohol was not consumed there. He added that patrons might want to sit and smoke outside.

Mr Scotney referred to a complaint he had made to the Council's Noise Team due to noise emanating from the The Oak, owned by the Applicant. He asked how the Applicant would prevent noise nuisance at 125-127 Westbourne Park Road given the breach of a condition at The Oak. He confirmed to Mr Gorst that the complaint had been in the early hours of the morning on New Year's Day. Mr Gorst wished to make the point that he had managed the premises for 17 years with the only previous complaint being related to bottle collections which he had resolved by not having late collections. Mr Gorst said that the matter on New Year's Day had been dealt with immediately with the DJ turning the music down. Mr Scotney commented that his partner on the morning in question had visited the premises and not been given assurances that the matter was being

addressed. It was later clarified by Mr Watson that the complaint had been received at 02:36 and due to New Year's Day being a very busy time for the Council's Noise Team, there had been a visit to The Oak at 03:52 when no noise had been audible from the premises.

The Sub-Committee was addressed by Mr Brown. He stated that Ms Ridgway had particular concerns about noise outside and dispersal of customers. There was a narrow forecourt and pavement outside the premises and Ms Ridgway was keen that people did not block this area (Mr Brown informed the Sub-Committee that Ms Ridgway has mobility problems but this would be relevant for all people using the street), whilst making noise. Mr Brown expressed the view that the problem was exaggerated by the premises (125 and 127) being essentially separate as there was no access from one Ground Floor to the other. The net effect of the bar use at 125 was that it was being extended as the lapsed licence required alcohol to be ancillary to a table meal after 23:00. The proposal was that in the bar area alcohol would be permitted without a table meal until midnight on Fridays and Saturdays.

Mr Brown also mentioned that Core Hours was a concern in respect of recorded music. He asked whether a noise limiter condition could be attached to the licence. Mr Brown clarified that Ms Ridgway was opposed to the proposed drinking up time and its impact on customers.

Mr Brown requested on Ms Ridgway's behalf that tables and chairs were not permitted outside. He had witnessed a table and four stools outside the premises the previous Monday evening. He also queried the capacity of 40 in the Basement.

The Sub-Committee also heard from Mr Zamit. He emphasised that Westbourne Park Road is a very residential street. Mr Zamit said that The Oak was more of a restaurant than a pub and that it is well run. He believed the tables and chairs permitted there had significantly less impact than would be the case if they were used at Westbourne Park Road. He believed it was necessary for the Sub-Committee to make a decision on the use of tables and chairs at Westbourne Park Road as it was potentially the case that planning permission was not required.

Mr Zamit was concerned that patrons of popular pubs in the area such as The Cow and The Westbourne would frequent the new premises, consuming further alcohol after the other pubs had closed at 23:00 if it was permitted to operate until Core Hours. Mr Zamit also expressed the view that the Applicant would be aiming to apply for customers to be able to drink outside Number 125 at a later date. He was keen that the Applicant did not appear to seek alcohol to be sold to customers outside at the current time should be reflected in the conditions.

Mr Zamit said that he had made it clear to the Applicant that he believed customers should leave the premises at 23:30 and that there was not half an hour's drinking up time. He was of the view that he had reached agreement with the Applicant on this point. Mr Zamit expressed the view that if customers left at midnight on Fridays and Saturdays this would cause a nuisance to the neighbours given the residential nature of the locality.

Mr Zamit sought clarification on the potential for private parties at the premises. Mr Browning responded that there was no intention to hold private parties. The application involved private dining in the Basement.

Mr Browning was given the opportunity to respond to the comments made by the objectors. He offered a condition that tables and chairs would not be used outside after 21:00. Mr Scotney and Mr Watson were content with such a condition. Mr Brown requested on behalf of Ms Ridgway that tables and chairs were not permitted outside at all. It was felt that any smokers would stay outside longer and cause nuisance if they were able to sit down. Mr Zamit believed 21:00 sounded a reasonable time for tables and chairs to be removed but sought clarification as to whether it was for pub drinkers or restaurant diners. He was concerned that residents would be inconvenienced and that the situation had appeared to have changed from no drinks outside to the potential for there to be drinks outside.

Mr Browning requested that a noise limiter condition was not attached to the premises licence. This was on the basis that the bar would be small, the operation would mainly involve dining and it would not be noisy. There would be no private entertainment. Recorded music would tend towards being similar to background music. Mr Watson referred to entertainment being de-regulated prior to 23:00. Environmental Health would not be proposing a noise limiter condition in this instance. There was the option of requesting that doors and windows were closed if regulated entertainment was taking place. Mr Watson suggested that this could be introduced after 21:00 hours.

Mr Gorst explained that customers when dispersing would be advised to respect local residents with notices being displayed to this effect. He was content for the Council's Model Condition 24 to be attached to the licence that a direct telephone number for the manager at the premises would be publicly available at all times the premises is open.

Mr Browning was asked by Mr Panto whether his client wished to apply for recorded music if it was likely to be background music only as background music is not licensable. Mr Browning replied that Mr Gorst wished to retain recorded music in the event he wished to play more than incidental background music. He was content with Mr Watson's suggested condition that doors and windows were closed at 21:00 if regulated entertainment takes place.

The Sub-Committee did have concerns that it had not been clear prior to and throughout the hearing as to what was being proposed by the Applicant, including in terms of the hours sought. The Sub-Committee, having received clarification, decided to grant the amended hours sought by the Applicant for licensable activities in Number 125 and Number 127, considering that conditions would be attached to the licence which would promote the licensing objectives.

The Sub-Committee noted that there had been very limited conditions on the previous lapsed licence. Members agreed with Mr Watson that further conditions were needed to promote the licensing objectives including those proposed by Environmental Health. The conditions that the Sub-Committee

decided it was necessary and proportionate to attach to the premises licence, in addition to or instead of those proposed, took into account that the premises are in a highly residential neighbourhood. The major concern of residents, which the Sub-Committee shared, was the use of the outside area. The Applicant had offered that tables and chairs would be removed from the outside area at 21:00 and this was attached as a condition by the Sub-Committee. There would however be no consumption of alcohol permitted in the outside area or in the outside stairwell, including off-sales prior to 23:00, as this would add to the potential for local residents experiencing public nuisance.

The Sub-Committee had considered attaching a condition that after 21:00 and at any time when regulated entertainment takes place, doors and windows would be kept closed. Mr Browning clarified that he was offering that doors and windows would be kept closed after 21:00 only when regulated entertainment was taking place. The Sub-Committee decided that it was appropriate to attach the condition Mr Browning was offering. The Applicant had also indicated that regulated entertainment would typically be of a background nature and that as suggested by Mr Watson it was not proportionate to require a noise limiter condition.

The Chairman made the point to residents that if there were any persistent issues with noise nuisance caused by the premises, there was the potential for the premises licence to be reviewed. In addition to the requirement that doors and windows are closed after 21:00 when regulated entertainment is taking place, a condition was attached to the licence that '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'.

The Sub-Committee attached conditions proposed by Environmental Health and agreed by the Applicant that there would be no deliveries or collections, including bottles, between 22:00 and 07:00 hours the following day. This was to prevent nuisance to local residents. The Sub-Committee also amended the condition proposed by Mr Zamit/SEBRA to the Council's Model Condition 29 (which was agreed by the Applicant) that 'in the case of off sales, no super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises'.

2. Late night refreshment - indoors (Basement)

Monday to Saturday: 23:00 to 23:30

Amendments to application advised at hearing:

None.

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

	Granted, subject to conditions as set out below (see reasons for decision in Section 1).
3.	Late night refreshment - indoors (Ground Floor)
	Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).
4.	Sale by Retail of Alcohol (Basement)
	Monday to Saturday: 10:00 to 23:00 Sunday: 12:00 to 22:30
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).
5.	Sale by Retail of Alcohol (Ground Floor)
	Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:30
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in

	Section 1).
6.	Hours premises are open to the public (Basement)
	Monday to Saturday: 10:00 to 23:30 Sunday: 12:00 to 23:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).
7.	Hours premises are open to the public (Ground Floor)
	Monday to Saturday: 10:00 to 00:30 Sunday: 12:00 to 00:00
	Amendments to application advised at hearing: The proposed opening hours for the Ground Floor at 127 were midnight except 23:30 on Sunday. Opening hours were sought until Core Hours at Number 125.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below.
8.	Seasonal variations / Non-standard timings
	<u>Late night refreshment - indoors (Basement and Ground Floor)</u> The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day. <u>Sale by retail of alcohol (Basement and Ground Floor) and Hours premises are open to the public (Basement and Ground Floor)</u> From the end of regulated hours on New Year's Eve to the commencement of regulated hours the following day.
	Amendments to application advised at hearing: None.

	Decision (including reasons if different from those set out in report):
	Granted, subject to conditions as set out below.

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.	<p>(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—</p> <p>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;</p> <p style="padding-left: 40px;">(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or</p> <p style="padding-left: 40px;">(ii) drink as much alcohol as possible (whether within a time limit or otherwise);</p> <p>(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;</p> <p>(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a</p>

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. 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.
10. 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.
11. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
12. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol
13. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises in the outside stairwell or in the area immediately outside the premises.
14. All outside tables and chairs shall be removed by 21.00hrs each day.
15. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
- (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received 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.

16. 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
17. During the Notting Hill Carnival Event: On the Sunday and Monday of the August Bank Holiday there shall be:- No entry or re-entry between 19.00hrs-21.00hrs, No off sales of alcohol after 19.00hrs, no off sales in glass containers at any time.
18. The supply of alcohol in all public licensed areas other than the blue shaded area shown on the plans shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
19. The supply of alcohol in all public licensed areas other than the blue shaded area shown on the plans shall be by waiter or waitress service only.
20. 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.
21. The number of persons permitted in the basement at any one time (excluding staff) shall not exceed 40 persons.
22. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
23. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
24. 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.
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 sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
26. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
27. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.

28. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
29. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
30. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
31. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
32. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 22.00 hours and 07.00 hours on the following day.
33. No collections of waste or recyclable materials including bottles from the premises shall take place between 22:00 and 07:00 hours on the following day.
34. No deliveries to the premises shall take place between 22.00 and 07.00 hours on the following day.
35. The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
36. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
37. In the case of off sales, no super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.
38. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
39. When regulated entertainment takes place, all windows and external doors shall be kept closed after 21:00 hours.

4 Z HOTELS, FIRST FLOOR, 52-53 POLAND STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 18 January 2018

Membership: Councillor Angela Harvey (Chairman), Councillor Julia Alexander and Councillor Murad Gassanly

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

**Z Hotels, First Floor, 52-53 Poland Street, W1
17/13722/LIPN**

Application Granted under Delegated Authority as all representations had been withdrawn prior to the hearing.

**5 TO CONSIDER GRANTING AUTHORITY TO SETTLE AN APPEAL
ARISING FROM THE LICENSING SUB-COMMITTEE DECISION OF 21
SEPTEMBER 2017**

LICENSING SUB-COMMITTEE No. 1

Thursday 18th January 2018

Membership: Councillor Angela Harvey (Chairman), Councillor Julia Alexander
and Councillor Murad Gassanly

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

Swingers, 15 John Prince's Street, W1

**To consider granting authority to settle an appeal arising from the Licensing
Sub-Committee decision of 21 September 2017.**

RESOLVED: That under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the public be excluded from the meeting for the following item of business on the grounds that the public interest in the hearing taking place in private outweighs the public interest in that part of the meeting taking place in public.

Decision:

The premises concerned intended to operate as an indoor golf facility with ancillary bars and food outlets at 15 John Prince's Street. By application received on 25 July 2017, Swingers 2 Limited applied for a new premises licence to provide licensable activities at the Premises.

The Licensing Sub-Committee considered the application on 21 September 2017 and

it was confirmed by the Applicant's representative (Mr Gerald Gouriet QC) that the application had been amended so that the proposed hours for licensable activities were reduced to be in line with the Council's Core Hours, namely a terminal hour of 23:30 Monday to Thursday, midnight on Friday and Saturday and 22:30 on Sunday.

The Police had suggested amendments to two of the Applicant's proposed conditions, as well as additional conditions, one of which was that polycarbonate vessels are used at the Premises. It was submitted by PC Guerra during the course of the hearing that this condition was sought as the Police considered that there was a potential risk if glassware was used rather than polycarbonate vessels. He specifically stated that there was the possibility of groups on the two mini courses coming into conflict and these groups would be walking around the courses with glasses in their hands. Any injuries would be much less severe if there was conflict and polycarbonate vessels were used rather than glassware.

Mr Gouriet asked that the Police's proposed condition not be attached to the premises licence on the basis that the clientele was not likely to be involved in fighting and there was a stigma involved in providing polycarbonate vessels.

The Sub-Committee allowed the amended application, subject to conditions which included a condition requiring polycarbonate vessels to be used at the Premises rather than glassware. Members did not take the view that there were likely to be regular problems caused by the clientele of the premises but were nevertheless of the opinion that the potential for injuries would be reduced if glassware was not used. The Sub-Committee did not accept that there would be a stigma created by not using glassware. Customers' safety was the main priority.

Condition 40 imposed by the Sub-Committee was as follows:

a) All drinking vessels used in the venue shall be polycarbonate. All drinks in glass bottles are to be decanted into polycarbonate containers or polycarbonate carafes prior to being served, with the exception of champagne or bottles of spirits with a minimum capacity of 70cl supplied by waiter/waitress service to tables. Staff shall clear all empty champagne and spirit bottles promptly from the tables. Customers shall not be permitted to leave their table carrying any such glass bottles or drink directly from the bottle

b) Notwithstanding a) above, with the written agreement of the Westminster Licensing Police, a copy of which will be held at the premises reception, glass drinking vessels may be used for private or pre-booked events within a specified area of the premises.

Notice of appeal was lodged by the Applicant on 13 November 2017. The sole ground of the appeal is the imposition of condition 40 on the premises licence.

The Appellant, by way of an offer of settlement, proposed a compromise of the appeal to the effect that condition 40 is substituted with the following condition:

No glass drinking vessels, bottles or other type of glass drinks container shall be permitted onto the golf course at any time unless the entire venue has been pre-booked as a private event and written agreement has been provided by the Westminster Police Licensing Team. A copy of the agreement shall be held at the premises reception.

The condition to have polycarbonate vessels used in the Premises was proposed by the Metropolitan Police on the basis that the use of glassware may have a potential risk. This risk was based on the possibility of groups coming into conflict on the two mini courses whilst carrying glass in their hands. The Police confirmed that they were in agreement with this alternative wording. In assessing this compromise offer, the Police made contact with Officers of the Police Licensing Service in the City of London, who confirmed that a similar venue in their area operated by the Applicant's was well run and has not caused any problems. There was no reported crime and they use glass throughout.

The Members of the Sub-Committee were of the view that the proposed compromise would promote the licensing objectives and authority was given to settle the appeal on the basis set out in the officer's report.