



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** Committee held on **Thursday 25th January, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Jean Paul Floru (Chairman), Jan Prendergast and Aziz Toki

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 There were no declarations of interests.

3 THE BIG EASY, LOWER GROUND FLOOR AND GROUND FLOOR, 12 MAIDEN LANE, WC2

LICENSING SUB-COMMITTEE No. 4

Thursday 25th January 2018

Membership: Councillor Jean Paul Floru (Chairman), Councillor Jan Prendergast and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Daisy Gadd

Relevant Representations: Environmental Health, The Licensing Authority and Four Local Residents.

Present: Mr James Rankin (Barrister, representing the Applicant), Mr Paul Corrett (Applicant), Ms Shannon Pring (Licensing Authority), Mr Anil Drayan (Environmental Health), Mr Kin Tang (Local resident) and Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – representing Mr Tang).

**The Big Easy, Lower Ground Floor and Ground Floor, 12 Maiden Lane, London, WC2E 7NA ("The Premises")
17/12907/LIPV**

1. Layout Alteration

The applicant is seeking to reduce the size of the area where bar use is allowed, referred to in condition 37 as the hatched area with a smaller area as shown on the ground floor plan.

Amendments to application advised at hearing:

None.

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

The Sub-Committee considered an application by Maiden London Limited for a variation of a premises licence in respect of The Big Easy, Lower Ground Floor and Ground Floor, 12 Maiden Lane, London, WC2E 7NA.

The Licensing Officer provided an outline of the application to the Sub-Committee.

Mr Rankin, representing the applicant, advised the Sub-Committee that the premises currently contained a bar area which allowed customers to purchase and consume alcohol provided it was by waiter/waitress service to persons seated. This permission had been granted previously by a Licensing Sub-Committee. Since the Premises had been operating however difficulties with the conditions placed on the bar area had been experienced. An application had now been made to amend the conditions to allow some vertical drinking. Currently the main issue related to customers who walked in for a meal. The majority were seated immediately however during busy hours some customers had to wait in the bar area whilst their tables were cleaned. Mr Rankin advised that 95% of customers entering the Premises did so in order to eat. As an example of what could happen during busy periods Mr Rankin explained that if a party of twelve people arrived and their table was not yet ready and there were only eleven seats available in the bar then that twelfth person must stand and would not be sold a drink, but his or her companions could be. This would be an inefficient manner in which to operate a restaurant.

Mr Rankin was of the opinion that if the Sub-Committee granted what was applied for it would have a positive effect on the Cumulative Impact Area (CIA). If customers at the Premises were unable to be served a drink they would frequent another establishment whilst their table was being prepared. Many of the establishments in close proximity permitted drinking in external areas therefore potentially adding to cumulative impact. By allowing the use of a holding bar this would keep the customers within the Premises and prevent them from filtering further into the CIA. The application was seeking to reduce the number of customers allowed in the bar area from fifty to forty in exchange for allowing a small number of customers to stand and consume alcohol. It was proposed that the bar would contain twenty seats with provision for a further twenty more

customers to stand. After 22:00 hours all customers in this area would be required to be seated.

To provide reassurance that the Premises would not become drink-led Mr Rankin explained that if the Sub-Committee considered the use of the bar area until 22:00 too late this could be reduced. The number of people permitted to stand could also be reduced from twenty although it was considered that this number was appropriate. Also, to provide further assurances regarding the positive impact the variation hoped to achieve the applicant was willing to reduce the opening hours of the Premises and those for regulated entertainment by thirty minutes throughout the week.

Mr Rankin drew the Sub-Committee's attention to the Licensing Authority's representation which referred to section 2.4.21 of the Council's Statement of Licensing Policy which permitted the sale and consumption of alcohol where a Premises was appropriately conditioned and therefore unlikely to add to cumulative impact. Mr Rankin considered that the Premises was compliant with this section for the following reasons:

- There was no advertising of the bar area, customers generally either pre-booked or walked in to have a meal.
- The application was not seeking to extend the hours for any licensable activities.
- The Premises was almost entirely food-led with 90% of sales consisting of food. The application was not seeking to increase alcohol sales but rather retain customers and ensure the smooth operation of the business.
- No Police objections had been received.

It was recognised that residential representations had been received, however Mr Rankin was of the opinion this was because they had misunderstood the application. Mr Corrett, the applicant, explained that he had been in the restaurant business for over thirty years and took great pride in being a responsible operator. The concerns raised by residents were acknowledged and measures had been put in place to address any issues. Disturbance created through the operation of plant equipment had been investigated and was found to be the fault of the landlord. A lengthy litigation process had occurred to remedy the issue and the landlord had eventually accepted responsibility and corrected the problem over sound transference. With regards to refuse collections recent cases highlighted by residents of conditions being breached had arisen through a misunderstanding by the Council regarding collection hours. Issues over the movement of kegs and the sound they produced had also been highlighted. The kegs were located in the basement, three floors beneath Mr Tang's property, and rules had been implemented to prohibit them from being moved between 23:00 and 08:00. Residents had also complained about the number of times the fire alarm had been activated. Mr Corrett was only aware of this happening on two occasions following which the problems had been investigated and rectified with apologies being offered to the residents. In response to a question regarding the noise disturbance experienced by residents Mr Corrett advised that a mutually agreed acoustic report had been commissioned with the residents and a resident who had to temporarily move out

of his flat had been compensated and paid damages.

Mr Drayan, representing Environmental Health (EH), confirmed that the issue surrounding noise transference from plant equipment had now been resolved. With regards to the movement of kegs Mr Drayan advised that the City Inspectors had informed him that the applicant had put mitigation measures in place and these were considered satisfactory. In terms of the bar area this was currently controlled by requiring customers to be seated and served alcohol by waiter/waitress service. The Premises was located in a CIA and the Sub-Committee had to decide if sufficient mitigation measures had been put in place by the applicants to allow vertical drinking and make the application an exception to policy.

Ms Pring, representing the Licensing Authority, confirmed that as the Premises was located in a CIA the Sub-Committee had to decide if the proposals before it were sufficient to consider the application an exception to policy.

Mr Brown from the Westminster Citizens Advice Bureau, representing Mr Tang, explained how Mr Tang's residence was situated directly above the Premises. It had been suggested that residents had misunderstood the application however Mr Brown asserted that this was not the case. It was recognised that holding bars were often permitted, however it was suggested that in this instance this could not be considered one. The application simply provided customers with the opportunity to stand at a bar and drink alcohol. None of the proposed conditions required customers drinking to take a meal and therefore it could be considered contrary to paragraph 2.5.3 of the Council's Statement of Licensing Policy.

Mr Brown commented on the justification provided for permitting vertical drinking in the bar. An example had been provided regarding a twelfth member of a party not being able to drink alcohol if they didn't have a seat. Mr Brown explained that it was unknown if such an occurrence regularly happened. If the application was seeking to address this problem, then reducing the capacity of its bar area appeared to be incongruous. Also allowing forty to people to drink on the Premises without potentially dining was considered a high percentage of customers. Finally, as many issues between the applicant and local residents had not been resolved it was hoped dialogue between all the parties could be restarted shortly.

Mr Tang, a local resident, informed the Sub-Committee that he did not believe the issues raised had been satisfactorily resolved. Issues over the fire alarm continued as it was still going off approximately four times per month. The last time it occurred was in December and it usually happened after midnight resulting in residents being evacuated from the building which was of considerable inconvenience. In terms of issues surrounding the collection of refuse this continued to be a nuisance as it often occurred before 06:00. Also the problems of noise transference through the movement of kegs had not been resolved and continued to create a disturbance. The various incidents had been reported to Westminster City Council however because the noise issues were transient it was difficult for officers to respond.

Mr Drayan commented that refuse collections throughout the West End were

creating issues as the timings of the Council's commercial waste collections often conflicted with the hours stipulated on Premises licences. Work was being progressed to attempt to align the hours for refuse collections to avoid such conflicts.

The Council's Legal Adviser clarified that the application before the Sub-Committee was a variation for a Premises licence and not a review. Therefore, some of the issues raised could be of concern but may be considered not pertinent to the application before the Sub-Committee and consequently may not have relevance when determining the application.

Mr Rankin advised the Sub-Committee that the applicant was unaware of the fire alarm being triggered approximately four times per month. In terms of the current scenario involving a customer potentially not being served a drink as they were standing this occurred with smaller parties as well due to the constant stream of people waiting for tables.

After considering all the evidence, the Sub-Committee agreed to grant the application. It was recognised that the Premises was located within a CIA and concerns had arisen that allowing vertical drinking would be contrary to policy. However, the Sub-Committee noted that a bar area already operated within the Premises, albeit one which required customers to be seated and served alcohol by waiter/waitress service, and had operated without any issues. Permitting customers to stand and drink alcohol was considered contrary to Policy however the mitigation measures proposed by the applicant were considered sufficient to ensure there would be no increase in cumulative impact in the area. The reduction in the size of the bar area and also reducing the number of people allowed in that area from fifty to forty provided reassurance that the character of the Premises would not change.

It was accepted that the proposal would enable the bar area to act as a holding bar which would allow customers in this area to stand for a short period of time and have a drink before being seated in order to take a meal. It was also recognised that the bar area could potentially be used by customers who did not wish to have any food at all but that was possible under the existing licence and this application was reducing both the size and capacity of the bar area and the times during which it could be drink-led. The reduction in the size of the bar area also meant that there would be additional space for people to sit in the main restaurant area where the consumption of alcohol had to be ancillary to a substantial table meal.

The Sub-Committee imposed further controls on the Premises, as suggested by the applicant. The terminal opening hours for the Premises and the terminal hour for regulated entertainment were reduced Monday to Saturday from 01:00 to 00:30 and also the sale and consumption of alcohol in the bar area would cease by 22:00 hours. The bar area would permit forty persons to drink alcohol within it but would contain a minimum of twenty chairs therefore permitting a maximum of twenty people to stand. The Sub-Committee was of the opinion that these restrictions would ensure there were sufficient controls in place for the bar area to provide assurances it would not add to cumulative impact in the area. The Sub-Committee did have careful regard to all of the concerns expressed by the

	<p>responsible authorities and the local residents (including those who were not present) but considered the conditions proposed to be appropriate and proportionate in the circumstances. The overall decision would ensure that the licensing objectives were upheld. After careful consideration the Sub-Committee was satisfied that the Premises would not add to cumulative impact and would promote the licensing objectives and therefore granted the application accordingly.</p> <p>The Sub-Committee did express concern however that residents were obviously experiencing disturbance through the movement of kegs and the ongoing issues with the fire alarm. Consequently, the applicant was expected to enter into constructive dialogue with the residents to ensure that these issues were addressed. Mr Corrett advised the Sub-Committee that he would contact local residents so that they could work together to resolve the issues raised.</p>	
2.	Conditions Being Varied, Added or Removed	
	<p>Current:</p> <p>Condition 38(c)</p> <p>The sale of alcohol in that area [the hatched area] will be by waiter/waitress service only to persons seated.</p>	<p>Proposed:</p> <p>To be removed.</p>
	<p>Condition 38(a)</p> <p>There shall be no more than 50 customers in that area during core hours at any one time.</p>	<p>To amend Condition 38(a) to:</p> <p>There shall be no more than 40 customers in that area during core hours at any one time.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>	
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, the reason for the decision is detailed in section 1.</p>	

Conditions attached to the Licence
<p><u>Mandatory Conditions</u></p> <p>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</p> <p>2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.</p>

3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) a holographic mark, or

(b) an ultraviolet feature.

7. The responsible person must ensure that—

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

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

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

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

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

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

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

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

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

Where -

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

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

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

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

question; and

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

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

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

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

Conditions Consistent with the Operating Schedule

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

10. Alcohol may be sold or supplied from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

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

12. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.

13. The premises shall install and maintain a CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.

14. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage

with the absolute minimum of delay when requested.

15. There shall be no off sales of alcohol.

16. The number of persons accommodated at the premises shall not exceed the following (excluding staff):

Ground Floor - 170

Basement Floor – 140

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

18. A sound limiting device located in a separate and remote lockable cabinet from the volume control shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of officer from the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement with the Environmental Health Service.

19. No speakers shall be placed in the entrance passage.

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

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

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

23. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:

- (a) all crimes reported to the venue
- (b) any complaints received regarding crime and disorder
- (c) any incidents of disorder
- (d) any faults in the CCTV system
- (e) any refusal of the sale of alcohol
- (f) any visit by a relevant authority or emergency service

24. No person on behalf of the premises or on behalf of a person carrying or attempting to carry on a licensable activity shall cause, permit, employ or allow, directly or indirectly, whether on payment or otherwise, any person(s) to importune, solicit or tout members of the public on any public highway within the specified area outlined below for the purpose of bringing customers to the premises. The distribution of leaflets or similar promotional material is also prohibited within the specified area unless authorised in writing by the Council.

For the purpose of this section -

`Directly' - means: - employ, have control of or instruct

`Indirectly' - means allowing/permitting the service of or through a third party.

`Specified area' - means the West End Stress Area as defined in the Westminster Licensing Policy.

25. The approved arrangements at the premises, including means of escape provisions, emergency warning and emergency equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

26. 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.

27. All exit doors shall be available at all material times without the use of a key, code, card or similar means.

28. All emergency doors will be maintained effectively self-closing, and not held open other than by an approved device.

29. The edge of the treads of steps and stairways shall be maintained so as to be conspicuous.

30. Only hangings, curtains, upholstery and temporary decorations, complying with the relevant British (or where appropriate European) Standard shall be used. Where necessary these shall be periodically tested for flame resistance and re-treated as necessary.

31. Curtains and hangings shall be arranged so as not to obstruct safety signs other emergency equipment.

32. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 7 days' prior notice being given to Westminster City Council Consultation Team where consent has not previously been given:

- a. dry ice and cryogenic fog;
- b. smoke machines and fog generators;
- c. pyrotechnics including fireworks;
- d. firearms;
- e. lasers;
- f. explosives and highly flammable substances;
- g. real flame;
- h. strobe lighting.

33. 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.

Conditions Attached After a Hearing of the Licensing Authority

34. The performance of live music shall be limited to four performers only.

35. Save for the hatched area ' The premises shall only operate as a restaurant:

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

36. In the hatched area –

- a) There shall be no more than 40 customers in that area before 22:00 hours with no more than 20 customers standing at any one time.
- b) Save for persons taking a substantial table meal as defined in condition 35, the sale and consumption of alcohol in that area will be restricted to Monday to Saturday 10:00 to 22:00 and Sunday 12:00 to 22:00.
- c) The sale of alcohol in that area will be by waiter/waitress service or at the bar adjacent to the hatched area.
- d) There shall be a minimum of 20 seats provided at all times.

37. Loudspeakers shall not be located in the entrance lobby or outside the premises building.

38. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours.

4 47-48 NEWMAN STREET, W1

LICENSING SUB-COMMITTEE No. 4

Thursday 25th January 2018

Membership: Councillor Jean Paul Floru (Chairman), Councillor Jan Prendergast and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Daisy Gadd

Relevant Representations: Environmental Health, The Metropolitan Police and Two Local Residents.

Present: Mr Gary Grant (Counsel, Representing the Applicant), Mr Andrew Wong (Solicitor, Representing the Applicant), Mr Duncan Stirling (Applicant) and Mr Anil Drayan (Environmental Health).

Mr Fogg's Townhouse, 47-48 Newman Street, London, W1T 1QQ ("The Premises") 17/13178/LIPN	
1. Playing of Recorded Music	
<u>Current Hours under the existing licence</u> Unrestricted	<u>Proposed Hours</u> Monday to Thursday: 10:00 – 23:30 Friday to Saturday: 10:00 – 00:00 Sunday: 10:00 – 22:30
Seasonal Variations/Non-Standard Timings:	
<u>Current provision under existing licence</u> N/A	<u>Proposed</u> All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
Amendments to application advised at hearing: None.	
Decision (including reasons if different from those set out in report): The Sub-Committee considered an application by Inception Licence Limited for a new premises licence in respect of 47-48 Newman Street, London, W1T 1QQ.	

The Licensing Officer provided an outline of the application to the Sub-Committee.

Mr Grant, representing the applicant, highlighted to the Sub-Committee that following discussions between the applicant, the Police and Environmental Health (EH) a set of proposed conditions had been agreed between all parties. Despite this it was recognised that two residents had maintained their representations regarding the application which expressed concern over a potential increase in the hours for licensable activities. Mr Grant assured the Sub-Committee that this was not the case and there would be no increase in hours for any licensable activities. In response to a question Mr Grant confirmed that it was proposed to extend the opening hours of the Premises by thirty minutes Monday to Saturday and this would act as a 'drinking up' time.

Mr Grant provided a brief background to the Premises and the Sub-Committee noted that it had operated as a public house for a significant period of time, albeit that the first floor had operated as a restaurant. Several recent attempts had been made to operate out of the Premises none of which had been successful resulting in the building currently being vacated and attracting squatters. The applicant was proposing to completely redevelop the property and open up a third venue of Mr Fogg's Townhouse in London. This Premises would have a botanical theme containing floral displays internally and externally with an overall Victoriana theme.

The Sub-Committee was advised that the Premises would not operate as a restaurant however there would be a substantial high quality food element available. As such the applicant was seeking to remove the restaurant condition from the first floor of the Premises. Mr Grant advised that a lease for the building had been agreed subject to the granting of the licence.

Mr Drayan, representing EH, confirmed that he was in attendance to assist the Sub-Committee with any queries they may have had following the residential concerns raised. Mr Drayan advised that he was satisfied with the application and the conditions agreed with the applicant.

In conclusion Mr Grant highlighted how there would be no increase in hours for any licensable activities at the Premises. Conditions had been agreed with the responsible authorities and to try and mitigate residential concerns raised these included:

- The requirement to employ SIA staff Thursday to Saturday after 21:00;
- The introduction of a noise limiter;
- A no fumes/smells odour condition; and
- A dispersal and smoking condition.

After careful consideration the Sub-Committee agreed to grant the application. It was recognised that the Premises was not located in a Cumulative Impact Area and there would be no increase in the hours for licensable activities. The Sub-Committee was pleased to note that constructive discussions had taken place

	<p>between the applicant, the Police and EH following which an agreement on proposed conditions had been reached. These conditions were considered appropriate and proportionate and would help ensure that any disruption to local residents would be minimised. It was noted that a capacity for the venue had not yet been decided upon however all parties agreed for model condition 90 to be added to the licence which would allow EH to determine this.</p> <p>The Sub-Committee considered that the conditions proposed were appropriate and proportionate and would ensure that the licensing objectives were upheld and promoted. Having heard all the evidence (with consideration also being given to the written representations received from the two local residents), the Sub-Committee was satisfied that the application would transform a currently vacant space, address residential concerns and promote the licensing objectives. As such the Sub-Committee agreed to grant the application accordingly.</p>							
2.	<p>Late Night Refreshment</p> <table><tr><td><u>Current Hours under existing licence</u></td><td><u>Proposed Hours</u></td></tr><tr><td>Indoors</td><td>Indoors/Outdoors</td></tr><tr><td>Monday to Thursday: 23:00 – 23:30 Friday to Saturday: 23:00 to 00:00</td><td>No Change</td></tr></table>		<u>Current Hours under existing licence</u>	<u>Proposed Hours</u>	Indoors	Indoors/Outdoors	Monday to Thursday: 23:00 – 23:30 Friday to Saturday: 23:00 to 00:00	No Change
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<p align="center">Conditions attached to the Licence</p>
<p><u>Mandatory Conditions</u></p> <ol style="list-style-type: none"> 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— <ol style="list-style-type: none"> (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to; <ol style="list-style-type: none"> (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or (ii) drink as much alcohol as possible (whether within a time limit or otherwise); (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective; (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective; (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability). 5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

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

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

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

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

7. The responsible person must ensure that—

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

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

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

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

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

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

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

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

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

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were

charged on the date of the sale or supply of the alcohol, and

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

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

Conditions Consistent with the Operating Schedule

10. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.

11. Loudspeakers shall not be located in the entrance lobby or outside the premises building.

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

13. No waste or recyclable materials, including bottles shall be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours.
14. No deliveries to the premises shall be arranged between 23:00 and 08:00 hours.
15. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
16. All windows and external doors shall be kept closed after 23:00 hours, except for the immediate access and egress of persons.
17. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given: -
- a. dry ice and cryogenic fog (except for food presentations)
 - b. smoke machines and fog generators
 - c. pyrotechnics including fire works
 - d. firearms
 - e. lasers
 - f. explosives and highly flammable substances.
 - g. real flame (except for candles)
 - h. strobe lighting.
18. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.
- NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
19. 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.
20. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
21. All exit doors on designated escape routes shall be available at all material times without the use of a key, code, card or similar means.
22. All self-closing doors shall be effectively maintained and not held open other than by an approved device.

23. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

24. Curtains and hangings shall be arranged so as not to obstruct emergency signs.

25. The certificates listed below shall be submitted to the Licensing Authority upon written request:

- Any emergency lighting battery or system.
- Any electrical installation.
- Any emergency warning system.

26. The air conditioning units operating within the premises must be switched off when licensable activities have ceased for the day.

27. 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.

28. 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.

29. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

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

31. Substantial food and non-intoxicating beverages shall be available throughout the permitted hours in all parts of the premises where alcohol is sold or supplied for consumption on the premises.

32. There shall be no takeaway of hot food or hot drink from the premises after 23:00 hours.

33. Notices shall be prominently displayed at exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

34. Notices shall be prominently displayed at any area used for smoking requesting

patrons to respect the needs of local residents and use the area quietly.

35. After 23:00 hours patrons temporarily leaving the premises shall not be permitted to take drinks or glass containers outside with them.

36. No entertainment, performance, service, or exhibition involving nudity or sexual entertainment shall be provided except under the authority of a Sexual Entertainment Venue licence pursuant to the Local Government Miscellaneous Provisions Act 1982 as amended. Agreed

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

38. All door staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility yellow jackets or vests or distinctive uniform that is easily identifiable or as agreed with the police (e.g. butlers uniform/top hat/tails).

39. During busy times door staff shall ensure that the footway outside is not obstructed by the venue's customers.

40. All outside tables and chairs shall be rendered unusable by 23.00hrs each day.

41. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.

42. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

43. 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.

44. All door staff employed at the venue shall be accredited to the Security Industry Authority.

45. There shall be a minimum of 1 registered door supervisor after 9pm until 30mins past close on Thursday, Friday and Saturday. At all other times, management at the venue shall risk assess whether door supervisors are required.

46. There shall be no regulated entertainment on the first floor.

47. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents

or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

48.No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

49.The premises shall operate in accordance with an Outdoor Management/ Smokers and Dispersal Policy.

5 CUMBERLAND FOOD & WINE, 11 GREAT CUMBERLAND PLACE, W1

The item was withdrawn by the applicant.

6 ITSU, 15 BAKER STREET, W1

LICENSING SUB-COMMITTEE No. 4

Thursday 25th January 2018

Membership: Councillor Jean Paul Floru (Chairman), Councillor Jan Prendergast and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Daisy Gadd

Relevant Representations: One Local Resident.

Present: Mr Mark Browning (Solicitor, representing the Applicant) and Ms Nuala Harkin (Itsu, Head of Facilities).

Itsu, 15 Baker Street, London, W1U 3AH ("The Premises") 17/14437/LIPN	
1.	Sale by Retail of Alcohol – On and Off Sales
	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):

The Sub-Committee considered an application by Itsu Limited for a new premises licence in respect of Itsu, 15 Baker Street, London, W1U 3AH.

The Licensing Officer provided an outline of the application to the Sub-Committee and confirmed that the Police and Environmental Health (EH) had withdrawn their representations following the agreement of conditions.

Mr Browning, representing the applicant, explained that Itsu had recently submitted four similar applications of which three had been granted under delegated powers. The fourth application was before the Sub-Committee now as a residential representation had been received. The applicant had attempted to contact the resident to discuss the issues but this had proven unsuccessful. The Sub-Committee was advised of the operating style of Itsu and how it could be regarded differently to a conventional restaurant. To address concerns over the external tables and chairs Mr Browning detailed how their number would be reduced to ensure there was no obstruction on the public highway. Overall the application could be regarded as being very simple with the hours requested being within core hours. The Premises currently operated for less than these hours but they had been requested to simply provide greater flexibility if required.

The Council's Licensing Policy Adviser requested clarification on the plan submitted and whether the capacity proposed included both internal and external areas? Mr Browning confirmed that the capacity of sixty covered both internal and external areas excluding staff. In response to a question from the Council's Legal Adviser Mr Browning clarified that he considered all sales of alcohol to customers sat at the external tables and chairs to be on sales where the sale of alcohol was ancillary to them taking a table meal. A floor manager would help ensure the safety of all the seated areas with the external area being monitored constantly. The Sub-Committee was advised that sales of alcohol at similar Itsu establishments were very small and consisted only of 0.2% of total sales.

It was pointed out by the Council's Policy Adviser that the usual approach was for the plan to identify sales to external areas on the highway as off-sales rather than on-sales. However, following a suggestion from the Council's Legal Adviser the applicant agreed to amend condition 9 to ensure that the consumption of alcohol on the Premises including the external area was ancillary to the customer taking a table meal.

After careful consideration the Sub-Committee agreed to grant the application. The Premises was not located within a Cumulative Impact Area and the hours proposed were within core hours therefore making the application compliant with the Council's Statement of Licensing Policy. It was also noted that the Police and EH had withdrawn their representations following the agreement of conditions. The conditions proposed were considered appropriate and proportionate and would ensure they upheld and promoted the licensing objectives. The measures in place to ensure there was sufficient control in the external area were considered sufficient and the Sub-Committee was satisfied

	<p>that they would prevent any public nuisance or crime and disorder originating from the area.</p> <p>Having heard all the evidence (and taken into account the written representation from the local resident), the Sub-Committee was satisfied that the Premises would uphold and promote the licensing objectives and as such agreed to grant the application accordingly.</p>
2.	<p>Hours Premises Are Open to the Public</p> <p>Monday to Saturday: 07:00 to 23:30 Sunday: 07:00 to 23:00</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 Sub-Committee granted the application (see reasons for decision in Section 1).</p>

Conditions attached to the Licence	
<p><u>Mandatory Conditions</u></p> <ol style="list-style-type: none"> 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— <ol style="list-style-type: none"> (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to; <ol style="list-style-type: none"> (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
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8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

beginning on the second day.

Conditions Consistent with the Operating Schedule

9. The consumption of alcohol on the premises (including any external seating areas) shall only be to a person seated taking a meal there and for consumption by such a person as ancillary to their meal.

10. Sales of alcohol for consumption off the premises shall be in sealed containers only and supplied ancillary to a take away meal.

11. 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.

12. The number of persons permitted on the premises (including the external seating areas) consuming alcohol at any one time (excluding staff) shall not exceed 60 persons.

13. 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.

14. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.

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

16. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

17. 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.

18. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

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

7 ITSU, 38-40 EASTCASTLE STREET, W1

The application was granted under delegated authority.

8 7-8 ECCLESTON YARD, SW1

LICENSING SUB-COMMITTEE No. 4

Thursday 25th January 2018

Membership: Councillor Jean Paul Floru (Chairman), Councillor Jan Prendergast and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Daisy Gadd

Relevant Representations: One Local Resident.

Present: Mr Alun Thomas (Solicitor, representing the applicant), Mr Duncan Watts (Applicant), and Mr Ioannis Alexopoulos (Local Resident).

7-8 Eccleston Yard, Westminster, London, SW1W 9AZ ("The Premises") 17/13294/LIPN

1.	Late Night Refreshment – Indoors
	Monday to Wednesday: 23:00 to 23:30 Thursday to Saturday: 23:00 to 00:00
	Amendments to application advised at hearing: None.

The Sub-Committee considered an application by Curious Restaurants Limited for a new premises licence in respect of 7-8 Eccleston Yard, Westminster, London, SW1W 9AZ.

The Licensing Officer provided an outline of the application to the Sub-Committee.

Mr Thomas, representing the applicant, explained that constructive discussions had been held with the local resident, Mr Alexopoulos, who had expressed concerns over the application. The following four main areas of concern and how they would be mitigated included:

- The hours of operation – The Premises would operate within core hours except on Thursday where it was proposed to operate for thirty minutes longer.
- External seating – All external furniture would be rendered unusable after 23:00 and this area would be located around the corner from Mr Alexopoulos's property.
- Smoking area – It was hoped this area would not have to be used as the proposed external seating arrangements would allow customers to smoke outside. The smoking area would also be located around the corner from Mr Alexopoulos's property.
- Servicing – To provide reassurances the applicant would accept a model condition to be added to the licence preventing any deliveries taking place at the Premises between 23:00 and 07:00 on the following day. In terms of removing waste, the Premises had an internal refuse facility to prevent disturbance to residents.

Mr Thomas also confirmed that a condition requiring the Premises to display signs requesting residents to leave the establishment quietly and respect local residents could be added to the licence if deemed appropriate. With regards to the management of the courtyard area the applicant would enter into discussions with the residents and Grosvenor Estates to ensure this was undertaken in a suitable manner.

In response to a question regarding whether options to install double glazing at the Premises had been assessed Mr Thomas explained that this was one of the issues that would be addressed with Mr Alexopoulos in their upcoming discussions. It was not being offered as part of the application to the Licensing Sub-Committee.

Mr Thomas highlighted that the Premises was not located within a Cumulative Impact Area (CIA) and therefore according to the Statement of Licensing Policy, subject to the Premises promoting the licensing objectives, the application would normally be granted. It was acknowledged that under licensing terms the Premises could be regarded as a drink-led establishment however its planning permission was for restaurant use and this was how it was intended to be operated. The restaurant model condition had not been offered as this was not an issue that had been raised by any of the responsible authorities or in the residential representation.

	<p>Mr Alexopoulos, a local resident, explained that he had no issues with the operation of a restaurant from the site or the hours proposed. However, at the time of the application he did have concerns over potential noise disturbance caused by customers leaving the Premises and through the servicing of the restaurant. He requested assurances that there would be sensible and effective management of the courtyard area. On-going discussions with the applicant were taking place and it was hoped any concerns raised would be addressed. The Sub-Committee urged constructive dialogue between all parties to continue. Mr Thomas confirmed that Mr Alexopoulos would be contacted by the applicant in order to address his concerns.</p> <p>After careful consideration the Sub-Committee agreed to grant the application. It was noted that the proposed hours were within core hours and the Premises was not located within a CIA. The premises could potentially be drink-led which meant that the application could only be granted if it could be demonstrated that the proposal met the relevant criteria in the Council's Statement of Licensing Policy. Concerns had been raised over the courtyard area however reassurance had been provided that the furniture located in the external area would be rendered unusable after 23:00. To ensure there was further control over this area and in order to protect residents, the Sub-Committee added a condition to the licence requiring notices to be prominently displayed on all exits requesting patrons to leave the Premises quietly. A condition would also be added prohibiting servicing of the Premises between 23:00 and 07:00 the following day and also requiring a direct telephone number to the manager be made available to residents in the local vicinity. The Sub-Committee agreed that those conditions proposed by the applicant and the additional conditions imposed by the Sub-Committee were appropriate and proportionate and would ensure the licensing objectives were promoted. The Sub-Committee was therefore of the opinion that due to the nature of the operation, the constructive discussions taking place between all parties and the conditions in place any potential disruption to residents would be minimised. The Sub-Committee therefore granted the application accordingly.</p>
2.	<p>Sale by Retail of Alcohol – On and Off Sales</p> <p>Monday to Wednesday: 11:00 to 23:30 Thursday to Saturday: 11:00 to 00:00 Sunday: 11:00 to 20:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application (see reasons for decision in Section 1).</p>

3.	<p>Hours Premises Are Open to the Public</p> <p>Monday to Wednesday: 10:00 to 23:30 Thursday to Saturday: 10:00 to 00:00 Sunday: 11:00 to 22:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>The premises will be closed on Christmas Day, Boxing Day and New Years Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application (see reasons for decision in Section 1).</p>

Conditions attached to the Licence
<p><u>Mandatory Conditions</u></p> <p>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</p> <p>2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.</p> <p>3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.</p> <p>4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—</p> <p>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;</p> <p>(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or</p> <p>(ii) drink as much alcohol as possible (whether within a time limit or otherwise);</p> <p>(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a</p>

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

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

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

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

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

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

7. The responsible person must ensure that—

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

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

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

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

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate,

any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Conditions Consistent with the Operating Schedule

9. There shall be no sales of alcohol for consumption off the premises after 23:00.
10. All sales of alcohol for consumption off the premises shall be in sealed containers only.
11. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
12. 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.
13. 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.
14. All outside tables and chairs shall be rendered unusable by 23:00 each day.
15. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
16. 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.
17. A Challenge 21 or Challenge 25 proof of age scheme shall operate at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport or proof of age card with the PASS Hologram.
18. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
19. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
- a) All crimes reported to the venue
 - b) All ejections of patrons
 - c) Any complaints received concerning crime and disorder

- d) Any incidents of disorder
- e) All seizures of drugs or offensive weapons
- f) Any faults in the CCTV system
- g) Any refusal of the sale of alcohol
- h) Any visit by a relevant authority or emergency service

20. There shall be no sales of hot food or hot drink for consumption off the premises after 23:00.

21. 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.

22. 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.

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

24. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.

25. 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.

The Meeting ended at 11.29 am

CHAIRMAN: _____

DATE _____