



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 26th April, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Melvyn Caplan (Chairman), Julia Alexander and Aziz Toki

1 MEMBERSHIP

There were no changes to the membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

1 AVERY HOUSE, 1-3 AVERY ROW, W1

LICENSING SUB-COMMITTEE No. 3

Thursday 26th April 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Aziz Toki

Legal Adviser: Heidi Titcombe
Policy Adviser: Chris Wroe
Committee Officer: Tristan Fieldsend
Presenting Officers: Shannon Pring
Steve Rowe

Relevant Representations: Environmental Health and Six Local Residents

Present: Mr Alun Thomas (Solicitor, representing the Applicant), Mr Alanopolis (Applicant), Mr Dave Nevitt (Environmental Health), PC Toby Janes (Metropolitan Police), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr Paul Robinson and Mr Robert Gray), Mr Paul Robinson, Mr Robert Gray and Mr Jean-Louis Bravard (representing the local resident Mrs Rachel Bravard)

**Avery House, 1-3 Avery Row, London, W1K 4AJ ("The Premises")
18/02645/LIPV**

1. Playing of Recorded Music

Current:

Monday to Thursday: 23:00 to 23:30
Friday to Saturday: 23:00 to 00:00

Proposed:

Monday to Wednesday: 23:00 to 23:30
Thursday to Saturday: 23:00 to 01:00

Licensable Area

Basement, Ground Floor, First Floor
and Second Floor

Include the 1st Floor area hatched
black within the licenced area.

Seasonal Variations/Non-Standard Timings:

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

No change to permitted hours on New
Year's Eve.

On Sundays prior to holidays/public
holidays 23:00 until 00:30.

To extend the hours on Sundays prior
to holidays/public holidays 23:00 until
01:00.

Amendments to application advised at hearing:

The applicant advised that no music would played on the external terrace area.

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

The Sub-Committee considered an application by Lemonthree Ltd for a variation of a premises licence in respect of Avery House, 1-3 Avery Row, London, W1K 4AJ.

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

Mr Thomas, representing the applicant, confirmed that the Premises had been granted its existing licence in 2017. The permitted licensable activities were restricted to core hours with the opening hour thirty minutes beyond this. Discussions had been held with the local resident, Mr Robinson, and the Sub-Committee was advised that the resident was of the opinion that the variation application was being submitted too early as there was only a limited operational history of the Premises. Mr Thomas explained that the reason why it was being applied for was because a nearby development was due to commence works shortly and it was expected that the noisy works to be undertaken would have a significant impact on the Premises trade. It was recognised that this was not a reason to grant the application but was an explanation why the applicant wished to seek ways of increasing the income of the Premises at an early stage of its operation.

Mr Alanopolis, the applicant, explained that the food concept was Mediterranean with an Asian influence. It was a fine dining restaurant where the expected spend

per person was approximately £100. The Premises functioned as a restaurant and was not a nightclub.

Mr Thomas highlighted that this was not a casual dining restaurant and customers would be expected to stay for between two to three hours. Several amendments were offered if the Sub-Committee was minded to grant the application. These included limiting the sale of alcohol to core hours after which the full model restaurant condition would apply. In addition, the provision of off sales of alcohol would be withdrawn if the external terrace area was included within the licenced area.

In response to a question from the Sub-Committee Mr Thomas clarified that if the external terrace was included in the licenced area it would become part of the restaurant and be restricted by the same conditions as those placed on the first floor. The sale of alcohol would only be permitted in this area up to 23:00 hours after which it would be used by customers wishing to smoke. It had a capacity of twelve and the terrace was actually shielded from Avery Row by the Premises building itself. This meant there were no residents overlooking the terrace and it would result in customers not having to smoke on the public highway. There would also be an SIA door supervisor on duty to assist with the dispersal of customers.

The Sub-Committee requested further clarification on which floors of the Premises would operate as a restaurant. Mr Thomas explained that the second floor would not, however the ground and first floors would operate as a restaurant at all times. The second floor had a holding bar but if the application for the extension in hours was granted this would operate under the full restaurant condition after 23:00 hours.

Mr Thomas detailed the change in hours sought for the sale of alcohol, which was to extend the terminal hour to 01:00 hours from Thursday to Saturday. The Sub-Committee noted that if the application was granted the applicant would withdraw the provision of regulated entertainment from the licence and would be content for a noise limiter condition to be added. The Premises building was also equipped with double-glazing to prevent any noise outbreaks and there would be no music played on the terrace area.

In response to questions from the Sub-Committee Mr Thomas confirmed that there was a capacity of sixty customers on each floor totalling a maximum capacity of one-hundred and eighty. No licensable activities would take place on the basement floor.

Mr Nevitt, representing Environmental Health (EH), confirmed that the overall capacity of the Premises was one-hundred and eighty. Concerning the external terrace there were no residents overlooking the area and EH was content with the restrictions and amendments offered by the applicant. The hours sought were also considered not excessive, especially as the Premises was not located in a Cumulative Impact Area (CIA). However, EH's representation was maintained on the grounds that there was only a limited operational history of the Premises and a number of residents were concerned with the application. The amendments offered by the applicant were helpful and satisfied most of the concerns raised by EH, particularly with regard to regulated entertainment.

PC Janes, representing the Metropolitan Police, was satisfied that the amendments offered addressed the concerns raised in terms of crime and disorder. The police's representation was maintained however as there was a lack of operational history of the Premises and therefore its future impact was currently unknown.

Mr Brown from the Westminster Citizens Advice Bureau, representing two local residents, explained that constructive discussions had been held with the applicant. The hours requested were still opposed however as residents felt that the opening hours currently permitted which consisted of core hours plus thirty minutes were already generous. Residents were of the opinion that permitting the extension in hours would change the character of Avery Row, which was pedestrianised and currently very quiet. Other licenced premises located in close proximity had hours that were consistent with what was already granted for this Premises. In terms of the terrace, allowing smokers to use it instead of using the public highway was welcomed as long as the area did not permit the consumption of alcohol on it after 23:00 hours. A key aspect of the application centred on the matter of dispersal. The hours sought would result in significant numbers of people leaving the Premises at 01:00 hours at the weekends. When the original application was submitted residents were broadly content with the hours permitted. The restaurant had not started operating yet though and so it had no current footprint. The application before the Sub-Committee to extend the hours was therefore considered very premature and inappropriate in the current circumstances.

Mr Robinson, a local resident, explained that he had lived in Avery Row for ten years. He had not objected to the original application and had welcomed a restaurant in to the area. The variation before the Sub-Committee was seeking to extend its current hours, which were already very generous, until the early hours of the morning. Avery Row was a pedestrianised area and a significant number of people dispersing from the Premises at 01:00 hours would have a detrimental impact on the area. The sound proofing measures undertaken by the applicant were welcomed however the hours sought were of concern.

Mr Gray, a local resident, expressed concern over the extended hours sought. Avery Row was very quiet after 23:00 hours and any noise generated did reverberate in the area. The potential dispersal of customers at 01:00 would create disturbance to residents. The improvement of the area was welcomed but the hours requested were deemed excessive for the location.

Mr Bravard, representing the local resident Mrs Bravard, expressed concern over the use of the external terrace area and the potential for noise disturbance. Deliveries and waste collections early in the morning could be disturbing.

Mr Thomas confirmed that the servicing of the premises had already been addressed with the original application where the relevant model conditions had been applied to the licence. In terms of dispersal, it was planned to mitigate this by requiring smokers to use the terrace instead of the public highway. In addition, when customers left the Premises at least one SIA door supervisor would be on duty to direct customers away from residential properties and toward Grosvenor Street. To provide further reassurance talks could be held with taxi firms to ensure

that they dropped off and picked up customers at an agreed point away from residential properties. The applicant was also content for a signage condition to be applied to the conditions requesting customers to leave the Premises quietly. The Premises would comply with a very strict management plan. With regards to the Council's Statement of Licensing Policy (SLP) the Premises was located outside a CIA and therefore policy RNT1 applied. This required the Sub-Committee to deal with the application on its merits and recognised that restaurants had little association with crime and disorder particularly before 01:00 hours.

The Sub-Committee carefully considered the application and all the evidence provided. The Sub-Committee considered it very important that dialogue between all the parties had commenced and that this should continue to ensure residents and the applicant worked together to protect and enhance the area around Avery Row whilst ensuring the success of the restaurant. In making its decision on the variation the Sub-Committee looked very closely at what had already been granted and what was being sought. The extension in hours was considered and the Sub-Committee was of the opinion that extending the opening hours for the sale of alcohol until 01:00 Thursday to Saturday was not appropriate for the local area. It was considered the proposed extension in hours would have a detrimental impact on residents and undermine the licensing objectives. Avery Row was a pedestrianised area and the dispersal of customers at 01:00 hours had the potential to become a source of disturbance. The premises had not yet started operating and as such, there was no footprint of what impact the current hours would have. The application to extend the hours was considered premature and as such, this aspect of the application was refused. In refusing this aspect of the application, the Sub-Committee did not consider it was appropriate and proportionate to impose any further conditions on the licence regarding the use of a noise limiter or the addition of an extra SIA staff.

With regards to the application to the external terrace within the licensed area, the Sub-Committee decided that including the terrace within the licenced area was appropriate and as such, agreed this aspect of the application. The area was not overlooked by any residential properties and its use as a smoking area would prevent customers from using the public highway instead. It was also noted that no music would be played in this area, its capacity would be restricted to twelve people and no drinking would be permitted in the terrace after 23:00 hours all of which was reflected in the conditions now attached to the licence. This alleviated the concerns initially raised and provided the Sub-Committee with reassurance that the terrace would not become a source of nuisance. As the terrace would be included in the licensable area, the Sub-Committee welcomed the applicant's agreement to remove the provision of off sales from the licence and off sales were therefore removed as part of this Decision. The other minor changes to the Premises layout were also agreed and a further condition would be added to the licence preventing any licensable activities from taking place in the basement area. The Committee considered these permitted changes are appropriate and proportionate to promote the licensing objectives.

The Sub-Committee therefore agreed to partly grant the application, permitting the changes in layout but refusing the proposed extension in the hours requested.

<p>2. Late Night Refreshment</p>	<table border="0"> <tr> <td style="vertical-align: top;"> <p><u>Current:</u></p> <p>Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00</p> <p>Licensable Area</p> <p>Basement, Ground Floor, First Floor and Second Floor</p> <p>Seasonal Variations</p> <p>No change to currently permitted hours on new Year's Eve.</p> <p>On Sundays prior to holidays/public holidays 23:00 until 00:00.</p> </td> <td style="vertical-align: top;"> <p><u>Proposed:</u></p> <p>Monday to Wednesday: 23:00 to 23:30 Thursday to Saturday: 23:00 to 01:00</p> <p>Include the 1st Floor area hatched black within the licenced area.</p> <p>No change to currently permitted hours on new Year's Eve.</p> <p>On Sundays prior to holidays/public holidays 23:00 until 01:00.</p> </td> </tr> </table>	<p><u>Current:</u></p> <p>Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00</p> <p>Licensable Area</p> <p>Basement, Ground Floor, First Floor and Second Floor</p> <p>Seasonal Variations</p> <p>No change to currently permitted hours on new Year's Eve.</p> <p>On Sundays prior to holidays/public holidays 23:00 until 00:00.</p>	<p><u>Proposed:</u></p> <p>Monday to Wednesday: 23:00 to 23:30 Thursday to Saturday: 23:00 to 01:00</p> <p>Include the 1st Floor area hatched black within the licenced area.</p> <p>No change to currently permitted hours on new Year's Eve.</p> <p>On Sundays prior to holidays/public holidays 23:00 until 01:00.</p>
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	<p>Amendments to application advised at hearing:</p> <p>None.</p>		
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee refused the application; the reason for the decision is detailed in section 1.</p>		
<p>3. Sale by Retail of Alcohol – On and Off Sales</p>	<table border="0"> <tr> <td style="vertical-align: top;"> <p><u>Current:</u></p> <p>Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:30</p> <p>Licensable Area</p> <p>Basement, ground floor, first floor and second floor.</p> <p>Seasonal Variations</p> <p>From the end of permitted hours on New Year's Eve to start of permitted hours on New Year's Day.</p> <p>On Sundays prior to holidays/public holidays 12:00 until 00:00.</p> </td> <td style="vertical-align: top;"> <p><u>Proposed:</u></p> <p>Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 01:00 Sunday: 12:00 to 22:30</p> <p>Basement, ground and first floors.</p> <p>No change to standard hours Sunday – Wednesday.</p> <p>No change to currently permitted hours on New Year's Eve.</p> <p>On Sundays prior holidays/public holidays 12:00 until 01:00.</p> </td> </tr> </table>	<p><u>Current:</u></p> <p>Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:30</p> <p>Licensable Area</p> <p>Basement, ground floor, first floor and second floor.</p> <p>Seasonal Variations</p> <p>From the end of permitted hours on New Year's Eve to start of permitted hours on New Year's Day.</p> <p>On Sundays prior to holidays/public holidays 12:00 until 00:00.</p>	<p><u>Proposed:</u></p> <p>Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 01:00 Sunday: 12:00 to 22:30</p> <p>Basement, ground and first floors.</p> <p>No change to standard hours Sunday – Wednesday.</p> <p>No change to currently permitted hours on New Year's Eve.</p> <p>On Sundays prior holidays/public holidays 12:00 until 01:00.</p>
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	<p>Amendments to application advised at hearing:</p> <p>The basement floor would be withdrawn from the licensable area and no alcohol would be permitted on the external terrace after 23:00 hours. The provision of off sales would be also withdrawn if the Sub-Committee was minded to extend the licensed area to include the terrace.</p>		
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee refused the application; the reason for the decision is detailed in section 1.</p>		
<p>4.</p>	<p>Hours Premises are Open to the Public</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><u>Current:</u></p> <p>Monday to Thursday: 10:00 to 00:00 Friday to Saturday: 10:00 to 00:30 Sunday: 12:00 to 23:00</p> <p>Licensable Area</p> <p>From the end of permitted hours on New Year's Eve to start of permitted hours on New Year's Day.</p> <p>On Sundays prior to holidays/public holidays 12:00 until 00:30.</p> </td> <td style="width: 50%; vertical-align: top;"> <p><u>Proposed:</u></p> <p>Monday to Wednesday: 10:00 to 00:00 Thursday to Saturday: 10:00 to 01:00 Sunday: 12:00 to 23:00</p> <p>No change to currently permitted hours on New Year's Eve.</p> <p>On Sundays prior holidays/public holidays 23:00 until 01:00.</p> </td> </tr> </table>	<p><u>Current:</u></p> <p>Monday to Thursday: 10:00 to 00:00 Friday to Saturday: 10:00 to 00:30 Sunday: 12:00 to 23:00</p> <p>Licensable Area</p> <p>From the end of permitted hours on New Year's Eve to start of permitted hours on New Year's Day.</p> <p>On Sundays prior to holidays/public holidays 12:00 until 00:30.</p>	<p><u>Proposed:</u></p> <p>Monday to Wednesday: 10:00 to 00:00 Thursday to Saturday: 10:00 to 01:00 Sunday: 12:00 to 23:00</p> <p>No change to currently permitted hours on New Year's Eve.</p> <p>On Sundays prior holidays/public holidays 23:00 until 01:00.</p>
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	<p>Amendments to application advised at hearing:</p> <p>None.</p>		
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee refused the application; the reason for the decision is detailed in section 1.</p>		
<p>8.</p>	<p>Layout Alteration</p> <p>The Applicant is seeking to vary the premises layout as follows:</p> <ol style="list-style-type: none"> a) Minor changes to fixed furniture layout; b) Include the 1st floor area hatched black within the licenced area; c) On the second floor, removal of storeroom and re-location of bar servery; d) Other minor changes as reflected on drawing numbers 500-503; and e) The addition of sofas. 		

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

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on

request to customers where it is reasonably available.

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

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

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

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

7. The responsible person must ensure that—

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

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

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

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

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

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

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

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

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

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

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

Conditions Consistent with the Operating Schedule

Ground and First Floor Only:

9. The premises shall only operate as a restaurant:

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

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

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

All Floors:

10. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.

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

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

13. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.

14. 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.

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

- Ground Floor – 60 persons
- First Floor (excluding terrace) – 60 persons
- First Floor Terrace – 12 persons
- Second Floor – 60 persons

There shall be no more than 180 persons on the premises at any one time.

17. No deliveries to the premises shall take place between (22.00) and (08.00) on the following day.

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

19. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (22.00) hours and (08.00) hours on the following day.

20. No collections of waste or recycling materials (including bottles) from the premises shall take place between (22.00) and (08.00) on the following day.

21. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

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

22. 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.

23. 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.

24. Save for the external terrace(s) shown on the deposited plan, 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.

25. No licensable activities shall be permitted in the basement.

26. 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.

27. No music shall be played on the terrace at any time.

28. No licensable activities shall be permitted on the first floor terrace from 23:00 until the premises opens to the public.

29. No drinks in an open container shall be taken into the external terrace on the first floor from 23:00 hours each day.

LICENSING SUB-COMMITTEE No. 3

Thursday 26th April 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Aziz Toki

Legal Adviser: Heidi Titcombe
Policy Adviser: Chris Wroe
Committee Officer: Tristan Fieldsend
Presenting Officers: Shannon Pring
Steve Rowe

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

Present: Mr Charles Denny (Agent, representing the Applicant), Mr Yutong Feng (Applicant), Miss Daisy Gadd (Licensing Authority) and Mr Dave Nevitt (Environmental health)

52 Rupert Street and 2 Tisbury Court, London, W1D 6DS (“The Premises”) 18/02747/LIPN	
1.	Late Night Refreshment - Indoors Thursday 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): The Sub-Committee considered an application by Pocha Ltd for a new premises licence in respect of 52 Rupert Street and 2 Tisbury Court, London, W1D 6DS. The Licensing Officer provided an outline of the application to the Sub-Committee. Mr Denny, representing the applicant, described the Premises as providing a modern, new style of dining. It was a very small venue with a maximum capacity for only ten customers. The dining area was located at the rear of the Premises with just one large L-shaped table provided as seating. A member of staff would show customers to their table and alcohol would only be served to those customers seated and dining. The Premises would also operate within core hours. The Council's Policy Adviser requested clarification over the hatched area on the plans designating where the licensed area would be located. Mr Denny displayed a revised plan of the Premises, which highlighted that only the rear area would be licensed. Appropriate signage would be displayed informing customers where they would be able to consume alcohol.

The applicant proposed to sell alcohol until 23:30 hours on Monday to Wednesdays. However, the applicant also agreed to a condition that any alcohol served would be ancillary to food. If the applicant wanted to sell alcohol ancillary to hot food after 23:00 hours, the applicant would have needed to apply for permission for the provision of late night refreshment (LNR) on Monday to Wednesday as part of the application. The Council's Legal Adviser pointed out that as the applicant had not applied for LNR for Monday to Wednesday as part of his application, the Sub-Committee had no ability to add this to the application at this stage. The applicant could apply for LNR as a separate variation application at a later stage. Mr Denny confirmed that the applicant was content for the application to be amended so that the hours sought for the sale of alcohol would be restricted to 23:00 hours on Monday to Wednesdays in order to comply with the ancillary food condition.

Mr Nevitt, representing Environmental Health (EH), expressed concern over two aspects of the application. Firstly, the Premises was located in a Cumulative Impact Area (CIA), which indicated that applications should be refused where the premises would not be operating to comply with the model restaurant condition(MC66) in full. What the applicant was seeking, in this instance, fell short of being able to comply with condition MC66. However, the Applicant was prepared to accept model condition 38, which required the supply of alcohol to be sold to a person seated, taking a table meal and for consumption by such a person as ancillary to their meal. Secondly, further clarity was required on how some of the proposed conditions would operate.

The Sub-Committee was interested to learn if the applicant would accept the conditions proposed by EH. Mr Denny confirmed that the applicant was prepared to accept all the conditions proposed by EH, apart from two. Firstly, Mr Denny submitted that a condition preventing any sales of draught beer or spirits was too restrictive as the applicant wanted to sell Japanese sake and whisky. The Applicant was happy not to sell beer but wanted to be able to sell spirits. Secondly, the condition requiring the Premises plans to be checked by EH before it was allowed to be open to the public was not appropriate as the applicant hoped to have the plans signed off beforehand.

In response to a question from the Sub-Committee Mr Nevitt confirmed that EH was content with the conditions being offered by the applicant as they ensured the premises would operate as a restaurant and in light of the small nature of the premises, the variations to the conditions suggested by Mr Denny would not be a cause for any concern in relation to the promotion of the licensing objectives.

Miss Gadd, representing the Licensing Authority, recognised that the Premises would operate within core hours. The full model restaurant condition had been requested, however model condition 38, proposed by the applicant was acceptable. The application had to be considered under RNT2 of the Council's Statement of Licensing Policy (SLP) and therefore the applicant had to demonstrate that the Premises would not add to cumulative impact in the local area.

The Sub-Committee was pleased to note that following discussions with the Responsible Authorities the applicant had agreed for the hours for the sale of alcohol to be reduced to 23:00 hours on Monday to Wednesday as LNR had not

	<p>been applied for. Core hours would apply to the remaining days.</p> <p>To avoid any confusion over the location of the licensable area the applicant was instructed to submit a new set of Premises plans showing the hatched area, which clearly highlighted where the sale and consumption of alcohol would be permitted.</p> <p>The Sub-Committee gave careful regard to the concerns expressed by the Licensing Authority, Environmental Health and the two local residents. It recognised that the Premises was located in a Cumulative Impact Area. However, due to its very low capacity the Sub-Committee decided the application would not add to cumulative impact and could be granted as an exception to policy. It was noted that the applicant could not agree to the full restaurant condition, so the Sub-Committee attached model condition 38 to the licence, which included various elements of condition MC66 which was considered appropriate and proportionate to promote the licensing objectives. This included ensuring the sale of alcohol was only sold to a person who was seated, taking a substantial table meal and for consumption by such a person as ancillary to their meal. This provided reassurance that the Premises would not become a drink-led venue. In addition, due to the food-led nature of the Premises the sale of spirits would be permitted although it was agreed to prevent any sales of draught beer. The applicant had proposed a number of conditions in the operating schedule, some of which had been duplicated by the conditions proposed by EH. The Sub-Committee therefore decided to delete conditions 10, 11, 13, 15, 21, 24 and 27 as proposed by the applicant and which appear at pages 43 and 44 of the committee papers. The Sub-Committee decided it was not appropriate to attach a condition requiring the Premises plans to be checked by EH before the premises could open as it was considered that the proposed condition 12 requiring that a suitable fire risk assessment and emergency plan be carried out, would satisfactorily address the concerns raised. The Sub-Committee considered the conditions proposed by EH, except conditions numbered 16 and 17, in their representation dated 18 April 2018 were appropriate and proportionate to promote the licensing objectives and were therefore attached to the licence.</p> <p>In summary, the Sub-Committee decided to grant the application subject to the conditions specified in this Decision.</p>
<p>2.</p>	<p>Sale by Retail of Alcohol – On Sales</p> <p>Monday to Wednesday: 10:00 to 23:00 Thursday to Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>Sundays immediately prior to Bank Holidays: Midday to Midnight</p>
	<p>Amendments to application advised at hearing:</p> <p>The applicant confirmed that the hours for the sale of alcohol would be aligned with core hours and therefore Thursday hours would be amended to between</p>

	10:00 and 23:30 hours.
	Decision (including reasons if different from those set out in report): The Sub-Committee granted the application (see reasons for decision in Section 1).
3.	Hours Premises Are Open to the Public Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:30 Seasonal Variations/Non-Standard Timings: Sundays immediately prior to Bank Holidays: Midday to Midnight
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee granted the application (see reasons for decision in Section 1).

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>

- (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. All staff shall be suitably trained for their job function for the premises. The training shall be written into a programme ongoing and under constant review and shall be made available to a relevant responsible authority when called upon.

10. The premises shall uphold a zero tolerance policy in relation to illegal drugs.

11. All exit routes and public areas shall be kept unobstructed, shall have non-slippery and even surfaces, shall be free of trip hazards and shall be clearly signed.

12. The premises licence holder shall ensure that a suitable fire risk assessment and emergency plan is in place at all times.

13. An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.

14. Arrangements shall be put in place to ensure that waste collections shall not collect refuse between 19:00 and 07:00.

15. Signage requesting customers to be respectful of others when entering or leaving the premises shall be installed in a prominent position by the premises' exit.

16. Patrons smoking outside the premises shall be monitored regularly to ensure the potential for noise nuisance is controlled.

17. The management shall ensure that receptacles for waste are emptied regularly to minimise nuisance smells.

18. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are the following recognised photographic identification cards: a driving licence, a passport, a military identification card or a Proof of Age card carrying a 'PASS' logo.

19. There shall be no children unaccompanied by a responsible adult on the premises after 21:00.

20. All children under the age of 12 years shall be accompanied by an adult whilst on the premises. Conditions proposed by the Local Authority

21. There shall be no self-service of alcohol.

22. In the hatched area as marked on the submitted plan, the supply of alcohol shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.

23. There shall be no sales and consumption of alcohol in the non-hatched area of the premises at any time.

24. There shall be no consumption of hot food or hot drinks in the non-hatched area after 23:00 hours.

25. No draught beer shall be sold at the premises

26. There shall be no take away supply of hot food or hot drink after 23:00 hours

27. 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.

28. 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

29. 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.

30. 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

31. The main entrance door shall be kept closed after 21:00 hours except for the immediate access and egress of persons.

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

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

34. The number of persons permitted in the hatched area as marked on the submitted plan for the supply and consumption of alcohol at any one time (excluding staff) shall not exceed 10 persons

35. 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.

36. 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

37. No licensable activities shall take place at the premises until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority

38. 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

3 AQUAVIT, 1 CARLTON STREET, SW1

LICENSING SUB-COMMITTEE No. 3

Thursday 26th April 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Aziz Toki

Legal Adviser: Heidi Titcombe

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officers: Shannon Pring
Steve Rowe

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

Present: Ms Sarah Le Fevre (Counsel, representing the Applicant), Mr Philip Hamilton (Applicant), Ms Daisy Gadd (Licensing Authority), Mr Dave Nevitt (Environmental Health) and PC Toby Janes (Metropolitan Police).

<p>Aquavit, 1 Carlton Street, London, SW1Y 4QQ (“The Premises”) 18/02000/LIPV</p>			
<p>1. Conditions being Varied, Added or Removed</p>	<table border="0"> <tr> <td style="vertical-align: top;"> <p><u>Current:</u></p> <p>Condition 11</p> <p>The supply of alcohol on the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.</p> </td> <td style="vertical-align: top;"> <p><u>Proposed:</u></p> <p>Condition 11</p> <p>The supply of alcohol on the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal, but in the private dining rooms on the mezzanine floor and in the bar area on the ground floor, these restrictions shall not apply.</p> </td> </tr> </table>	<p><u>Current:</u></p> <p>Condition 11</p> <p>The supply of alcohol on the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.</p>	<p><u>Proposed:</u></p> <p>Condition 11</p> <p>The supply of alcohol on the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal, but in the private dining rooms on the mezzanine floor and in the bar area on the ground floor, these restrictions shall not apply.</p>
<p><u>Current:</u></p> <p>Condition 11</p> <p>The supply of alcohol on the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.</p>	<p><u>Proposed:</u></p> <p>Condition 11</p> <p>The supply of alcohol on the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal, but in the private dining rooms on the mezzanine floor and in the bar area on the ground floor, these restrictions shall not apply.</p>		
<p>Amendments to application advised at hearing:</p> <p>None.</p>			
<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Aquavit London Ltd for a variation of a premises licence in respect of Aquavit, 1 Carlton Street, London, SW1Y 4QQ.</p> <p>The Licensing Officer provided an outline of the application to the Sub-Committee.</p> <p>Ms Le Fevre, representing the applicant, explained that the application was for a purpose built Premises which had been redeveloped by the applicant at a cost of £7 million. The Premises was surrounded by office and non-residential accommodation. The applicant had a track record of being a responsible operator and whilst this was not considered an exception to Policy the Sub-Committee could be assured the Premises would be managed properly. Ms Le Fevre confirmed that the Premises would only operate as a restaurant. It was located just within the Cumulative Impact Area (CIA), vehicles would not be able to enter this area to access the Premises and customers would have to exit away from the CIA. No residential representations had been received which provided a degree of exceptionality to the CIA policy. Significant conditions, were already attached to the licence and these included ensuring the supply of alcohol was served by waiter/waitress service only and ensuring substantial food would continue to be available in all parts of the Premises would not be amended,. Food and drink could not be sold for consumption away from the Premises after 23:00 hours and all outside tables and chairs would continue to be rendered unusable after 23:00. There would also be no change in capacity, which would remain at 270 for the entire Premises.</p>			

Ms Le Fevre confirmed that what the applicant was seeking was a relaxation on condition 11. This would seek to allow the sale of alcohol to customers who were not seated in the private dining rooms located on the mezzanine floor and in the bar area on the ground floor. The bar area would still contain 53 seats but it was hoped to permit a small number of customers to stand and consume alcohol.

In response to a question from the Sub-Committee regarding the private dining rooms Ms Le Fevre explained that the larger room had provision for 55 seated customers and the smaller one 15. If the application was granted a small number of customers would also be permitted to stand. The maximum capacity on the mezzanine level was 125 and this was subject to the overall capacity of the Premises of 270. Only a limited number of private events, approximately two per week, would be held. The Premises would retain the conditions making it a genuine restaurant, the areas where the relaxation would occur would be clearly limited and sufficient controls would be put in place. The customers frequenting the Premises were unlikely to undertake sustained drinking until later hours and permitting customers to stand and consume alcohol would not be a significant part of the operation.

Ms Le Fevre recognised that the application was against the Council's Statement of Licensing Policy (SLP) however assurances were provided that the Premises would not operate as a bar or encourage vertical drinking. To provide further reassurance the applicant was happy for the model restaurant condition to be attached to the whole Premises after core hours if the Sub-Committee was minded to grant the application. The Sub-Committee was interested to learn further, why the application should be considered an exception to the Council's policy. Ms Le Fevre accepted the Premises was located within a CIA however due to the nature of the operation and its location on the periphery of the CIA any impact the variation would have would be away from the CIA. All the other existing conditions on the licence would be retained which were consistent with a restaurant operation. Finally, the applicant was also willing to accept the model restaurant condition on the Premises after core hours.

Mr Nevitt, representing Environmental Health (EH), confirmed that the Premises had been trading successfully for approximately eighteen months during which no complaints or concerns had been received. Temporary Event Notices (TENs) had also been operated from the Premises without any cause for concern. When making a decision on the application however careful consideration had to be given to the Council's SLP. Firstly, paragraph 2.4.13 of the SLP made clear that even if there were no residents in close proximity to the Premises, the CIA policy was concerned about what the potential impact would be over a wider area. Secondly, paragraph 2.5.3 related to concerns over restaurants turning into bars, even in part, and therefore the Sub-Committee had to judge whether the relaxation would change the character of the Premises. The Sub-Committee's attention was brought to the original Sub-Committee decision in May 2016 where a relaxation of the model restaurant condition was requested and refused as it was considered against the SLP. If the Sub-Committee was minded to grant the application however, it was requested that no vertical drinking shall be permitted and alcohol shall be served by waiter/waitress service.

Miss Gadd, representing the Licensing Authority, had concerns over the

application as section PB2 of the Council's SLP advised that such applications should be refused. The application was seeking to allow at least 53 customers in the ground floor bar area and more on the mezzanine level to consume alcohol and not be required to be seated. The policy was clear in that it discouraged vertical drinking in a CIA unless the applicant could demonstrate exceptional circumstances.

PC Janes, representing the Metropolitan Police, confirmed his representation was maintained, as he was of the opinion that permitting the use of a bar in the Premises for drinking without food would add to cumulative impact in the area. It was confirmed however that the Premises was not a cause for concern in terms of crime and disorder.

The Council's Policy Adviser provided the Sub-Committee with further background information on the Premises. A previous Sub-Committee had considered the Premises' initial application in May 2016 where it had been decided to grant the hours for the sale of alcohol to core hours and not until 01:00 hours as applied for. A subsequent variation application had been submitted, and granted, where the operator had agreed to give up the bar area in return for permitting the sale of alcohol until 01:00 hours.

Ms Le Fevre recognised that the SLP was concerned with a Premises' character changing by degrees of relaxation. However, in this instance there was no change in character as the restaurant conditions requiring the supply of alcohol to be by waiter/waitress service only and ensuring substantial food was available throughout the Premises would remain unchanged. The applicant was content to accept the full restaurant condition after 23:00 hours, which would preclude the Premises from becoming a drink-led venue.

The Sub-Committee carefully considered the application and the evidence provided by all parties. It was noted that the Premises was located in a CIA and was seeking to establish a substantial bar area where customers could consume alcohol without being ancillary to a meal before 23:00. The Sub-Committee recognised that this was contrary to the Council's SLP and was of the opinion that allowing alcohol to be consumed without food on the ground floor before 23:00 hours would be creating a bar area which would significantly alter the character of the Premises. Allowing the consumption of alcohol on the mezzanine level would also be contrary to policy. Permitting customers to consume alcohol without taking a meal until 23:00 hours was considered inappropriate in the circumstances and likely to add to cumulative impact in the local area and would undermine the licensing objectives. The Sub-Committee was of the opinion that it had not been proven that the application was a genuine exception to policy and therefore it was refused accordingly.

4 UNIT 1A, 4 SWISS COURT, LEICESTER SQUARE

LICENSING SUB-COMMITTEE No. 3

Thursday 26th April 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Aziz Toki

Legal Adviser: Heidi Titcombe
Policy Adviser: Chris Wroe
Committee Officer: Tristan Fieldsend
Presenting Officer: Shannon Pring
Steve Rowe

Relevant Representations: The Licensing Authority

Present: Ms Heather Oliver (Barrister, representing the Applicant), Mr Nirmal Sethi and Mr Odera (representing the Applicant Company)

Unit 1A, 4 Swiss Court, Leicester Square (“The Premises”) 18/01575/LIPN	
1.	Regulated Entertainment - Recorded Music - Indoors Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:30 Seasonal Variations/Non-Standard Timings: 12:00 to 00:00 on Sundays immediately prior to Bank Holidays.
	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 Devyani International (UK) PVT Ltd for a new premises licence in respect of Unit 1A, 4 Swiss Court, Leicester Square. The Licensing Officer provided an outline of the application to the Sub-Committee and confirmed that the Metropolitan Police and Environmental Health (EH) had withdrawn their representations following the agreement of conditions with the Applicant. As part of the application, the Applicant proposed that alcohol would be served ancillary to customers taking a table meal. However, the Council’s Legal Adviser explained that the Applicant had not applied for the provision of late night refreshment which would allow hot food to be served after 23:00 hours. This meant that the Applicant could not comply with the proposed condition that alcohol would be served ancillary to a table meal. Ms Oliver, representing the Applicant, asked for the Sub-Committee to grant the hours for the sale of alcohol on the basis that the Applicant understood that they would not be able to use the licence until such time as the Applicant applied for a variation requesting permission for late night refreshment to comply with the condition. Ms Oliver explained that only the first floor would be licensed and any references

in the application to a bar were describing a tea bar, as the concept of the Premises centered on the sale of tea. The representation from the Licensing Authority was policy based as the Premises was located within a Cumulative Impact Area (CIA), however the Sub-Committee was advised that the Premises would not impact on the local area. The restaurant would be ancillary to the shop and access to the licensed area would be through the retail area. The Applicant had operated a concession in Harrods's for fifteen years and it was planned for this Premises to become their flagship store. A similar licensed premises had just opened in Brompton Road, London which operated in the same way with the licensed area functioning as a high-end restaurant with alcohol restricted to a few select wines. No beers would be available and no alcohol would be on display. Sales of alcohol would be ancillary to customers taking a table meal and advertising of the restaurant would be limited.

Ms Oliver confirmed that following constructive discussions with the responsible authorities' agreement had been reached as to the appropriate type of conditions which should be attached to the licence. Customers would be required to be seated when alcohol was supplied; no vertical drinking would be permitted, and this should provide reassurance that the Premises would not be alcohol-led or create any issues in relation to the CIA. The capacity of the restaurant was very limited, as a maximum of eighty persons would be permitted, all of which had to be seated, and the customers were unlikely to be intoxicated. Security staff would operate in the retail area and would provide appropriate control of the Premises by ensuring only restaurant customers entered the licensed area. It was not envisaged that there would be any issues around the dispersal of customers due to the location and its extensive transport links.

Ms Gadd, representing the Licensing Authority, confirmed that their representation was maintained as the application was for a new premises licence located in a CIA. Encouraging discussions had taken place with the Applicant regarding the policies and procedures to be introduced at the Premises. Ms Gadd was pleased to note that the Applicant had accepted conditions, which would lessen the impact of the Premises on the CIA, however the Sub-Committee had to decide if it was satisfied that an exception to the Council's Statement of Licensing Policy (SLP) had been established.

The Council's Policy Adviser explained that with regards to the conditions, proposed by the Applicant and the Responsible Authorities (in agreement with the Applicant) including in relation to the model restaurant condition, there were some duplications which would need amendment. Ms Oliver confirmed that any duplicates could be deleted and was content for model condition 66 (restaurant) to be attached to the licence.

In carefully considering the application, the Sub-Committee noted that the Premises was located within a CIA and it had to assess if the application was likely to add to cumulative impact in the local area. The Sub-Committee recognised that the Premises would operate as a restaurant within core hours and that many significant conditions, had been previously agreed with the Responsible Authorities (before they had withdrawn their representations) and which would be attached to the licence to ensure that it did not become an alcohol-led operation. These conditions included the adoption of the full model

	<p>restaurant condition ensuring alcohol would be sold ancillary to customers taking a table meal; the supply of alcohol would be by waiter/waitress service and the consumption of alcohol would be to customers seated only. It was also noted that licensable activities would only be permitted on the first floor and as such, this would be conditioned appropriately. These conditions provided the Sub-Committee with reassurance that the Premises could be considered an exception to policy; that it would be appropriately controlled and would therefore not add to cumulative impact in the local area. With the agreement of the Applicant, a number of duplicate conditions were removed from the licence. Several other conditions were also removed, as the Sub-Committee did not consider they were appropriate and proportionate to be added to the licence, by virtue of the style and nature of operation at the Premises.</p> <p>In reaching its decision, the Sub-Committee gave careful consideration to the concerns expressed by the Licensing Authority but the Sub-Committee was satisfied that, the Premises would not add to cumulative impact and the application could be granted as an exception to the policy. The Sub-Committee also concluded that the conditions attached to the licence were appropriate and proportionate in the circumstances to promote the licensing objectives. The application was therefore granted accordingly.</p> <p>The Sub-Committee noted that the provision of late night refreshment had not been applied for and therefore the applicant would be unable to sell alcohol to the hours granted. As such, the applicant would have to submit a variation application seeking to permit the provision of late night refreshment in order to do so.</p>
<p>2.</p>	<p>Sale by Retail of Alcohol – On Sales</p> <p>Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>12:00 to 00:00 on Sundays immediately prior to Bank Holidays.</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee granted the hours requested for the sale by retail of alcohol but recognised that the applicant would have to submit a variation application requesting the provision of late night refreshment in order to permit the later hours sought, as there is a condition attached to the licence that alcohol has to be served ancillary to a table meal.</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: 12:00 to 22:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>12:00 to 00:00 on Sundays immediately prior to Bank Holidays.</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. <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> <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.

Conditions Consistent with the Operating Schedule

9. The premises supervisor will be on the premises at all times when alcohol is being served.

10. The premises shall only operate as a restaurant:

- (i) In which customers are shown to their table,
- (ii) Where the supply of alcohol is by waiter or waitress service only,
- (iii) Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
- (iv) Which do not provide any take away service of food or drink for immediate consumption,
- (v) Which do not provide any take away service of food or drink after 23:00, and
- (vi) Where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

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

11. There shall be no self-service of alcohol.

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. 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.

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. 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. 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. 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.
19. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
20. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day unless collections are arranged during the times for the Council's own commercial waste collection service for the street.
21. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 on the following day unless collections are arranged during the times for the Council's own commercial waste collection service for the street.
22. 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.
23. 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.
24. 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.
25. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
26. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
27. The number of persons accommodated at the premises at any one time (excluding staff) shall not exceed 80 persons (subject to final inspection on completion).
28. 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. If there are minor changes during the course of construction new plans shall be submitted with the application to remove this condition.

29. Licensable activities shall only be permitted to be provided on the first floor only.

5 SMITH'S BAR AND GRILL, 25 SHELDON SQUARE, W2

LICENSING SUB-COMMITTEE No. 3

Thursday 26th April 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Aziz Toki

Legal Adviser: Heidi Titcombe
Policy Adviser: Chris Wroe
Committee Officer: Tristan Fieldsend
Presenting Officer: Daisy Gadd
Steve Rowe

Representations: Environmental Health, four local residents supporting the review and eleven residents supporting the Premises

Present: Ms Tanya Dias (Applicant), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Ms Tanya Dias), Councillor Antonia Cox and Mr Maconnal-Mason (Witnesses, representing the Applicant), Mr Robert Botkai (Solicitor, representing the Licence Holder), Mr Odil Raupov (Manager and DPS of the Premises), Mr Francois Gijzels and Ms Sharon Murray (Witnesses, representing the Licence Holder), Mr Ian Watson (Environmental Health) and Ms Juliana Dyer-Hall (Environmental health Witness),

**Smith's Bar and Grill, 25 Sheldon Square, London, W2 6EY
18/00606/LIREVP**

An application was submitted by Ms Tanya Dias for a review of the premises licence on 15 January 2018 on the grounds of Prevention of Public Nuisance. The concerns raised related to numerous instances of antisocial nuisance, which had caused disturbance to local residents and had subsequently resulted in breaches of licence conditions. Four representations were received in support of the review from local residents and the ward councillor, eleven representations were received against and in support of the premises.

Decision:

The Sub-Committee carefully considered all of the material received from the parties involved, including the additional documents which had been submitted by various parties prior to the hearing. The Sub-Committee also heard submissions and evidence at the hearing prior to Members retiring to reach a decision.

Mr Brown from the Westminster Citizens Advice Bureau, representing the applicant, explained that the issues surrounding the application polarised opinions. However he would focus on whether the Premises was promoting the licensing objectives. For

some of the residents the issues had been ongoing since 2009 and had therefore been gestating for a significant period of time. What finally brought about the application for a review was the applicant's correspondence with the Premises' Designated Premises Supervisor (DPS) in January 2018, following her being disturbed in December. In December 2017, the applicant had alerted the DPS to customers smoking outside of the designated area (underneath her window) and also requested details on whether it was planned to hold a New Year's Eve party. The applicant was keen to understand if this was to occur as previous New Year's Eve events had caused disturbance to the applicant. The applicant requested to know what mitigating measures were to be put in place to prevent disturbance from happening again. No response was received from the DPS. However, a New Year's Eve party was held and this caused noise and nuisance to the applicant and also affected another nearby resident. This lack of response from the DPS, who was supposed to be the main point of contact if there were issues, represented a significant failing and therefore Ms Dias had submitted the review application. The Sub-Committee noted that the application for review had been supported by four neighbouring residents, who had also been disturbed by customers and noise escaping from the premises into their homes, which were located directly above the premises.

Mr Brown explained that there were three grounds for the review. Firstly, the music nuisance escaping from the Premises and disturbing residents living above. Mr Mason, living above the premises was disturbed on New Year's Eve until 4/5.am. Secondly, the nuisance created by smokers located underneath the applicant's property, which was outside the designated smoking area as provided for in the licence. Thirdly, breaches of the conditions had occurred relating to the two concerns above. The applicant had submitted a number of photos (pages 211 to 214 of the committee papers), which provided a snapshot of what was experienced on a regular basis from smoking beneath the applicant's window. Mr Brown highlighted conditions, which could improve the situation and advised that the inclusion of a noise condition was not uncommon. The Sub-Committee's attention was drawn to the noise report submitted by the Licence Holder. The noise tests carried out had been undertaken on the sound system located in the basement area but did not test the DJ plug-in system used at events such as those held on New Year's Eve. This was a serious deficiency and reflected the failure of the Premises Licence Holder and the DPS to fully understand the issues being experienced by the applicant and other supporting local residents.

Mr Brown next highlighted the proximity of residents to the Premises, as which residents were being disturbed by noise and nuisance would differ depending upon where their flat was located above the Premises, which spanned a large area on the ground floor of the block. The record of noise complaints submitted to Environmental Health (EH) was detailed and this provided a snapshot of what was regularly experienced during the operation of Temporary Event Notices (TEN). TENs were considered a significant problem as they caused late night disturbance to some residents. Several residents had confirmed that they experienced no problems with the Premises, probably due to where their flats were located. However, this did not negate the problems experienced by others, who were being disturbed by nuisance. There was already a significant degree of unhappiness from some residents, especially those located close to the Premises, and there was a significant amount of evidence to corroborate these problems.

Ms Dias, the applicant, explained that she had purchased her property in 2008 when the Premises operated as a quiet Japanese restaurant. After one year Smith's applied to take over the licence to which she had objected to as she was worried about potential disturbance. Smith's had subsequently provided reassurance that her concerns would be monitored with open lines of communication between her and the management. Ms Dias explained that after these reassurances she had reluctantly withdrawn her representation. Since Smith's had been in operation however she had experienced anti-social behaviour and nuisance emanating from the Premises, into her flat for the previous nine years. Nuisance was also caused by smokers congregating directly underneath the window of her flat near the communal door area, which was a particular nuisance as she suffered from an allergy to cigarette smoke. When she asked the smokers to move on they were often rude and dismissive of her complaints. Photos evidencing the location of smokers had been sent to Smith's but no response had been received in return. Ms Dias also advised that glasses from the Premises were also left in the communal residential door area.

Ms Dias next highlighted issues relating to the New Year's Eve Parties. The music played at the venue often caused vibrations in the floor of her property and Ms Dias advised that this caused her physical illness. Several meetings had been held with Smith's management to address the issues of smokers, music escape and TENs but she still suffered from these problems and felt Smith's did not listen adequately to the concerns raised. Only minor concessions had ever been made which did not resolve the nuisance experienced and as such, it was felt holding further meetings would not achieve anything. There were serious management failings and the business model was not appropriate for the area. It was felt all further avenues had been exhausted and that was why a review application had been made.

In the lead-up to New Year's Eve 2017 Ms Dias explained that she had sent numerous emails to Smith's (in particular the DPS) asking what controls would be in place at the Premises to ensure there was no disturbance created. No response was received in return. The DPS simply would not engage with her to address any issues. The issues surrounding the Premises was clearly a divisive issue, even amongst the residents. Ms Dias was of the opinion that the Premises licence should be revoked as it was a continued source of disturbance and nuisance and its operation was unsuitable to residents living above it, as it does not promote the prevention of public nuisance licensing objective. Other options were available to the Sub-Committee if it was minded not to revoke the licence. These could include removing the current DPS, preventing the holding of any TENS and limiting its hours on New Year's Eve. It was also suggested that the provision of recorded music could be removed from the licence as well as requiring any doors located to the front of the Premises to be closed. The Premises should only operate as a restaurant with the sale of alcohol being ancillary to customers taking a table meal.

In response to questions from the Sub-Committee Ms Dias advised that smokers from Smith's congregated underneath her flat. A large screen showing sporting events had also been located below her bedroom window, which attracted large crowds and subsequently created significant issues for her. Smokers also used the communal front door entrance and often obstructed this area. Smith's did have a designated smoking area, which was located on the opposite side of the building, away from her flat, but customers often did not use it despite the presence of an SIA member of staff. Ms Dias advised that Smith's had informed her that these smokers were not Smith's customers. The nuisance encountered changed according to the

time of year but was particularly prevalent around Friday and Saturday evenings and the Christmas and New Year period.

The Sub-Committee noted that there were four entrances/exits to the premises. Entrance A which was at the side of the building towards Canalside. Entrance B, at the front of the Premises (Canalside) which led into the terrace which was the designated smoking area. However, entrance B was locked at 23:00 hours so any smokers could not access the smoking area directly through door B, they had to leave the building by Door A. They would then be presented with a wide choice as to where to smoke. Some could turn left into the smoking area but others could wander. Entrances A and B were further away from the applicant's property. Door C was on the other side of the building (Sheldon Square), directly beneath the applicant's home. It used to be main entrance to the premises until 2016, when it was changed. Entrance D was also near to the Applicant's home, on the Sheldon Square side. The Premises confirmed that a door supervisor would be on duty at Door D until 22:00 hours when the door would be closed.

Mr Maconnal-Mason, a witness for the applicant, advised that he had initially complained to the Premises about noise disturbance in 2010, which highlighted the long running nature of the issues. The noise disturbance experienced had caused Mr Maconnal-Mason distress and even though it occurred on New Year's Eve, he suffered a considerable amount of disturbance and this was unacceptable and does not promote the licensing objectives. The management of Smith's had shown a disregard to local residents and any assurances they had provided had not been actioned. It was accepted that some disturbance would be experienced when living in a central location up to a certain time in the evening. However, the noise created disturbed his sleep and this was unacceptable, particularly in the early hours of the morning. The Sub-Committee was advised that Smith's had provided assurances that they would address any issues but this had not occurred.

Mr Maconnal-Mason considered that all future TENs applications should be refused as the management of the Premises was incapable of ensuring it operated responsibly. It attracted large crowds creating serious disturbance and there was no visible signage at the Premises asking customers to leave the Premises quietly. Noise from the bar was escaping into his home. Other neighbours did not live above the bar and therefore could not recognise the issues experienced by others, who did, as they were physically removed from these issues. Unfortunately, due to the problems caused by Smith's, this created tensions between residents who were being disturbed and those who were not. Mr Maconnal-Mason did not want the Premises licence to be revoked but wanted it to operate as a restaurant and not as a nightclub. It was hoped the Premises could be a valuable resource to the local community but it had to reign in its activities as at the moment it was having a negative effect on the local area. Therefore, Mr Maconnal-Mason requested that the Sub-Committee prevent the granting of any more TENs and prohibit any live music from taking place at the Premises.

Councillor Cox, a witness for the applicant, advised that she was aware of the distress Smith's had been causing some residents for a considerable period of time. The Premises marketed itself as a bar and grill but was operating in a style more akin to a nightclub. The applicant had originally withdrawn her objections to the Premises as guarantees were given as to how it would operate responsibly. However, these guarantees had not been honoured. The applicant had tried to contact the DPS

before New Year's Eve 2017 but no response was received, this was clear evidence that the guarantee that there would be open lines of communication had been broken. The smoking issues highlighted by Ms Dias were potentially very significant due to her allergies. Finally, Mr Maconnal-Mason's evidence highlighted that the Premises frequently operated in a style similar to a nightclub and as such, the issues raised needed addressing as they caused nuisance which was contrary to the promotion of the licensing objectives.

Mr Watson, representing EH, provided the Sub-Committee with details of the number and style of TENs applications made by the Premises. The events primarily related to discos and Christmas and New Year's Eve parties for a maximum of three hundred people until 04:00 hours. When a TEN was applied for EH would work with the Premises to ensure it would not cause any disturbance. Complaints had been received concerning noise emanating from the Premises during the operation of some TENs. These had been investigated by a member of EH's Noise Team but as this was often after the event, no disturbance had been witnessed.

Mr Watson confirmed that investigations had taken place into complaints received regarding certain areas located below Ms Dias' property. In 2016, it was recognised that the Premises had located a large TV screen in the bar, directly underneath the applicant's property, which meant that noise would escape into her home, so the TV was moved to another part of the premises to address this issue. The main entrance used to be via door C, which is situated directly beneath the applicant's home and it was recognised that customers were causing nuisance so a new door, described as door A was installed so that door C, below the residential properties is now only used for emergency access and egress. Since the review application Mr Watson had inspected the sound system and it was confirmed that there was a hard nature to the building which meant any noise would readily transfer through its structure, particularly up the columns of the building into the residential properties above. The speakers were fixed to the structure of the building which would exacerbate the problems of sound transference. It was therefore accepted that music was escaping into some of the properties above the Premises, depending on where the music was being played or routed. The acoustic report had produced recommendations suggesting that speakers should be installed on isolation brackets and additional speakers should be installed which would help to spread the level of sound around the Premises. Music was relayed through a sound limiting device, however, the DJ microphone and monitor speaker was not being routed through the noise limiter, so the sound produced would also transfer readily through the structure of the building and this would be disturbing.

The Sub-Committee was informed by Mr Watson that with regards to smokers using the communal door area to the residential properties above it was impossible to ascertain if these were Smith's customers or not. In terms of the playing of live music on the ground floor of the Premises, it was considered that this should not be allowed because due to the nature of the building it was likely to cause disturbance. Mr Watson was also of the view that existing speakers should be placed on isolation brackets to limit any noise impact from the playing of music and signage requesting customers to leave quietly be more readily visible. It was also recommended that the DJ sound monitor be restricted to also reduce any potential noise disturbance. With regards to doors A and D it was important these had self-closing mechanisms installed to limit any potential noise disturbance to residents. It was noted that Door B, which led to the designated smoking area, was located underneath residential

properties and this was locked at 23:00 hours. Customers then had to use Door A, which had no residential properties above it, to access the smoking area. It was hoped a door supervisor was in place to direct customers to the designated smoking area.

Mr Botkai, representing the Premises Licence Holder, explained that discussions had been held with EH, the applicant and various other parties to discuss the issues over the years. The applicant had raised concerns but the Sub-Committee was advised that most of these related to pre-2016 issues. Mr Botkai provided a summary of the licence holders meeting with the applicant and the subsequent correspondence entered into including what steps she would like to see taken. The serious accusations being made against the Premises were commented on and strenuously denied. In response to complaints made, the licence holder had commissioned an acoustic report. The Sub-Committee was advised that access was requested to Mr Dias's property by a noise expert to fully assess any noise disturbance but this had been rejected.

Mr Botkai confirmed that the recommendations from EH and the acoustic report would be acted upon and this included placing speakers on isolation brackets and ensuring the DJ sound monitors were appropriately restricted. It was highlighted that only one DJ event was held a year and there had been no live music provided on the ground floor even during the operation of a TEN. In terms of the noise complaints to EH by the applicant over the last nine years, aside from one incident, no nuisance had been recorded. The Sub-Committee was advised that, apart from the steps mentioned above, EH were not requesting any particular steps and the Licensing Authority had not submitted a representation. It was acknowledged that the Premises smoking area used to be located beneath the applicant's property however this area had been relocated to address any concerns at a cost of £150,000. The YouTube channel provided as evidence of noise disturbance belonged to the applicant and Mr Botkai was of the opinion that no music in the videos was clearly audible in them. In addition, a Sheldon Square Residents Association had been mentioned in the evidence circulated however this did not cover the residential properties effected by the licence review.

In terms of the concerns relating to smoking Mr Botkai explained that Smith's customer had to smoke in the designated smoking area located to the back of the Premises. Any people smoking at the front of the Premises or in the communal entrance were not Smith's customers. It was acknowledged that it was impossible to say this would never happen but the majority would use the designated area. The front of the Premises was very busy and approximately 100,000 people passed by each day meaning it was impossible to ascertain if people smoking were Smith's customers. With regards to outside drinking this was not permitted in this area and it was again impossible to ascertain if these were Smith's customers. The outside area was also regularly cleaned and the Sub-Committee was informed that there were various other licenced premises in close proximity. The Premises wanted to be a good neighbour and apologies were offered for any disturbance caused previously through the clean up operation carried out at New Year's Eve and assurances were provided that this would not happen again.

Mr Botkai next addressed concerns over noise disturbance on New Year's Eve. This was an important occasion for Smith's where traditionally a food-led party was held, where people could dance and a DJ was provided. The Sub-Committee was

informed that in future the DJ's sound system would be placed through a noise limiter. A short fireworks display was also given which was enjoyed by many people and it was felt this was the correct balance for the area. The noise emanating from the Premises on New Year's Eve was considered minimal and not unreasonable for the occasion. As the applicant would not provide access to her property for acoustic testing, testing had been carried out in another flat on the same floor and this detailed that the noise produced should not create any disturbance. To provide further reassurance the licence holder would place speakers on isolation brackets and work with EH to resolve any other acoustic issues. He apologised for furniture being moved around on New Year's Day. This would not happen again. Otherwise, the Sub-Committee was advised that there was no evidence that the Premises was creating any noise disturbance.

Finally, with regards to TENs Mr Botkai detailed that only three had been applied for in 2016, four in 2017 and so far two in 2018 which highlighted their limited use. The basement area could be used for entertainment but the ground floor was a restaurant and bar.

Mr Gijzels, a witness for the licence holder, explained that he had lived in Sheldon Square since 2004 above Door B on the Canalside near the new main entrance doors. The Sub-Committee noted he lived on the opposite side of the building to the applicant. Up until 2015, the Premises had applied for considerably more TENs which had created some noise issues. As such, detailed communications had been entered into with the licence holder and all queries had been responded to promptly. Steps had been taken to resolve issues such as smoking, doors had been closed to lessen any noise impact and an SIA door supervisor had been employed. There were occasional smokers outside the front of the Premises; however only one had been witnessed by Mr Gijzels over the last month and it was impossible to know if this was a Smith's customer. No drinking or litter had been experienced outside Smith's and the licence holder routinely cleaned this area. The fireworks display on New Year's Eve had been witnessed but this finished by 00:30 and had not disturbed his sleep.

Ms Murray, a witness for the licence holder, explained that she lived in Sheldon Square on the first floor. She did not live directly above Smiths but she shared the same communal entrance as the applicant and advised that she had never witnessed any smokers using this area even in the evenings. No outside drinking had also been witnessed. However, she acknowledged that she is out a lot in the evenings. Ms Murray confirmed that she had attended the New Year's Eve party at Smith's in 2017 and whilst it was acknowledged that the building was thin, the Premises did not operate as a nightclub. No difficulties had been experienced in communicating with Smith's management and whilst some issues had arisen when she first moved in they had been quickly addressed.

Mr Raupov, the Manager and DPS of the Premises, advised that he had worked in Sheldon Square since 2006. He had tried to deal with the applicant's concerns in the past but it was acknowledged that communications had become strained between the two parties. In response to the applicant's concerns they had been acted upon and this included moving the bar area to the opposite side of the Premises to reduce its potential impact. The signage had also now been changed.

In response to questions from the Sub-Committee Mr Raupov advised that he had not responded to the applicant's emails in December 2017 as they had been directly

addressed to officers of Westminster City Council. If the emails had been directly addressed to him, he would have responded. He communicated with many local residents to resolve any issues, however the relationship with the applicant was not good. To address any concerns over the doors it was explained that once Door B was locked an SIA door supervisor was then placed on this door to direct customers exiting to do so via Door A.

Mr Brown considered that the applicant had produced a substantial amount of evidence to support the disturbance encountered. The photos supplied provided a snapshot of people smoking and drinking outside although the licence holder queried if they were Smith's customers. The licence holder had not responded to emails from the applicant, several of which had been directly addressed to him, regarding the noise disturbance experienced and this was a cause for concern. If the Sub-Committee was not minded to revoke the licence then there were appropriate conditions, which could be added to the licence including reducing the permitted hours on New Year's Eve.

Ms Dias confirmed that she was seeking for the licence to be revoked but if not requested that suitable conditions be placed on the licence to address the concerns raised.

Mr Botkai explained that Smith's was a Premises which employed thirty-five people. The Sub-Committee was requested not to restrict the hours on New Year's Eve as 02:00 hours was currently permitted which was not considered late for Westminster on a day which was considered different to most others. It was also requested that no further restrictions on regulated entertainment on the ground floor be imposed. The recommendations from the acoustic report would be adhered to and any DJ sound equipment would be placed through a noise limiter. He considered that the issue of hypersensitivity may be an issue in this case. This application was an example of where no further steps were required. If the Premises did transgress then it would come back before the Sub-Committee and the licence holder was aware of the potential consequences. The licence holder also wanted to improve relations with the applicant. Good relationships already existed with other residents and it was hoped that constructive discussions could take place in the future to address the problems discussed.

The Sub-Committee carefully considered the application and all the evidence provided. It was felt that review applications were always unfortunate situations and it was probably true that all the parties felt the same way. Concern was expressed that a set of problems had been ongoing for a significant period of time and it was understood why a review application had not been brought earlier. It was acknowledged that there had been a number of changes at the Premises over the years and the licence holder was of the opinion that he had tried to respond to the issues as they arose. The difficulty in reaching a decision however was that there was clear evidence that some residents were being disturbed, particularly from noise/music escaping into their homes through the structure of the property, which amounted to a nuisance and which was contrary to the prevention of public nuisance licensing objective. It was understood that other residents may have not been disturbed by such noise, due to the fact that their properties may have been located higher up the building or the other side, away from where the noise was emanating. It was not considered satisfactory that both parties were unable to talk to each other to address the issues raised and the importance of communicating appropriately in

the future was stressed, particularly for the Premises Licence Holder and the DPS. With regards to providing evidence it was appreciated that it was often frustrating for residents to make complaints to EH but it was important to do so, even the day after as this helped to provide evidence which EH could respond to, especially in such circumstances as these. Having heard all the evidence, the Sub-Committee also expressed surprise that EH or the Police had not objected to any TEN applications so that the Sub-Committee could consider the merits of having the events, especially bearing in mind the difficulties experienced between the Premises and some local residents. It was felt a Sub-Committee meeting would have provided an opportunity for dialogue between all parties and this required assessing by EH for any future TEN applications. It was noted that some residents were not affected by the Premises but if just one or two residents only were experiencing disturbance then this was still regarded public nuisance which had to be addressed to promote the licensing objectives.

The Sub-Committee had considered the request to revoke the licence but having heard all the evidence it was felt that in the circumstances it would not be appropriate or proportionate to do so. Instead, it decided to attach a number of additional conditions to the licence, which would help ensure that the licensing objectives were promoted. The licence holder was reminded of the importance of adhering to the conditions on the licence and failure to do so would result in the Premises appearing before another review hearing. EH would ensure that this was the case and they would act upon any future issues reported. The additional conditions to be added to the licence were considered appropriate and proportionate to address the nuisance which was occurring and to promote the prevention of public nuisance licensing objective.

A request had been made to remove the DPS but this was also considered not appropriate in the circumstances. The Sub-Committee stressed to the licence holder however the importance of communicating with local residents to help address future issues. The applicant was advised that if she was aware of any future breaches of the conditions to inform the responsible authorities immediately.

Concerning the conditions to be placed on the licence, they were considered to be appropriate and proportionate to address the issues raised and to promote the licensing objectives. In relation to the designated smoking area, the conditions would be strengthened to ensure the licence holder did everything within its powers to make sure that its customers used this area for smoking, even after 23:00 hours when Door B was closed, (see condition 19). Door C would be kept closed at all times, except in the case of an emergency and this was reflected in new condition 17. The Sub-Committee agreed with EH that the acoustic conditions should be amended to ensure the placing of speakers on isolation brackets and the DJ microphone and speakers would be routed through a noise limiter to help deal with the noise issues described as reflected by the amendments to conditions 23 and 24. It was also decided that the licence holder could be more pro-active after 21:00 hours in terms of staff supervision, managing customers leaving the Premises and ensuring they used the designated smoking area and this was reflected by condition 19 which had been added to the licence. Finally, a condition would be added to the licence to exclude the exemptions under section 177A of the Licensing Act 2003 in relation to both live and recorded music so that the Premises would need to comply with renumbered conditions 20, 22, 23, 24 (formerly conditions 18, 20, 21, and 22 of the licence which appears in the committee papers on page 292) . The following conditions were

amended to address the issues raised, namely:-

- condition 12 the reference to the smoking area on the plan was changed to reflect the current position;
- condition 14 the reference to the plan was changed to reflect the correct position;
- condition 16 – Door D shall be closed from 21:00 hours, as opposed to 22:00 hours, except for an emergency;

The Sub-Committee considered the amended and extra conditions imposed on the licence were appropriate and proportionate to address the issues raised and to promote the licensing objectives.

The Sub-Committee highlighted the importance of reinstating dialogue between all the parties and this needed taking forward otherwise issues would arise once again in the future. There were various means of using intermediaries, which included the Licensing Authority or local Councillors, who could help facilitate and ensure appropriate communication took place. It was hoped this process would help bring both parties together to resolve any outstanding issues. In conclusion, it was accepted by the Sub-Committee that there was evidence of disturbance and public nuisance. At this stage the incidents were not sufficient enough to revoke the licence but the occurrences were sufficient enough to justify the steps which had been taken. These were problems that required rectifying and it was hoped this would be the case with the additional conditions added to the licence and improved dialogue between all parties.

The Council's Policy Adviser confirmed that in respect of the designated smoking area and the doors at the Premises it was necessary for the licence holder to submit to the Licensing Authority an updated plan of the ground floor. This was necessary to adequately identify the doors labelled A, B, C and D in relation to the wording of the conditions and the Sub-Committee directed that a revised plan should be submitted showing the hatched area and doors.

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

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

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

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

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

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

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

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

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

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

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

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

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

(a) a holographic mark, or

(b) an ultraviolet feature.

7. The responsible person must ensure that—

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

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

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

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

A responsible person in relation to a licensed premises means the holder of the premises 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. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

Conditions Attached After a Hearing by the Licensing Authority

10. The sale or supply of alcohol for consumption off the premises shall only take place before 23:00 hours and shall be so supplied;

(i) By waiter/waitress service to persons seated at tables in the areas marked on the plans and the consumption of alcohol in these areas shall cease at 23:00 hours; or
(ii) In sealed containers ancillary to a meal.

11. The licence holder shall ensure staff do not smoke immediately outside the premises.

12. Customers or staff wishing to or permitted to temporarily leave and re-enter the premises to smoke shall only use the designated area as shown on the licence plan.

13. Children under 16 will only be permitted on the premises if accompanied by a responsible adult.

14. In the restaurant areas on the ground floor as hatched on the licence plan alcohol and late night refreshment shall only be sold to persons seated at a table or counter by waiter or waitress service.

15. 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.

16. After 21:00 hours the ground floor entrance door D shall only be used for emergency exit purposes. Notices to this effect shall be affixed to the doors to advise customers and to exit the premises only by the main entrance doors.

17. Ground floor entrance Door C shall be closed at all times except for emergency purposes.

18. The maximum number of persons (excluding staff) permitted in the basement area at any one time shall not exceed 80 persons.

19. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway and after 21:00 hours a responsible member of staff shall be on duty at door A directing smokers to use

the designated smoking area

20. Regulated Entertainment shall only be provided in the basement of the premises.

21. Unless the premises are operating under the benefit of a Sexual Entertainment Venue Licence there shall be no striptease or nudity, and all persons shall be decently attired at all times.

22. A noise limiter located in a separate and remote lockable cabinet from the volume control 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's Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured to the satisfaction of officers from the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the applicant only, and shall not be accessed by any other person. 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.

23. Any additional sound generating equipment, including DJ equipment, shall not be used on the premises without being routed through the sound limiter device.

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. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification if 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 request of Police or authorised officer throughout the preceding 31-day period.

26. 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 to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.

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

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

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

conspicuous.

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

32. 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.

33. 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 the Council where consent has not previously been given:

- o Dry ice and cryogenic fog.
- o Smoke machines and fog generators.
- o Pyrotechnics including fireworks.
- o Firearms.
- o Lasers.
- o Explosives and highly flammable substances.
- o Real flame.
- o Strobe lighting.

34. 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.

35. The certificates listed below shall be submitted to the Council upon written request.

- o Any emergency lighting battery or system.
- o Any electrical installation.
- o Any fire alarm system.

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

37. 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.

38. All tables and chairs shall be removed from the outside area by 23:00 hours each day.

39. The following areas shall be swept and or washed, and any cigarette litter and sweepings collected shall be stored in accordance with the approved refuse storage arrangements namely:

- o The area immediately outside the bar entrance to the premises.
- o Any outside area where tables and chairs are placed and
- o Any area designated for smoking by patrons.

40. The premises licence holder shall provide details of a hackney carriage and/or private hire firm to provide transport for customers with contact numbers made readily available to customers.

41. Rubbish shall not be placed outside the premises on the canal side at anytime.

42. Rubbish must be cleared through the chutes and not be visible to the residents.

43 The exemptions specified in Section 177A of the Licensing Act 2003 shall not apply to conditions 20,22,23 and 24 as specified in this Decision (or if the conditions are re-numbered to the relevant conditions replacing the same).

The Meeting ended at 4.59 pm

CHAIRMAN: _____

DATE _____