



City of Westminster

Licensing Sub-Committee Report

Item No:	
Date:	5 October 2017
Licensing Ref No:	17/08750/LIPV - Premises Licence Variation
Title of Report:	The Jermyn Club 91 Jermyn Street London SW1Y 6JT
Report of:	Director of Public Protection and Licensing
Wards involved:	St James's
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Miss Heidi Lawrance Senior Licensing Officer
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1. Application

1-A Applicant and premises			
Application Type:	Variation of a Premises Licence, Licensing Act 2003		
Application received date:	3 August 2017		
Applicant:	PLH Bars Limited		
Premises:	The Jermyn Club		
Premises address:	91 Jermyn Street London SW1Y 6JT	Ward:	West End
		Cumulative Impact Area:	None
Premises description:	The premises is currently operating as a Nightclub.		
Variation description:	<p>The applicant has applied to :</p> <ol style="list-style-type: none"> 1. Vary the layout of the premises 2. Add the provision of films and Plays Monday to Sunday 09:00 to 03:30 3. Vary, Deleted and Add conditions to the premises licence. 		
Premises licence history:	The premises has been licensed since October 2005 .		
Applicant submissions:	See Appendix 1.		

1-B Current and proposed licensable activities, areas and hours					
Performance of Dance, Performance of Live Music, Anything of a Similar Description.					
	Current Hours		Proposed Hours		Licensable Area
	Start:	End:	Start:	End:	
Monday	09:00	03:30	No Change.		No change to the licensable area.
Tuesday	09:00	03:30			
Wednesday	09:00	03:30			
Thursday	09:00	03:30			
Friday	09:00	03:30			
Saturday	09:00	03:30			
Sunday	09:00	03:30			
Seasonal variations: Non-standard timings:	Current:			Proposed:	
	See conditions at appendix 3				

Performance of Recorded Music					
	Current Hours		Proposed Hours		Licensable Area
	Start:	End:	Start:	End:	
Monday	Unrestricted		No Change.		No change to the licensable area.
Tuesday					
Wednesday					
Thursday					
Friday					
Saturday					
Sunday					
Seasonal variations/ Non-standard timings:	Current:			Proposed:	
	None			None	

Performance of a Play and Films					
	Current Hours		Proposed Hours		Licensable Area
	Start:	End:	Start:	End:	
Monday			09:00	03:30	No change to the licensable area.
Tuesday			09:00	03:30	
Wednesday			09:00	03:30	
Thursday			09:00	03:30	
Friday			09:00	03:30	
Saturday			09:00	03:30	
Sunday			09:00	03:30	
Seasonal variations: Non-standard timings:	Current:			Proposed:	
				An additional hour when British Summer time commences. From the end of New Year’s Eve until the start of permitted hours on New Year’s Day.	

Late night refreshment					
	Current Hours		Proposed Hours		Licensable Area
	Start:	End:	Start:	End:	
Monday	23:00	03:30	No Change.		No change to the licensable area.
Tuesday	23:00	03:30			
Wednesday	23:00	03:30			
Thursday	23:00	03:30			
Friday	23:00	03:30			
Saturday	23:00	03:30			
Sunday	23:00	03:30			
Seasonal variations/ Non-standard timings:	Current:				Proposed:
	See conditions at appendix 3				

Sale by Retail of Alcohol						
On or off sales			Current :			Proposed:
			Both			Both
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:		
Monday	10:00	03:00	No Change.		No change to the licensable area.	
Tuesday	10:00	03:00				
Wednesday	10:00	03:00				
Thursday	10:00	03:00				
Friday	10:00	03:00				
Saturday	10:00	03:00				
Sunday	12:00	00:30				
Seasonal variations/ Non-standard timings:	Current:				Proposed:	
	See conditions at appendix 3					

Hours premises are open to the public					
	Current Hours		Proposed Hours		Premises Area
	Start:	End:	Start:	End:	
Monday	09:00	03:30	No Change.		No change to the licensable area.
Tuesday	09:00	03:30			
Wednesday	09:00	03:30			
Thursday	09:00	03:30			
Friday	09:00	03:30			
Saturday	09:00	03:30			
Sunday	09:00	03:30			
Seasonal variations/ Non-standard timings:	Current:				Proposed:
	See conditions at appendix 3				An additional hour when British Summer time commences. From the end of New Year’s Eve until the start of permitted hours on New Year’s Day.

1-C Layout alteration
<p><u>Basement-</u></p> <p>General refurbishment/decoration throughout Improvement in escape/ staircase positioning- additional stairway to basement Bar is same length but moved to opposite side of the premises Changes to fixed seating (and loose seating as shown on the plans) Cloakroom in same position but redesigned Creation of new male and female toilets on this level Creation of new office space next to toilets Creation of new dining/meeting areas</p> <p><u>Sub Basement</u></p> <p>General refurbishment/decoration throughout No change in escape/ staircase positioning Additional stairway to basement Kitchen in same position but all appliances will be updated Female toilets and male toilets in same position but refurbished and reconfigured New staff toilet and staff changing room in area where the main bar has been reduced in length Main bar reduced in length New specialist tobacconist shop Repositioned wine storage/display areas Changes to fixed seating (and loose seating as shown on the plans) Fixed club seating (opposite end of premises as kitchen) is being converted to 3 lounge/meeting areas</p>

1-D Conditions being varied, added or removed	
Condition	Proposed variation
<p><u>Condition 10</u></p> <p>This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.</p>	To be deleted
<p><u>Condition 11</u></p> <p>On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).</p>	To be deleted
<p><u>Condition 12</u></p> <p>Notwithstanding the provisions of Rule of Management number 6, the premises may be kept open for the purposes of this licence from 11pm on each of the days Sunday to Saturday to 3.30am on the day following.</p>	To be deleted
<p><u>Condition 13</u></p> <p>All entrance and exit doors shall be kept closed except when in use for immediate entrance and exit.</p>	To be deleted

<p><u>Condition 15</u></p> <p>That the applicant will use best endeavours to ensure that patrons leave the premises via the Jermyn Street exit.</p>	<p>To be deleted</p>
<p><u>Condition 16</u></p> <p>When both parts of the premises are in use for the same private function, only the Jermyn Street exit will be used, except in an emergency when both exit routes will be available to the patrons.</p>	<p>To be deleted</p>
<p><u>Condition 17</u></p> <p>When the premises are open solely to the public, only the Jermyn Street exit will be used, except in an emergency when both exit routes will be available to patrons.</p>	<p>To be deleted</p>
<p><u>Condition 18</u></p> <p>That the applicant will use best endeavours to ensure that the taxi and minicab companies collect and deliver patrons from the club from the Jermyn Street exit of the premises.</p>	<p>To be deleted</p>
<p><u>Condition 19</u></p> <p>That the applicants shall use reasonable endeavours to ensure that customers do not cause any nuisance in Ormond Yard.</p>	<p>To be deleted</p>
<p><u>Condition 20</u></p> <p>That the sound limiting device installed at the premises shall be set and maintained at a level to be decided upon by the Environmental Health Officer.</p>	<p>To be deleted</p>

<p><u>Condition 21</u></p> <p>A noise limiting device 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 Community Protection Department so as to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of 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.</p>	<p>To be deleted</p>
<p><u>Condition 22</u></p> <p>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.</p>	<p>To be deleted</p>
<p><u>Condition 23</u></p> <p>Any additional sound generating equipment shall not be used on the premises without being routed through the sound limiter device.</p>	<p>To be deleted</p>
<p><u>Condition 24</u></p> <p>No speakers shall be located in the entrance lobby or staircase area.</p>	<p>To be deleted</p>

<p><u>Condition 25</u></p> <p>Upon a request being made by local residents, the licensee shall provide such residents with telephone numbers to enable them to contact the premises, the management and the licensee.</p>	<p>To be deleted</p>
<p><u>Condition 26</u></p> <p>The provision of music and dancing on the ground floor must remain ancillary to A3 restaurant use.</p>	<p>To be deleted</p>
<p><u>Condition 27</u></p> <p>The licensee will use a designated cab/taxi company to collect patrons from Jermyn Street and encourage patrons not to use illegal cabs by displaying such notices.</p>	<p>To be deleted</p>
<p><u>Condition 28</u></p> <p>The licensee to use his best endeavours to encourage patrons and/or motor vehicles not to congregate or cause a nuisance on the public highway outside the premises or in the vicinity.</p>	<p>To be deleted</p>
<p><u>Condition 29</u></p> <p>The licensee to use his best endeavours to ensure that no queuing or gathering of patrons or patrons' motor vehicles will be permitted in Ormond Yard.</p>	<p>To be deleted</p>
<p><u>Condition 30</u></p> <p>Details of an adequate and dedicated refuse storage area are sent to Westminster City Council for approval within 28 days of the grant of any licence.</p>	<p>To be deleted</p>

<p><u>Condition 31</u></p> <p>The licensee to use the Jermyn Street address on all literature that advertises the public entertainment which will take place at the premises.</p>	<p>To be deleted</p>
<p><u>Condition 33</u></p> <p>Intoxicating liquor may only be sold or supplied to persons who have paid a minimum admission fee of £5.00 or persons who are dining at the premises at not less than £10.00 per head. Such fees not to be credited against consumables.</p>	<p>To be deleted</p>
<p><u>Condition 34</u></p> <p>Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.</p>	<p>To be deleted</p>
<p><u>Condition 35</u></p> <p>Alcohol shall not be sold or supplied except during permitted hours.</p> <p>(a) Subject to the following paragraphs, the permitted hours on weekdays (Monday to Saturday) shall commence at 10.00 (12.00 on Christmas Day and Good Friday) and extend until 03.00 on the morning following, except that -</p> <p>(i) the permitted hours shall end at 00.00 midnight on any day on which music and dancing is not provided after midnight; and</p> <p>(ii) on any day that music and dancing end between 00.00 midnight and 03.00, the permitted hours shall end when the music and dancing end.</p> <p>(b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect-</p>	<p>To be deleted</p>

(i) with the substitution of references to 04.00 for references to 03.00.

(c) Except on Sundays immediately before bank holidays (apart from Easter Sunday), the permitted hours on Sundays shall commence at 12.00 and extend until 00.30 on the morning, except that-

(i) the permitted hours shall end at 00.00 midnight on any Sunday on which music and dancing is not provided after midnight;

(ii) where music and dancing end between 00.00 midnight on any Sunday and 00.30, the permitted hours on that Sunday shall end when the music and dancing end.

(d) On Sundays immediately before bank holidays (other than Easter Sunday), the permitted hours shall commence at 12.00 and extend until 03.00 on the morning, except that-

(i) the permitted hours shall end at 00.00 midnight on any Sunday on which music and dancing is not provided after 00.00 midnight;

(ii) where music and dancing end between 00.00 midnight on any Sunday and 03.00, the permitted hours on that Sunday shall end when the music and dancing end.

(e) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.

(f) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00.00 on New Year's Eve.

NOTE - The above restrictions do not prohibit:

(a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;

(b) during the first twenty minutes after the

above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

(c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;

(d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;

(f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of her Majesty's naval, military or air forces;

(g) the taking of alcohol from the premises by a person residing there;

(h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;

(i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

<p><u>Condition 36</u></p> <p>No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:</p> <p>(a) He is the child of the holder of the premises licence.</p> <p>(b) He resides in the premises, but is not employed there.</p> <p>(c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.</p> <p>(d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.</p> <p>In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.</p>	<p>To be deleted</p>
<p><u>Condition 37</u></p> <p>If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):</p> <p>(a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or</p>	<p>To be deleted</p>

<p>part can properly accommodate,</p> <p>(b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and</p> <p>(c) to take all other reasonable precautions for the safety of the children.</p>	
<p><u>Condition 38</u></p> <p>The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.</p>	<p>To be deleted</p>
<p><u>Condition 39</u></p> <p>The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time tamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.</p>	<p>To be deleted</p>
<p><u>Condition 43</u></p> <p>All persons entering the premises after 23:00 for the purpose of attending the sub-basement 'club area' shall be searched by an SIA trained member of staff using a 'wand' and monitored by the premises CCTV system.</p>	<p>To be deleted</p>

<p><u>Condition 45</u></p> <p>All drinking containers used within the basement area of the venue shall be polycarbonate. All glass bottles to be decanted into polycarbonate glassware carafes, with the exception of champagne or bottles of spirits with a minimum size of 70cl by waiter/waitress service to tables. Staff will clear empty champagne and spirit bottles promptly.</p>	<p>To be deleted</p>
<p><u>Condition 47</u></p> <p>All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.</p>	<p>To be added</p>
<p><u>Condition 48</u></p> <p>The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.</p>	<p>To be added</p>
<p><u>Condition 49</u></p> <p>Curtains and hangings shall be arranged so as not to obstruct emergency signs.</p>	<p>To be added</p>
<p><u>Condition 50</u></p> <p>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.</p>	<p>To be added</p>
<p><u>Condition 51</u></p> <p>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.</p>	<p>To be added</p>

<p><u>Condition 52</u></p> <p>All exit doors shall be available at all material times without the use of a key, code, card or similar means.</p>	<p>To be added</p>
<p><u>Condition 53</u></p> <p>Any special effects or mechanical installations shall be arranged, operated and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the licensing authority where consent has not previously been given. • dry ice and cryogenic fog • smoke machines and fog generators • pyrotechnics including fireworks • firearms • lasers • explosives and highly flammable substances. • real flame. • strobe lighting.</p>	<p>To be added</p>
<p><u>Condition 54</u></p> <p>No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased. NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.</p>	<p>To be added</p>
<p><u>Condition 55</u></p> <p>The premises may remain open for regulated entertainment, the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.</p>	<p>To be added</p>

<p><u>Condition 56</u></p> <p>On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00.</p>	<p>To be added</p>
<p><u>Condition 57</u></p> <p>The number of persons accommodated at any one time (excluding staff) shall not exceed the following:- Sub Basement - 100, Basement– 135</p>	<p>To be added</p>
<p><u>Condition 58</u></p> <p>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.</p>	<p>To be added</p>
<p><u>Condition 59</u></p> <p>The sale of alcohol must be ancillary to the use of the premises for music and dancing and/or substantial refreshment.</p>	<p>To be added</p>
<p><u>Condition 60</u></p> <p>The supply of alcohol in the Basement Restaurant area, as marked on the licensing plans, shall be to persons seated taking a table meal there and for consumption by such persons as ancillary to their meal. The supply of alcohol shall be by waiter or waitress service only.</p>	<p>To be added</p>

<p><u>Condition 61</u></p> <p>A minimum number of 50 seats shall be maintained in the Sub-Basement area at all times of operation.</p>	To be added
<p><u>Condition 62</u></p> <p>A minimum number of 70 seats shall be maintained in the Basement area at all times of operation.</p>	To be added
<p><u>Condition 63</u></p> <p>There shall be a personal licence holder on duty on the premises from 22:00 until close, when the sub-basement is open to patrons.</p>	To be added
<p><u>Condition 64</u></p> <p>The reception lobby shall be manned by staff whenever the premises is open for trade and patrons shall be greeted by a member of staff when entering the premises.</p>	To be added
<p><u>Condition 65</u></p> <p>There shall be waiter or waitress service available throughout the premises at all times the floors are open and trading</p>	To be added
<p><u>Condition 66</u></p> <p>An attendant shall be on duty in the vicinity of the cloakroom during the whole time that the premises is open and trading</p>	To be added
<p><u>Condition 67</u></p> <p>Admission to the premises by patrons shall be through the Jermyn Street entrance lobby area only</p>	To be added

Condition 68

(i) When the premises are open all customers entering the premises after 23:00 will have their ID and/or membership card scanned on entry, or be subject to a biometric scanning system (when fingerprint scanning will be required for all customers who have previously shown identification at the premises).

(ii) All customers entering shall have their facial image captured by the ID Scanner camera with the exception of persons who enter using finger print scanning and have provided a recent facial image captured by the ID Scanner

(iii) The above requirement is subject to the following exception, namely that a maximum number of 25 guests per night may be admitted at the Managers discretion without necessarily ID being scanned and recorded. The admission of such guests however shall be in accordance with the following procedure

a. The Police shall approve in writing the names of those managers (Police Approved Managers) who are authorised to sign in such guests, such approval shall not be unreasonably withheld. There shall be a maximum of three Police Approved Managers.

b. A legible record (the Signing in Sheet) of these guests' names shall be retained on the premises for inspection by the licensing authority and Police for a period of 31 days. The name of the Police Approved Manager authorising the admission will also be recorded by that Manager.

c. Guests shall be required to produce some form of ID such as a bank card (or emailed electronic photo ID) and an ID scan entry with a live photo shall be created.

d. Where there are appropriate

To be added

<p>reasons for a guest not to be able to produce ID and be subject to ID scan, the Police Approved Manager may nevertheless permit entry. In such circumstances he shall also record the reasons for this in the Signing in Sheet</p> <p>(iii) Notwithstanding (i) and (iii) above, patrons who are attending a pre-booked private event at the premises do not need to have their ID scanned on entry and instead a written guest list shall be held at reception for the event, and will be retained for 31 days after the event for inspection by the police and responsible authorities upon request"</p>	
<p><u>Condition 69</u></p> <p>In relation to any membership scheme at the premises, no person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission.</p>	<p>To be added</p>
<p><u>Condition 70</u></p> <p>A list of the names and addresses of members of the club shall be kept on the premises at all times together with a record showing the names and dates of attendance of any guests introduced by members. Both the list and the record shall be produced on demand for inspection by the police or an authorised officer of the Council</p>	<p>To be added</p>
<p><u>Condition 71</u></p> <p>There shall be no entry or re-entry (save for existing customers who have left for smoking) to the premises after 02:00 hours.</p>	<p>To be added</p>

<p><u>Condition 72</u></p> <p>When the sub basement is open to patrons there will be a minimum of 1 SIA at the premises from 6pm. From 11pm there will be a minimum of 2 SIA at the premises.</p>	<p>To be added</p>
<p><u>Condition 73</u></p> <p>The internal glass doors on the ground floor shall be kept closed after (21:00) hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.</p>	<p>To be added</p>
<p><u>Condition 74</u></p> <p>Patrons shall not enter or leave the premises from / by Ormond Yard, except in the event of an emergency.</p>	<p>To be added</p>
<p><u>Condition 75</u></p> <p>Any patrons that use Ormond Yard to gain access, smoke or leave the premises (whether by vehicle or on foot) shall be refused entry or subsequent re-entry to the premises.</p>	<p>To be added</p>
<p><u>Condition 76</u></p> <p>A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No</p>	<p>To be added</p>

alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.	
<p><u>Condition 76</u></p> <p>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</p>	To be added
<p><u>Condition 77</u></p> <p>The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services. It will be a condition of any agreement that patrons will not be collected from Ormond Yard</p>	To be added
<p><u>Condition 78</u></p> <p>The licence holder to use the Jermyn Street address on all literature relating to the premises.</p>	To be added
<p><u>Condition 79</u></p> <p>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</p>	To be added

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.	
<p><u>Condition 80</u></p> <p>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.</p>	To be added
<p><u>Condition 81</u></p> <p>Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area on Jermyn Street.</p>	To be added
<p><u>Condition 82</u></p> <p>The premises licence holder shall ensure that any patrons 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</p>	To be added
<p><u>Condition 83</u></p> <p>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.</p>	To be added

<p><u>Condition 84</u></p> <p>All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility armbands and will display the SIA badges prominently.</p>	<p>To be added</p>
<p><u>Condition 85</u></p> <p>Staff shall clear all empty bottles promptly from any tables. Customers shall not be permitted to leave their table carrying any such glass bottles or drink directly from the bottle</p>	<p>To be added</p>
<p><u>Condition 86</u></p> <p>An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:</p> <ul style="list-style-type: none"> all crimes reported to the venue all ejections of patrons any complaints received any incidents of disorder all seizures of drugs or offensive weapons any faults in the CCTV system or searching equipment or scanning equipment any refusal of the sale of alcohol any visit by a relevant authority or emergency service. 	<p>To be added</p>

<p><u>Condition 87</u></p> <p>No unauthorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.</p>	<p>To be added</p>
<p><u>Condition 88</u></p> <p>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.</p>	<p>To be added</p>
<p><u>Condition 89</u></p> <p>No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 on the following day.</p>	<p>To be added</p>
<p><u>Condition 90</u></p> <p>With the exception of bakery, fish, meat, dairy and fruit and vegetable deliveries to the premises shall take place between 07.00 and 23.00 on the following day.</p>	<p>To be added</p>

<u>Condition 91</u> 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		To be added	
<u>Condition 92</u> Notices shall be prominently displayed at the Jermyn Street exit requesting patrons to respect the needs of local residents and businesses and leave the area quietly.		To be added	
<u>Condition 93</u> 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.		To be added	
<u>Condition 94</u> 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		To be added	
<u>Condition 95</u> Prior to the licence taking effect, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the LFEPA, Environmental Health Consultation Team, the Police and the Licensing Authority.		To be added	
Adult entertainment:	Current position:		Proposed position:
	None.		None.

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Metropolitan Police Service
Representative:	PC Bryan Lewis
Received:	31 st August 2017

I am writing to inform you that the Police, as a Responsible Authority, object to your application for a new Premises Licence as it is our belief that if granted the application may undermine the Licensing Objectives contained in the 2003 Licensing Act.

Our objections relate to the following:

- Insufficient information provided

I would like to meet with the applicant to gain more of an insight into the nature of the business and assess any potential risk.

Additional comments:

A couple of things following our meeting. I would like the condition in relation to the incident report (44) to read “and shall be completed within 24 hours”.

How does the ID Scan condition deal with customers who have entered to dine before 11pm and then staying on to enter the sub-basement? Can you please amend the wording to counter this potential risk.

I am not content with condition 16. From a licensing perspective, either the premises is a private members club or it isn't. This is important as it affects the general risk assessment.

Condition 42 “yellow high visibility arm bands” so there is no debate regarding what high visibility means.

New condition proposed “ Door staff dressed in yellow high visibility tabard or jackets, shall ensure safe dispersal of all customers at premises closure time” This would also be favourable to the residents.

Responsible Authority:	Environmental Health Consultation Team
Representative:	Mr Ian Watson
Received:	5 th September 2017

I refer to the application for variation of the Premises Licence.

The applicant has submitted floor plans of the premises dated April 2017.

This representation is based on the plans and operating schedule submitted.

The applicant is seeking the following

1. To vary the layout of the premises in accordance with the plan submitted.
2. To provide regulated entertainment 'indoors' comprising
 - Films
 - Plays
 Monday to Sunday between 09.00 to 03.30 hours plus seasonal variations and non-standard timings.
3. To replace, vary and add conditions from the existing conditions as per the proposed list provided with the application.

I wish to make the following representation

1. No objection.
2. No objection.
3. Representation is made against the change of conditions as they may impact on Public Safety and have the likely effect of causing an increase in Public Nuisance within the area.

Responsible Authority:	Licensing Authority
Representative:	Mr David Sycamore
Received:	5 th September 2017

As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011 the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the Licensing Objectives:

- Public Nuisance

- Prevention of Crime & Disorder
- Public Safety

The Licensing Authority is concerned the removal and changes of conditions to the licence will undermine the above licensing objectives. The premises has not operated for several years and we are concerned that changes to the licence have been sought and licensable activities added, when we have no biases to assess how the premises will operate. I would like to see some more information as to the justification to remove conditions which promote the licensing objectives such as current condition 45.

I look forward to receiving additional information in relation to my concerns listed above which form the basis to my objection.

2-B Other Persons	
Name:	Resident 1
Received:	4 th September 2017
<p>I am a resident as well as being an active member in the community. I object to this application mainly because of a lack of detail. Plans that are vital for information are missing and the vagueness on other important issues are without detail - layout of the club/numbers/plays and films being examples. The other concern is an area for smokers. The main entrance and exit is directly onto the pavement of Jermyn Street which is narrow and busy and there is no mention again of how many can go out at a time and whether this will be supervised.</p> <p>All in all this is a most unsatisfactory application to which I object.</p>	
Name:	Resident 2
Received:	4 th September 2017
<p>I refer to the above application to vary a premises licence under the Licensing Act 2003.</p> <p>The owners of The Jermyn Street Club wish to operate between the hours of 9am - 3.30am with the sale of alcohol from 10am - 3am Mon - Saturday and midday - 12.30 on Sundays.</p> <p>My concern is that the details state that 'all efforts will be made to use the exit on Jermyn Street' which is a small door. The current alterations to the premises' Ormond Yard access suggest a wider space. I question the phrasing 'all efforts' as this provides a loophole enabling the Club's owners to let clients to use both the Jermyn Street and Ormond Yard openings. This is not acceptable</p> <p>I live in Butler House, opposite 6 - 7 Ormond Yard. Ormond Yard is mainly residential. Noise between the unsocial hours of 11pm - 6.30am is not acceptable. My apartment 1B has 7 windows on the first floor and they are more or less opposite the door of 6 - 7 Ormond Yard. It would not be possible to open a window either night or day. I object whole heartedly to this invasion of privacy in a residential street.</p>	

Name:	Resident 3
Received:	1 st September 2017

We represent the residents of 16-17 Ormond Yard and strenuously oppose the Application to vary the Premises Licence made by PLH Bars Ltd.

We are also very concerned to see that instead of referring to the club as being at 91 Jermyn Street, it is now called The Jermyn Club, 6-7 Ormond Yard, SW1Y 6JT in the Application to Vary a Premises Licence, although PLH Bars have been prohibited from using the Ormond Yard exit, except in emergencies.

We note too that large glass doors have been installed at ground level looking into Ormond Yard. Residents are concerned that this will be used as a main entrance/exit and that people will congregate outside in the yard.

Should they use only the 91 Jermyn Street entrance, this will also cause problems, as the pavement is narrow and not suitable as a smoking area. It will also give Jermyn Street a "dodgy" feel, quite off-putting for tourists and shoppers and not in keeping with the area.

Above all, residents are strongly opposed to the extension of hours, meaning that the club would be open throughout the day from 9am to 3.30am, 7 days a week (virtually 24 hours). This will cause considerable nuisance.

There seems to be a relaxation of the membership rules, scanning for weapons and ID processes, with 25 people allowed to be exempt at the manager's discretion, which seems wrong given the current terrorist threat and the fact that knives and distress caused to residents were a problem at Mr. Serlui's previous clubs.

The showing of plays and films seems to be a way of circumventing the restrictions currently imposed e.g. Removing point 10 in the Premises Licence. What genre of films/plays will be shown?

Given that the last application was for a licence for a Sexual Entertainment Venue, it seems unlikely that they will be showing Disney or plays by Shakespeare

In fact the showing of films/plays seems unlikely to be the main business of the club. Please support our objection.



Name:

Resident 4

Received:

4th September 2017

I am writing to express the concerns of the Jermyn Street Association regarding this Premises Licence Variation. We represent a large number of the retailers and businesses on and around Jermyn Street and our members have serious concerns about the number of patrons frequenting this club who would gather outside the entrance to smoke on Jermyn Street. We understand that the Club will be open during the day and not just after store closing hours. We believe that groups of smokers hanging around outside the premises will be detrimental to the ambiance and character of Jermyn Street. We hope that you will consider this when considering this application.

Name:		Resident 5
Received:	1 st September 2017	
<p>We represent the residents of 16-17 Ormond Yard and strenuously oppose the Application to vary the Premises Licence made by PLH Bars Ltd.</p> <p>We are also very concerned to see that instead of referring to the club as being at 91 Jermyn Street, it is now called The Jermyn Club, 6-7 Ormond Yard, SW1Y 6JT in the Application to Vary a Premises Licence, although PLH Bars have been prohibited from using the Ormond Yard exit, except in emergencies.</p> <p>We note too that large glass doors have been installed at ground level looking into Ormond Yard. Residents are concerned that this will be used as a main entrance/exit and that people will congregate outside in the yard.</p> <p>Should they use only the 91 Jermyn Street entrance, this will also cause problems, as the pavement is narrow and not suitable as a smoking area. It will also give Jermyn Street a "dodgy" feel, quite off-putting for tourists and shoppers and not in keeping with the area.</p> <p>Above all, residents are strongly opposed to the extension of hours, meaning that the club would be open throughout the day from 9am to 3.30am, 7 days a week (virtually 24 hours). This will cause considerable nuisance.</p> <p>There seems to be a relaxation of the membership rules, scanning for weapons and ID processes, with 25 people allowed to be exempt at the manager's discretion, which seems wrong given the current terrorist threat and the fact that knives and distress caused to residents were a problem at Mr. Serlui's previous clubs.</p> <p>The showing of plays and films seems to be a way of circumventing the restrictions currently imposed e.g.removing point 10 in the Premises Licence. What genre of films/plays will be shown?</p> <p>Given that the last application was for a licence for a Sexual Entertainment Venue, it seems unlikely that they will be showing Disney or plays by Shakespeare. In fact the showing of films/plays seems unlikely to be the main business of the club.</p>		

Name:	St. James's Conservation Trust
Address and/or Residents Association:	St. James's Conservation Trust
Received:	4 th September 2017

The Trust has continuing concerns about the lack of information, consultation and as a result any management and enforcement implications of this licensed use, at this most sensitive location, between Jermyn Street and Ormond Yard, in historic St. James's, in close proximity to the local family community Church, residents and important historic buildings and heritage of commercial uses or a high quality and family benefit.

The mere fact that the operators/managers propose the name as "The Jermyn Club", and use the address reference as 6-7 Ormond Yard, which could (again - as past licensed uses) easily lead to un-enforceability of breached conditions excluding the use of Ormond Yard for access/pick up and set down taxi uses late at night and smoking by customers.

By way of just two examples as a basis for this objection by the Trust :

1. Management experience and track record : why is frontage of Ormond Yard still profiled - if not intended to be used except in emergency access?

The new glass doors on the Ormond Yard frontage, if clear as appears the case at present, - suggest their use as, at minimum, an opportunity for day/night views out and IN - as a form of "advertisement" of the club presence.

How the conditions are managed by operators, maintained and enforced if breached by the City Council - as the Trust and residents have experienced from past breaches - suggests there could be the same problems for Ormand Yard again.

2. Management controls and practice : How can entry and exit, as well as smoking on the narrow footway of Jermyn Street access be considered acceptable?

For these example reasons, in addition to the late night and early (3.30am)morning hours proposed, with associated arrivals and departures, potentially large numbers (based on the figures in the application for the two levels), many of whom are likely to be vertical drinkers in the bar and restaurant areas - is very likely to result in late night nuisance, antisocial behaviour and possible criminal activities.

This assessment and overall perception of an unwelcome use and inadequate enforceability of conditions, is based on the residential, religious and commercial communities' experiences and those also of their advisor representative organisations (such as HOLBA and the Trust, street Association and Church), of such establishments and managements, both in the streets and alleys in and off, main routes across St. James's, Piccadilly, Mayfair and the local boundaries of The West End, comprising Soho and Leicester Square districts.

For these reasons, the Trust objects to the application and proposals to vary license conditions and seeks the City Council's refusal of the current application as not meeting the licensing objectives of policy and practice.

Additional comments:

I have now viewed the plans of basement and sub-basement of the above licence premises variation application with your colleague Miss Yolanda Wade. Thank you both for arranging this.

I am attaching below my email objection to the application on behalf of the Trust and although the plans are again hand noted and marked "loose furniture is indicative only" there is an apparent discrepancy as :

Sub-basement total : 40 at tables + 4 bar stools = 44.

Basement : 77 at tables + 4 bar stools = 81

Total seated = 125 (of license total both floors 235 - suggesting 110 potential vertical drinkers.

Application document stated :

The application documents stated :

Sub-basement : 50 seated

Basement: 70 seated

Total 120 of 235 licensed area totals.

The plans also show layout changes where sub-basement separated dining rooms are now capable of being made into one large room. Also 2 rooms are also capable at basement level to be adapted to one.

I have also confirmed that there is no detailed plan of a managed, defined smokers' location outside 91 Jermyn Street on a footway area. This apparently can be tabled by the applicants at the time of an objection hearing - which remains a significant concern to the Trust - and alone, is reason for a sustained objection in this most historic and sensitive street.

Please see Appendix 5 for additional information submitted.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy HRS1 applies	(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy. (ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.
Policy PVC1 applies:	Applications will generally be granted and reviews determined, subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1.
Policy PB1 applies:	Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.

4. Appendices

Appendix 1	Applicant supporting documents
Appendix 2	Premises history
Appendix 3	Proposed conditions
Appendix 4	Residential map and list of premises in the vicinity
Appendix 5	Additional submissions from St James's Conservation Trust

Report author:	Miss Heidi Lawrance Senior Licensing Officer
Contact:	Telephone: 020 7641 2751 Email: hlawrance@westminster.gov.uk

If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

Background Documents – Local Government (Access to Information) Act 1972

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015
4	Application Form	3 rd August 2017
5	Representation – Environmental Health	5 th September 2017
6	Representation – MET Police	31 st August 2017
7	Representation – Licensing Authority	5 th September 2017
8	Representation – Resident	4 th September 2017
9	Representation – Resident	1 st September 2017
10	Representation – Resident	4 th September 2017
11	Representation – Resident	1 st September 2017
12	Representation – Resident	4 th September 2017
13	Representation – Resident	4 th September 2017

Applicant Supporting Documents

Letter to residents sent 21st September:

Dear Residents and Neighbours

Plans

A number of comments have been made in relation to the plans not being available. Westminster City Council have decided not to make the plans available to the public due to counter terrorism reasons. We are happy to forward a copy of the proposed plan upon request so pls advise if you seek a copy. Environmental Health are satisfied with the proposed layout from their perspective.

The Address

The application was submitted as The Jermyn Club, 91 Jermyn Street (and not Ormond Yard). The existing licence has the address of 91 Jermyn Street already and this is not changing as a result of this application. We believe the Council have entered the application as 6-7 Ormond Yard on their system when the postcode was entered, hence the reference to the Ormond Yard address on their correspondence but there is no application to change the address back to Ormond Yard pending.

Entrance/Exit

Admission and Exit (subject to emergency exit- which is required) to patrons shall only be permitted through Jermyn Street. One resident's reference to 'all efforts will be made' refers to the existing licence and our newly proposed condition 28 will supercede that condition if granted by the LSC. Condition 28 would read:

1. Patrons shall not enter or leave the premises from / by Ormond Yard, except in the event of an emergency.

There are a number of other proposed conditions prohibiting the use of the Ormond Yard area. For example:

1. Admission to the premises by patrons shall be through the Jermyn Street entrance lobby area only
2. The licence holder to use the Jermyn Street address on all literature relating to the premises.

The layout plans also show a new sound lobby being built at the rear of the basement floor (Ormond Yard side), a new patron staircase at the front of the premises (as far away from Ormond Yard as possible), the moving of the bar to the front of the premises (as far away from Ormond Yard as possible) and adding restaurant conditions for the area closest to Ormond Yard (which the existing licence does not have). I also confirm that there have been no changes to the rear doors in these works and these doors were installed by the previous owner of the premises.

Application for Extension in Hours

There is no extension of hours being sought. The existing licence already permits regulated entertainment from 9am to 3.30am. This application is seeking to add plays and films within the hours we are already permitted to provide other regulated entertainment.

We hope the above information addresses some of the residents' concerns. We would be happy to speak with the objectors directly, or meet with them if they wish to do so. We can be contacted on 07525810586 or by email at Sumeet@ltlaw.co.uk or Lana@ltlaw.co.uk

Kind Regards,

Sumeet

LT Law
18 Soho Square
London
W1D 3QL
Mobile: 07525810586
Email: sumeet@ltlaw.co.uk

Amended List of Conditions - Operating Schedule

27th September 2017

1. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
2. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
3. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
4. 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.
5. 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.
6. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
7. Any special effects or mechanical installations shall be arranged, operated and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the licensing authority where consent has not previously been given. • dry ice and cryogenic fog • smoke machines and fog generators • pyrotechnics including fireworks • firearms • lasers • explosives and highly flammable substances. • real flame. • strobe lighting.
8. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased. NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
9. The premises may remain open for regulated entertainment, the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
10. On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00.
11. The number of persons accommodated at any one time (excluding staff) shall not exceed the following:- Sub Basement - 100, Basement– 135.

12. 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.
13. The sale of alcohol must be ancillary to the use of the premises for music and dancing and/or substantial refreshment.
14. The supply of alcohol in the Basement Restaurant area, as marked on the licensing plans, shall be to persons seated taking a table meal there and for consumption by such persons as ancillary to their meal. The supply of alcohol shall be by waiter or waitress service only.
15. A minimum number of 50 seats shall be maintained in the Sub-Basement area at all times of operation.
16. A minimum number of 70 seats shall be maintained in the Basement area at all times of operation.
17. There shall be a personal licence holder on duty on the premises from 22:00 until close, when the sub-basement is open to patrons.
18. The reception lobby shall be manned by staff whenever the premises is open for trade and patrons shall be greeted by a member of staff when entering the premises.
19. There shall be waiter or waitress service available throughout the premises at all times the floors are open and trading
20. An attendant shall be on duty in the vicinity of the cloakroom during the whole time that the premises is open and trading
21. Admission to the premises by patrons shall be through the Jermyn Street entrance lobby area only
22.
 - (i) When the premises are open all customers entering the premises, or entering the sub basement floor from the basement floor, after 23:00 will have their ID and/or membership card scanned, or be subject to a biometric scanning system (when fingerprint scanning will be required for all customers who have previously shown identification at the premises).
 - (ii) All customers entering shall have their facial image captured by the ID Scanner camera with the exception of persons who enter using finger print scanning and have provided a recent facial image captured by the ID Scanner
 - (iii) The above requirement is subject to the following exception, namely that a maximum number of 25 guests per night may be admitted at the Managers discretion without necessarily ID being scanned and recorded. The admission of such guests however shall be in accordance with the following procedure
 - a. The Police shall approve in writing the names of those managers (Police Approved Managers) who are authorised to sign in such guests, such approval

shall not be unreasonably withheld. There shall be a maximum of three Police Approved Managers.

- b. A legible record (the Signing in Sheet) of these guests' names shall be retained on the premises for inspection by the licensing authority and Police for a period of 31 days. The name of the Police Approved Manager authorising the admission will also be recorded by that Manager.
 - c. Guests shall be required to produce some form of ID such as a bank card (or emailed electronic photo ID) and an ID scan entry with a live photo shall be created.
 - d. Where there are appropriate reasons for a guest not to be able to produce ID and be subject to ID scan, the Police Approved Manager may nevertheless permit entry. In such circumstances he shall also record the reasons for this in the Signing in Sheet
- (iv) Notwithstanding (i) and (iii) above, patrons who are attending a pre-booked private event at the premises do not need to have their ID scanned on entry and instead a written guest list shall be held at reception for the event, and will be retained for 31 days after the event for inspection by the police and responsible authorities upon request"
23. In relation to any membership scheme at the premises, no person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission.
24. A list of the names and addresses of members of the club shall be kept on the premises at all times together with a record showing the names and dates of attendance of any guests introduced by members. Both the list and the record shall be produced on demand for inspection by the police or an authorised officer of the Council
25. There shall be no entry or re-entry (save for existing customers who have left for smoking) to the premises after 02:00 hours.
26. When the sub basement is open to patrons there will be a minimum of 1 SIA at the premises from 6pm. From 11pm there will be a minimum of 2 SIA at the premises.
27. The internal glass doors on the ground floor shall be kept closed after **(21:00)** hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
28. Patrons shall not enter or leave the premises from / by Ormond Yard, except in the event of an emergency.
29. Any patrons that use Ormond Yard to gain access, smoke or leave the premises (whether by vehicle or on foot) shall be refused entry or subsequent re-entry to the premises.
30. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental

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

31. 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
32. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services. It will be a condition of any agreement that patrons will not be collected from Ormond Yard
33. The licence holder to use the Jermyn Street address on all literature relating to the premises.
34. 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.
35. 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.
36. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area on Jermyn Street.
37. The premises licence holder shall ensure that any patrons 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
38. 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.

All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear yellow high visibility armbands and will display the SIA badges prominently. **(amended following discussions with the Police)**

39. Staff shall clear all empty bottles promptly from any tables. Customers shall not be permitted to leave their table carrying any such glass bottles or drink directly from the bottle
40. An incident log shall be kept at the premises, completed within 24 hours and made available on request to an authorised officer of the City Council or the Police, which will record the following:
- (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system or searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
- (amended following discussions with the Police)**
41. No unauthorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
42. 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.
43. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 on the following day.
44. With the exception of bakery, fish, meat, dairy and fruit and vegetable deliveries to the premises shall take place between 07.00 and 23.00 on the following day.
45. 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
46. Notices shall be prominently displayed at the Jermyn Street exit requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
47. 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.
48. 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
49. Prior to the licence taking effect, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are accurate reflection of the

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

50. There shall be no cinema style screening of films.**(additional condition proposed)**
51. Door staff dressed in yellow high visibility tabard or jackets, shall ensure safe dispersal of all customers at premises closure time. **(proposed following a discussion with the Police)**
52. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence. **.(additional condition proposed)**

The Jermyn Club, 91 Jermyn Street, London SW1Y 6JB

Submissions of the Premises Licence Holder

Introduction

1. This is an application to vary the premises licence, which comprises basement and sub-basement floors at the above address.
2. The licence currently permits:
 - Retail sale of alcohol 10 a.m. to 3 a.m. Monday to Saturday and mid-day to 12.30 a.m. on Sunday.
 - Performance of dance and live music and the playing of recorded music from 9 a.m. to 3.30 a.m. every day.
 - Late night refreshment from 11 p.m. to 3.30 a.m. every day.
3. Nothing in the current licence would prevent the operation of the premises as a nightclub.
4. The applicant, however, wishes to operate the venue as a high grade cocktail bar and restaurant in a members' club environment. The proposed fit out works will cost circa £2 million with the premises being fully stripped out and remodelled, with high end finishes.
5. The application for variation of the premises licence is to:
 - Vary the layout plans of the premises to reflect the proposed operation.
 - Update, vary and add the conditions on the existing premises licence.
 - Add films and plays to the licence in line with the hours currently permitted for regulated entertainment.
6. Notably:

- There is no increase in capacity.
 - There is no increase in hours.
 - Minimum seating requirements will be added for the first time.
 - While the current licence plan shows a dance floor, the new licence plan shown none, and no dance floor will be provided.
 - In a number of respects, tighter conditions are proposed than are on the existing licence.
 - Westminster's Standard Model Condition prohibiting sexual entertainment will be added to the licence (condition 52).
 - The premises will be oriented towards Jermyn Street. There will be no activity on Ormond Yard to the rear.
7. The premises, of course, lie outside Westminster's cumulative impact areas.
 8. A full list of proposed premises licence conditions, including additional conditions agreed with the Police, is attached to this submission at **Appendix A**.
 9. The applicant's solicitor has written to all objectors (via the Licensing Service) and their representatives. A copy of the relevant correspondence is attached at **Appendix B**.

The correct approach in law

10. An application for variation of a licence does not trigger a general review of the licence. Rather, the licensing authority considers the effect of the variation on the promotion of the licensing objectives. This is clear from the terms of section 35 of the Licensing Act 2003 and was in any case spelled out by Mr. Justice Hickinbottom in Taylor v Manchester City Council [2012] EWHC 3467 (Admin) at paragraphs [75] – [79]. Taylor is attached (**Appendix E**), but the correct approach is most unlikely to be contested, and in any case the Sub-Committee will be advised about it by its own legal officer.

11. The question, therefore, is not whether the licence as varied would now be granted afresh. It is whether the proposed variation is harmful to the licensing objectives. Where, as here, there is no greater capacity than under the existing licence, no greater hours, no more ability to sell alcohol and equivalent or stricter conditions are proposed, it is respectfully submitted that there is no proper basis for refusal.

Description of proposal

12. The scheme proposal is found at **Appendix C**.
13. At basement level, there will be a restaurant, cocktail bar and private dining/meeting rooms. Toilets will be constructed at this level for the first time.
14. At sub-basement level, there will be a smaller bar, additional private dining/ meeting rooms and entertainment.
15. A high quality menu is integral to the scheme. A draft menu is attached at **Appendix D**. Brett Duarte, ex Gaucho executive chef is to be the new operations/food and beverage manager.
16. As stated above there is to be no dance floor.
17. While the overall capacity of the venue will not change, there will for the first time be a licence condition regarding minimum seating numbers, 70 seats in the basement and 50 in the sub-basement. The aim is to create a casual, comfortable, low key environment.
18. The variation applied for includes play and films. It will be a licence condition that there is no cinema style seating or screening of films (condition 50). As for the type of plays there will be no sexual entertainment venue licence or, indeed, sexual entertainment (condition 52). As for the type of films these will comply with the mandatory condition under section 20 of the Licensing Act 2003.

Protection of Ormond Yard

19. Ormond Yard will be more protected than it is at present:
- Admission is only via Jermyn Street (condition 21).

- Departure is only via Jermyn Street (condition 28).
- Patrons flouting that rule are refused entry or re-entry (condition 29).
- Advertising literature is to refer to Jermyn Street (condition 33).
- The smoking area will be on Jermyn Street and supervised (conditions 36 - 38).
- The layout plans also show a new sound lobby being built at the rear of the basement floor (Ormond Yard side).
- For the first time, there will be a condition preventing collection of waste between 11 p.m. and 7 a.m. (condition 43).
- For the first time, there will be a condition requiring door staff to ensure safe dispersal of customers at closure time (condition 51).
- The current licence condition requiring a dedicated telephone number for residents (condition 25) is carried over and must also be available to local businesses (condition 31).

Internal controls

20. The current internal controls are maintained or strengthened. Some licence conditions have been updated and redundant conditions removed.

Nature of control	Current licence	Varied licence
Reception lobby manned by staff	No condition	Condition 18
Waiter and waitress service throughout	No condition	Condition 19
Cloakroom attendant	Condition 14	Condition 20
Last entry	No condition	No entry/re-entry after 2 a.m.
Personal licence holder present	Condition 41: only from 10 p.m. on Friday and Saturday when sub-basement open	Condition 17: Applies every day.
Seating	No condition	Conditions 15: 50 in sub-basement. Condition 16: 70 in basement.

Sound limitation	Conditions 20-24	Condition 30.
Music and dancing	Condition 26: In basement to be ancillary to A3 use. No restriction in sub-basement.	There will be no designated dance floor.
Capacity	Condition 32: Sub-basement 100 Basement 135	Condition 11: unchanged
Substantial food available at all times	Condition 34.	Condition 12
Alcohol ancillary to music and dancing and substantial refreshment	Condition 35(e)	Condition 13: “and” replaced by “and/or”
CCTV	Conditions 39 – 40	Conditions 34 - 35.
Security	No SIA numbers specified. Condition 43: Those entering after 11 p.m. to attend the sub-basement “club area” to be searched using a wand. Condition 45: Polycarbs in sub-basement except for champagne / spirits served by waiting staff.	Condition 26: When sub-basement open, minimum of one from 6 p.m. and two from 11 p.m. Condition 22: After 11 p.m., ID/membership card / biometric scanning in use. Condition 22: All customers to have facial image captured. Limited exceptions as specified. Given the nature, fit-out and intended clientele of the venue, given that it is not a nightclub, and given the other controls mentioned above, a polycarbonate condition is not needed and would be inimical to the proposed operation.
Incident log	Condition 44	Condition 40.

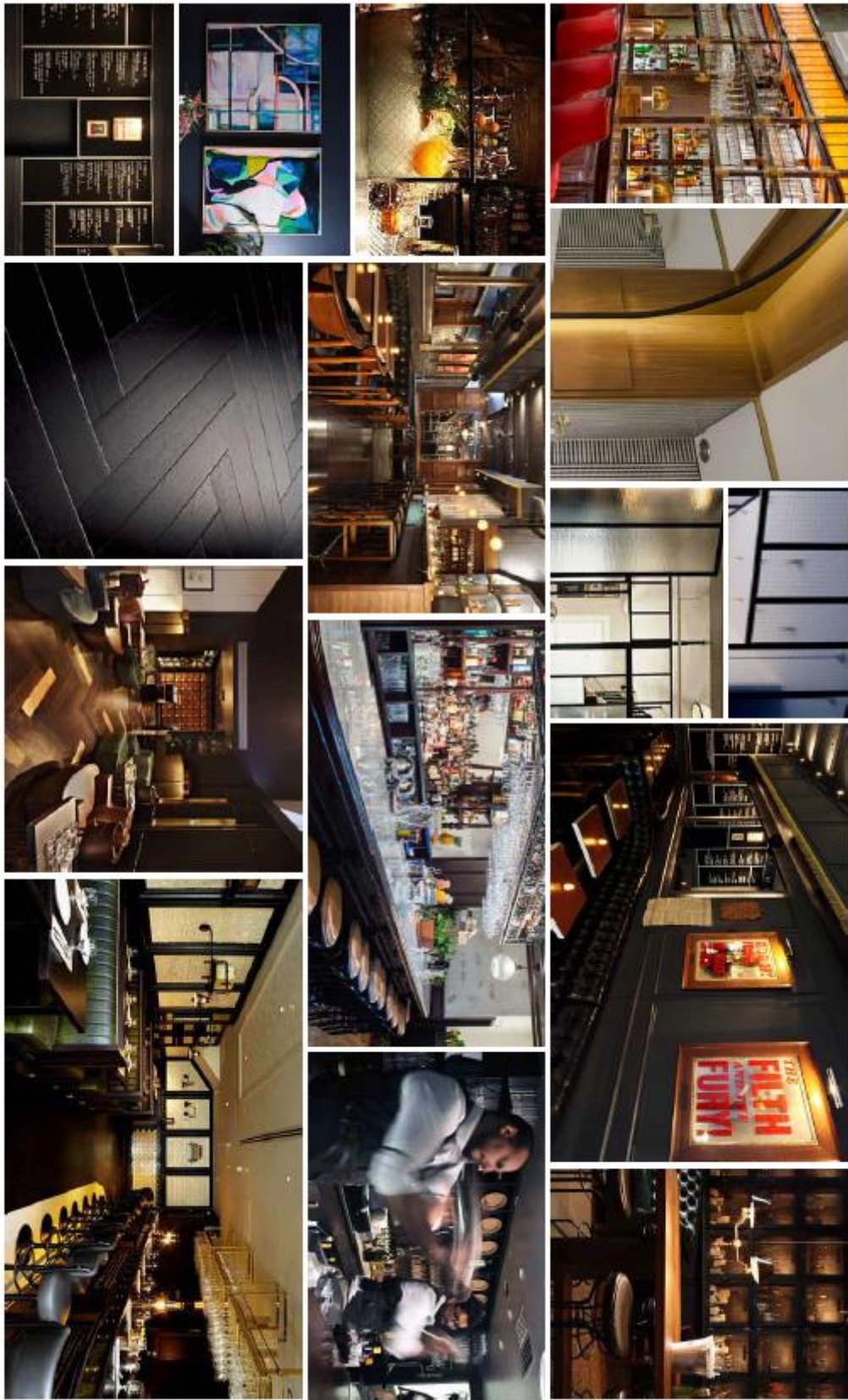
Conclusion

21. As may be seen, the applicant has taken considerable care in adapting the conditions to reflect what is intended to be a high calibre, high service, relaxed licensed environment, while maintaining or strengthening existing protections. Under the varied licence, the premises cannot and will not be used as a nightclub.
22. The Sub-Committee is respectfully invited to grant the application as asked.

JERMYN ST.
-SCHEME PROPOSALS-

TIBBATT'S ABEL / JERMYN ST.

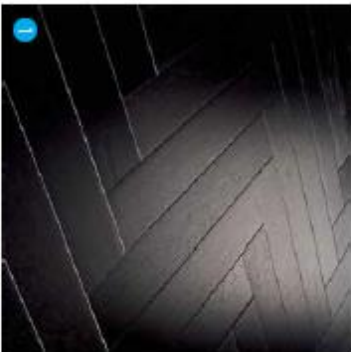
BASEMENT MOOD BOARD



TIBBATT'S ABEL / LONDON E16 3PS & BIRMINGHAM B24 9TD

info@abbett.com / 020 86 16 429 4 & 0121 747 1111

JOB NO. 1670



1 Ebony stained and lacquered herringbone floor

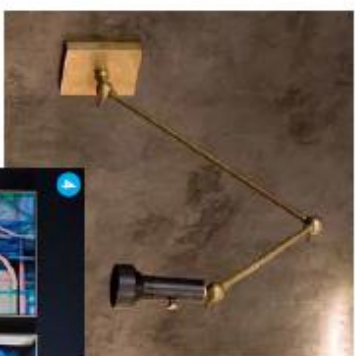
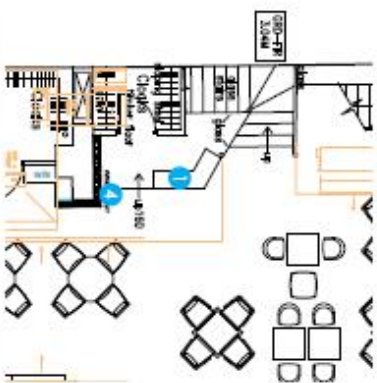


2 Charbon warm timber floor with pops of metallic gold

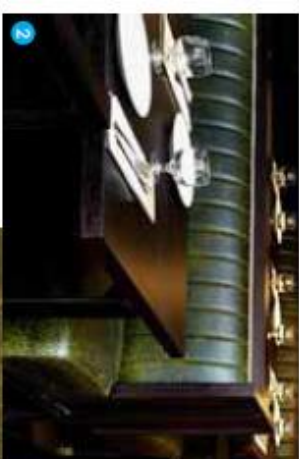
3 Ebony stained timber wall panelling with reflective glossy tile inserts



Private dining room - extra style glass with option of electronic opaque option to provide privacy. Smoked glass another option to add colour and intrigue.



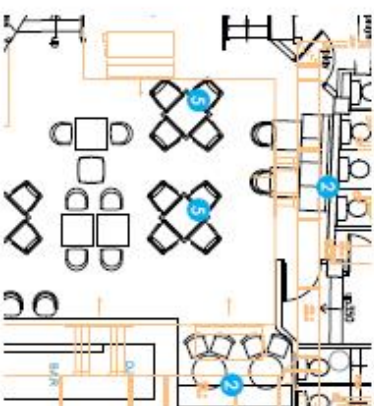
Angled directional brass and no-ice light fittings illuminate bright areas well art galleries in frames.



4 arm desk and brass pendant light over central area.



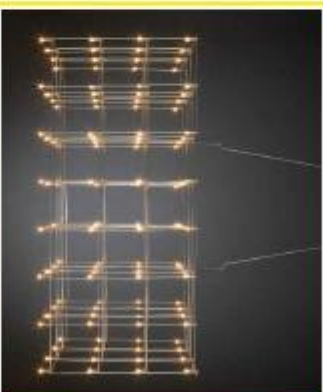
Timber clock room desk. Art Deco style reclaimed effect timber draws as per image. With green leather inset to counter top with smoked glass warm glow table lamp.





3

Rectangular panelled dooring to wall. To mirror the same square grid system in the central lighting framework.



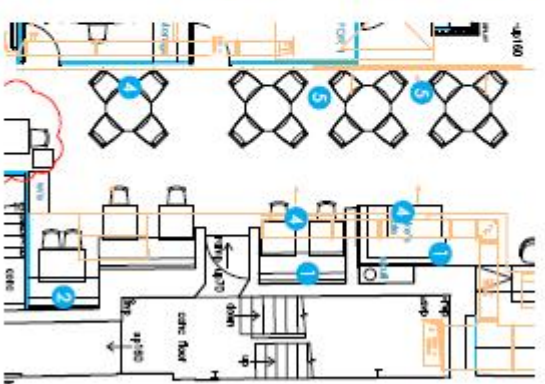
LED grid pendant light fitting to centre of each PDR room.



5



4



Over-sized floor standing mirror with black slatted corners.

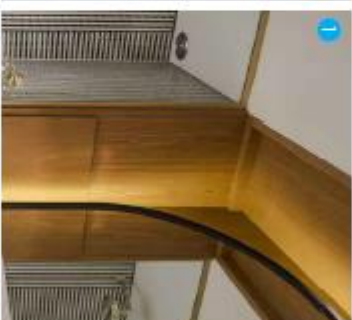


2

Rich timber veneer panels with visible grain.



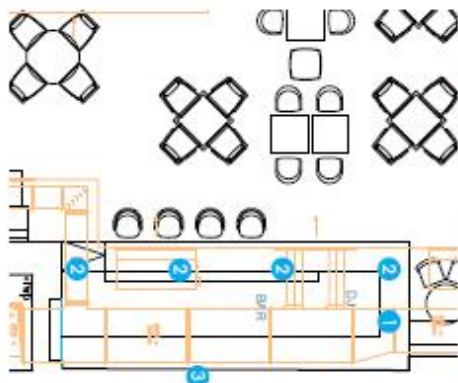
1



Smooth timber veneered clad walls with oversized black metal framed mirrors. Concealed LED warm white illumination behind the mirrors.

TIBBATTI, ABEL / JENNYN ST.

BASEMENT BAR



1 SLEISTONE MARBLE FINISH BAR TOP

RICH TIMBER TONE BAR FRONT



SMOKE GLASS PENDANTS WITH PILMEN BULBS



BRASS FOOTRAIL



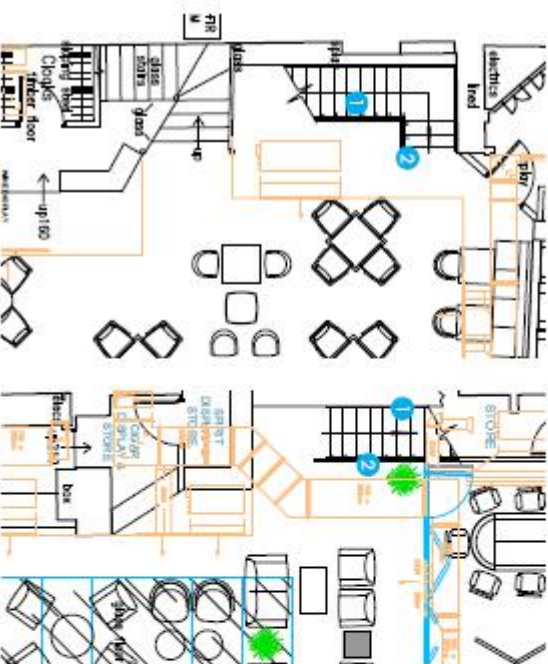
3 Looked cupboard style back bar with 3/4 flume red bottle steps.



TIBBATTI, ABEL / LONDON E15 2PS & BISHOPCHAM BSA 9PD

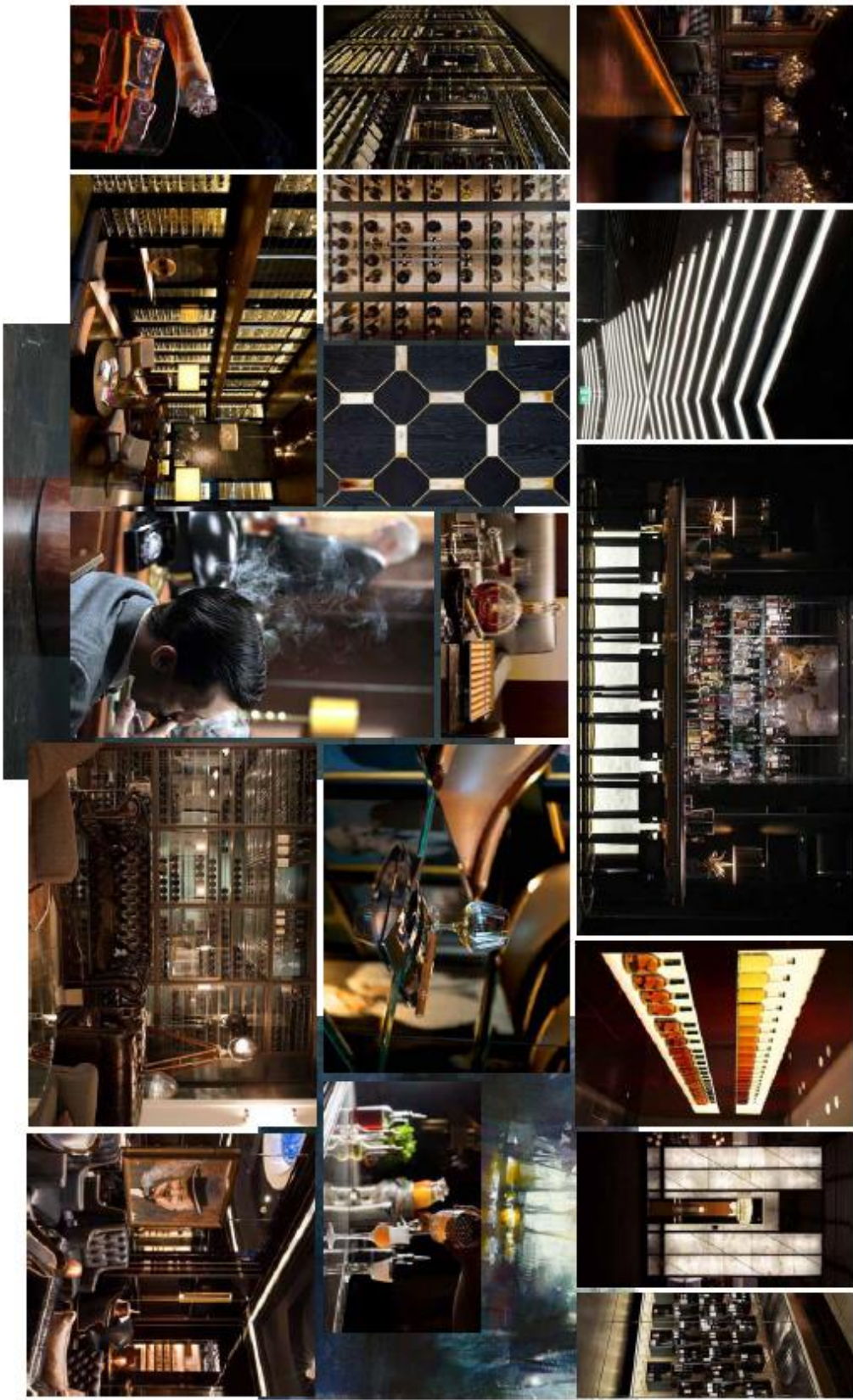
info@tibbatti.com / 020 8519 4054 & 0121 347 1111

job no. 1670



TRAVATTS ATEL / JEREMY ST.

SUB BASEMENT MOOD BOARD



TRAVATTS ATEL / LONDON E15 2PS & BIRMINGHAM B24 9TD

info@travatts.com / 020 36 19 429 4 & 0121 747 1111

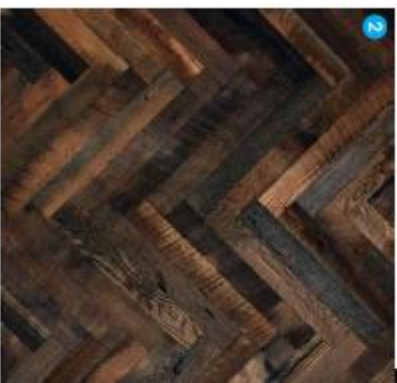
JOH. NO. 1.670



Whisky and wine cage displays with storage behind in the respective rooms - mirrored to reflect light and bottles. Glazed floor to be converted into illuminated product display w/ in storage access in non-operating hours.



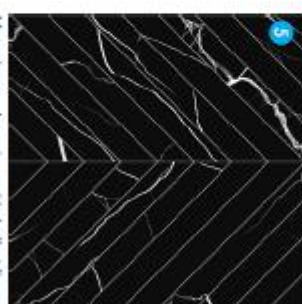
Reflective and luxurious leather



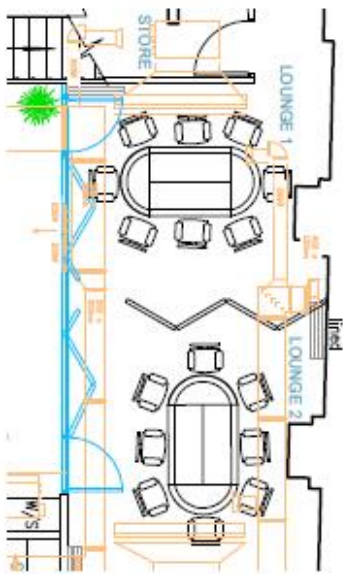
Character multi-tone timber herringbone floor



Full height timber panelling and B&W art



Monochrome dynamic marbled effect floor



Back walls of private rooms to be clad full height in smoked grey mirror. To reflect the ceiling lighting feature.



Distressed leather
Chair 'Old English - Black'

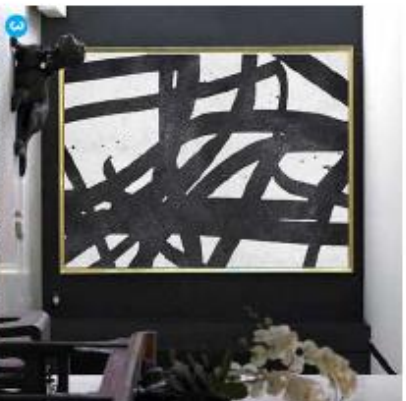
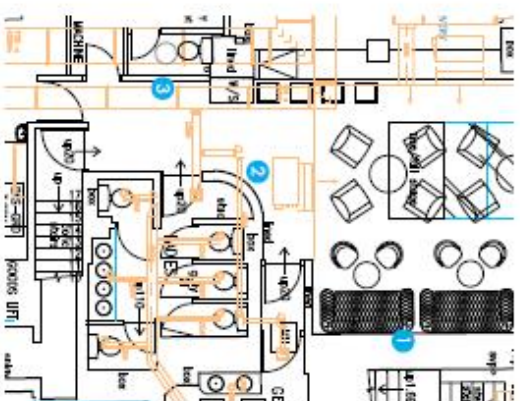


Timber paneled walls in stained finish



STAIR REFERENCE:
'Dark Mahogany'





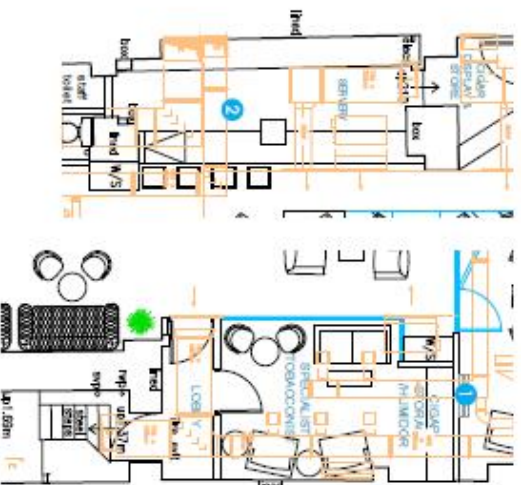
Flat dark painted wall with oversized abstract canvas with brass framework to the other perimeter.



EXAMPLE IMAGE: Etched smoky grey glass mirror clad to wall. We're fixing rear illuminated shelves with leather gradient bottles. Finish of shelves to be polished brass.



Existing curved wall to be clad in timber vertical square edge sections with hidden LED to the top and bottom edge.



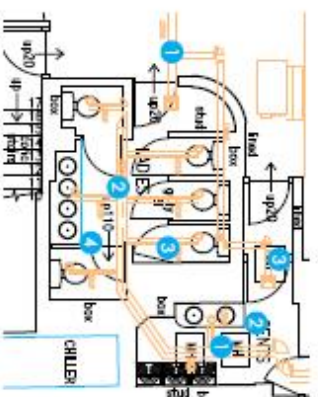
Warm rich colours to compliment the space and add depth and opulence. Featured cigar artwork.

III illumination is key for the back bar - a warm glow to enhance the offering. Contrasted with dark pendant and timber



Cigar display embraced in glass wall with mirrored wall opposite to reflect the display. Reflective floor and ceiling to maximise the incredible impact of the testing room. Comfortable and lounge style furniture.

TOILET DESIGN DIRECTION



Sample Menu

To begin or to share

Fish

- Pan-fried scallops, sweetcorn puree, dried ham and shallot jus £16
- Butter poached king crab with chimichurri £24
- ½ native lobster, pickled beetroot, fennel and orange £28
- Crispy squid, lime, pickled red chillies and light garlic mayonnaise £12
- Whole grilled no1 prawn with lime £18
- Torched and cured Mackerel with citrus fruits £12
- Lobster veloute, garlic croutons, rouilli and chives £10
- Crab ravioli basil and tomato sauce vierge £14

Ceviche

- Yellow fin Tuna, jalapenos, lime, red onion, coriander and guacamole £12
- Scallop teridito, black quinoa, red pepper, red onion, parsley and lime £10
- Tiger prawn agua chilli £10

Meat

- beef carpaccio, truffle mayonnaise, capers, shallots, black radish and petit leaves £11
- foie gras and chicken liver parfait, toasted brioche and red onion marmalade £12
- Braised short rib with pickled red cabbage £16
- The Wellington steak tartare with oyster mayonnaise (prepared at the table) £18
- Selection of charcuterie from iberico with pan amb tomaquet £15
- Salt marsh lamb cutlets with hazelnuts jus and butternut puree £18
- Iberico secreto with chimichurri £16
- 100g Kagashima Wagyu A5+ sirloin £42

Salads/Vegetable's

- Roasted heritage beetroot with truffle honey and Ashmore goat cheese £10
- Sautéed girolles, slow cooked duck's egg, shallots, toasted sour dough £12
- Char-grilled cauliflower, black quinoa, sultanas, confit tomatoes, parsley and Treviso £12
- Carnalised Roscoff onion tart fin with figs and torn mozzarella £14
- Roasted Italian pumpkin, pine nuts, crumbled feta and Provencal dressing £11
- Burrata, confit tomatoes, basil and petit leaves £12

Caviar, all served with traditional garnish and blinis

- Sevruga 30g £59
- Oscietra 30g £82
- Beluga 30g £175

Main course

Whole grilled buttered dover sole £46

Whole grilled native lobster hollandaise £55

Native lobster linguine £24

Roasted monkfish, crispy bacon, sautéed spinach, chicken jus £28

Poached and grilled chicken, sweetcorn, braised baby gen and wild mushroom jus £25

Rump of lamb, shallot puree and cassoulet of beans £30

Steak/Beef

Wagyu

Wagyu steaks available at weights starting at 100g

Kagashima A5+ fillet £42

Australian sirloin £30

Scotch black angus

All our steaks available at weights starting at 200g

Fillet £26 Ribeye £22 Sirloin £21 Rump £18 Picana £22

Scotch black angus sharing

1kg ribeye on the bone £48

1kg porterhouse £70

600g chateaubriand £55

Sides £5

Triple cooked chips

Creamed spinach

Humita with basil and mozzarella

Mash potato

Tenderstem broccoli, chilli and soy

Rocket, parmesan, red onion and balsamic

Portobello mushrooms, garlic and thyme

Garlic French beans

To finish

Chocolate and peanut bar with raspberries and chocolate sorbet £8

French apple tart with vanilla ice-cream £7

Caramelised rum pineapple, chocolate mousse and chocolate crumble £7

Lemon parfait, burnt meringue, lemon thyme gel £7

Cheese £10

Ice cream £6

Neutral Citation Number: [2012] EWHC 3467 (Admin)

Case No: CO/5736/2012

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT IN MANCHESTER
(ON APPEAL FROM THE MANCHESTER AND SALFORD MAGISTRATES'
COURT BY WAY OF CASE STATED)

Leeds Combined Court,
1 Oxford Row, Leeds LS1 3BG

Date: 07/12/2012

Before :

MR JUSTICE HICKINBOTTOM

Between:

MATTHEW TAYLOR

Appellant

- and -

(1) MANCHESTER CITY COUNCIL
(2) TCG BARS LIMITED

Respondents

(Transcript of the Handed Down Judgment of
WordWave International Limited
A Merrill Communications Company
165 Fleet Street, London EC4A 2DY
Tel No: 020 7404 1400, Fax No: 020 7831 8838
Official Shorthand Writers to the Court)

Jeremy Phillips (instructed by LR Law) for the Appellant
Sarah Clover (instructed by Susan Orrell, City Solicitor, Manchester City Council)
for the First Respondent

The Second Respondents were not represented and did not appear.

Hearing date: 26 November 2012

Judgment
As Approved by the Court

Crown copyright©

Mr Justice Hickinbottom:

Introduction

1. When and to what extent, if at all, can an application to vary a licence under the Licensing Act 2003 be amended?
2. That is an important question in practice, because many applicants seek to change their proposed variation in the light of representations they receive objecting to it or some part of it. It is a question which, as I understand it, has never before been addressed by the courts.
3. The question comes before this court in the form of a case stated by Deputy District Judge Robinson sitting in the Manchester and Salford Magistrates' Court. On 8 and 9 March 2012, he heard an appeal by the Appellant Matthew Taylor against a decision of the Licensing Sub-Committee of the First Respondent Manchester City Council ("the Council"), taken on 7 October 2011, to grant a variation to a premises licence relating to premises known as Via in Canal Street, Manchester. The Second Respondents TCG Bars Limited ("TCG Bars") owned and operated Via, and were the premises licence holder.
4. As a preliminary issue, Mr Taylor contended that the Council had acted unlawfully because TCG Bars had significantly revised their application after the statutory period of advertisement and consultation had expired, meaning that responsible authorities (such as the Council's own Environmental Health Department) and local residents had no reasonable notice of the revision and no proper opportunity of making representations in respect of it.
5. The Deputy District Judge held that the Council did not act unlawfully, and Mr Taylor appealed that decision to this court by way of case stated dated 14 May 2012. In paragraph 52 of the Case Stated, the Deputy District Judge poses the following question for this court:

"Given the variance between the application to vary the premises licence originally advertised and the revised scheme, and the timing of those revisions, was I correct in ruling that it was lawful for [the Council] to proceed to determine [TCG Bars'] application in accordance with section 35 of the Licensing Act 2003?"

The Licensing Act 2003

6. In this judgment, all statutory references are to the Licensing Act 2003, unless otherwise indicated.
7. The Licensing Act 2003, which came into force on 24 November 2005, radically changed licensing in England and Wales. Until then, there had been a patchwork of licensing systems, under which alcohol licences were granted by licensing justices, reflecting their historical role in maintaining the peace; whilst other licensing functions, such as entertainment, were in the administrative province of local councils.

8. The 2003 Act created a single system, in which magistrates were relieved of their administrative licensing responsibilities, in favour of local authorities. The White Paper which led to the reforms ("Time for Reform: Proposals for the Modernisation of Our Licensing Laws" (Cm 4696) (April 2000)) identified three reasons for the transfer of all licensing functions to local councils, as follows (paragraph 123):

" ...

- Accountability: we strongly believe that the licensing authority should be accountable to local residents whose lives are fundamentally affected by the decisions taken.
- Accessibility: many local residents may be inhibited by court processes, and would be more willing to seek to influence decisions if in the hands of local councillors.
- Crime and disorder: Local authorities now have a leading statutory role in preventing local crime and disorder, and the link between alcohol and crime persuasively argues for them to have a similar lead on licensing."

The first bullet point emphasises that licensing decisions were to be regarded as administrative decisions, taken in the public interest and subject to political accountability.

9. The role of a licensing authority under the 2003 Act was recently considered by the Court of Appeal in R (Hope and Glory Public House Limited) v City of Westminster [2011] EWCA Civ 31 ("Hope and Glory Public House"). Having rehearsed the history behind the Act, Toulson LJ, giving the judgment of the court, said (at [41]-[42]):

"41. ... [T]he licensing function of a licensing authority is an administrative function. By contrast, the function of the district judge is a judicial function. The licensing authority has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure, but the decision itself is not a judicial or quasi-judicial act. It is the exercise of a power delegated by the people as a whole to decide what the public interest requires....

42. Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance. Although such questions are in a sense questions of fact, they are not questions of the 'heads or

tails' variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact."

That chimes with the White Paper, Toulson LJ again stressing the essentially evaluative nature of the decision making process in most licensing matters, which demands a complex balancing exercise, involving particularly the requirements of various strands of the public interest in the specific circumstances, including the specific locality. He also marked the fact that Parliament has determined that, in this context, local authorities are best placed to make decisions of that nature.

10. The administrative nature of a licensing authority's function is also emphasised by, e.g., regulation 23 of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005 No 44) ("the Hearing Regulations"), which provides that the hearing of an application "shall take the form of a discussion led by the authority..." and forbids cross-examination except in limited circumstances.
11. However, the justices still have a role to play in the new scheme. The main sanction for those who fail to comply with the new licensing laws is criminal, and magistrates have retained responsibility for dealing with people charged with offences under the licensing laws, as well as having an appellate function from licensing decisions of the relevant local authority.
12. The basic mechanism for regulation of the relevant activities is as follows. By section 2 of the 2003 Act, "licensable activities" can only be carried on under and in accordance with a "premises licence" issued by a "licensing authority", defined in section 3(1) usually to be the relevant local council; and section 136 imposes a criminal sanction on those who carry on licensable activities otherwise than under and in accordance with such a licence. "Licensable activities" include the retail sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment (section 1(1)).
13. Section 4 is also an important provision. Under it, a licensing authority must carry out its functions under the Act (and hence must determine any licensing decision it has to make) with a view to promoting the following "licensing objectives":
 - (a) the prevention of crime and disorder;
 - (b) public safety;
 - (c) the prevention of public nuisance; and
 - (d) the protection of children from harm.

It is noteworthy that all of these objectives are essentially concerned with the public interest; although, of course, evidence of how a licence might affect individuals may be relevant to the assessment of that public interest.

14. By section 4(3), in exercising those functions, the authority must also have regard to both:
 - i) Guidance issued by the Secretary of State under section 182, which requires her to issue such guidance. The relevant version for the purposes of this appeal, which I shall refer to as simply “the section 182 Guidance”, was issued in April 2012. It has now been replaced by new guidance issued in October 2012.
 - ii) The authority’s own licensing statement published under section 5, which requires each authority to publish a statement of licensing policy regularly, at the relevant time for a period of three years and now (by virtue of section 122 of the Police Reform and Social Responsibility Act 2011) for a period of five years. The Council’s current Statement of Licensing Policy (“the Council’s Statement of Licensing Policy”) covers the period 2011-14.
15. The licensing functions of an authority are in practice delegated to a licensing committee or sub-committee (sections 6 and 7). In the Council’s case, they have established a Licensing Committee of 15 Council Members, with any application that requires a decision being determined by a Sub-Committee of three members of the Licensing Committee at a hearing (paragraph 3.36 of the Council’s Statement of Licensing Policy).
16. As Mr Phillips submitted, the regime is essentially a permissive one, generally allowing anyone to carry out “licensable activities” in an unfettered way by requiring the licensing authority to grant or vary a licence on application, unless the decision making powers of the licensing authority are triggered – by, e.g., representations being made on an application to vary – whereupon the authority must take a decision in response to the application based upon the promotion of the licensing objectives. However, even then, the steps it has power to take are limited to those specifically identified in the scheme.
17. Section 17 sets out the procedure for making an application for a new licence. Section 17(3) requires an application to be accompanied by “a plan of the premises to which the application relates, in the prescribed form”. Section 17(5) provides that the Secretary of State must by regulations require the applicant and the licensing authority to advertise the application for a prescribed period and in a prescribed manner, and “prescribe a period during which interested parties and responsible authorities may make representations to the relevant licensing authority about the application”. “Interested parties” are defined in section 13(3) as including a person living in the vicinity of the premises. (Under section 105 of the Police Reform and Social Responsibility Act 2011, “interested parties” has now been substituted by “persons who live, or are involved in a business, in the relevant licensing area”; but that change has no relevance to this appeal). “Responsible authorities” are defined in section 13(4) to include relevant local weights and measures, police, fire, rescue, health, environmental health and planning authorities.
18. An application must also put forward an individual as the “designated premises supervisor”, and no supply of alcohol can be made under a licence unless there is such a supervisor named in the licence and he has a current “personal licence” in accordance with Part 6 of the 2003 Act (sections 15 and 19). Personal licences form

no part of this appeal, and I need not say anything further about them; except that, since May 2010, the designated premises supervisor for the premises at 28-30 Canal Street has been Anthony Cooper.

19. The Secretary of State has made procedural regulations in respect of applications for premises licences in the form of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005 No 42) ("the Premises Regulations"), as well as the Hearing Regulations.
20. Subject to the express requirements of the Hearing Regulations, procedure at the hearing of an application is expressly a matter for the licensing authority (regulation 21 of the Hearing Regulations). There is no similar provision in the Premises Regulations, which are generally prescriptive as to the pre-hearing procedure that must be followed by the applicant (who must comply with the appropriate provisions in Parts 2 and 4), and the licensing authority (which must comply with the appropriate provisions in Parts 4 and 5) (regulations 4 and 6).
21. Regulation 23(1) of the Premises Regulations repeats the requirement that an application for a new licence must be accompanied by a plan; and regulation 23(3) provides that a plan, when required, must show various specified topographical features, including:
 - “(a) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
 - (b) the location of points of access to and egress from the premises;
 - (c) if different from subparagraph (3)(b), the location of escape route from the premises;
 - (d) ...”

Of course, in addition to the elements required by regulation 23(3), a plan that is lodged may show other matters which are not required by law.

22. Regulation 25 requires applications to be advertised in specific ways for 28 days.
23. “Relevant representations” are defined as representations made by an interested party or responsible authority, which are neither frivolous nor vexatious nor withdrawn, and which are in time and “are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives” (section 18(6) and (7) of the 2003 Act). That definition is important: representations to be relevant have to be about the effect of the licence on the promotion of the public interest licensing objectives set out in section 4, although evidence of the actual or potential impact of the licence on individuals may be relevant to the various strands of public interest involved. That is reflected in Appendix 2 to the Council’s Statement of Licensing Policy which, under the heading “Relevant Information for Residents and Other Interested Parties”, states:

“ ...

- In accordance with [the definition of ‘relevant representation’], you should demonstrate how your representation affects the promotion of the licensing objectives.
 - Provide an evidential base for the grounds of the representation; which could include written logs of problems, details of previous complaints, photographs or video evidence of the particular case.”
24. The relevant period for representations in a case such as this is “28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant” (regulation 22 of the Premises Regulations).
25. Where no “relevant representations” are made, the licensing authority is bound to grant the application subject only to specified conditions derived from the operating schedule (section 18(2)). Where such representations are made, a decision making power arises in the licensing authority, because the requirement that the authority is bound to grant the application is subject not only to those same conditions but also to section 18(3) and (4), which provides that, where relevant representations are made:
- “(3) ... the authority must –
- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary; and
- (b) having regard to the representations, take such steps mentioned in sub-section (4) (if any) as it considers necessary for the promotion of the licensing objectives.
- (4) The steps are –
- (a) to grant the licence subject to [such conditions mandated by the statutory provisions, and such conditions as are consistent with the operating schedule accompanying the application modified to such extent as the authority considers necessary for the promotion of the licensing objectives];
- (b) to exclude from the scope of the licence any licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor;
- (d) to reject the application.”
26. With regard to subsection (4)(a):

- (i) by section 18(5), for these purposes, conditions are “modified” if any of them is “altered or omitted or any new condition is added”; and
 - (ii) by section 109 of the Police Reform and Social Responsibility Act 2011, “necessary” has now been replaced by “appropriate”; but again that change is not material to this appeal.
27. Whilst the provisions of section 18(3) and (4) are written in mandatory terms (“... the authority *must*...”), a discretion arises as the result of the words “take such steps ... *as it considers necessary* ...” (emphases added). However, in determining a licence application, the discretion that an authority has is limited in two ways: (i) that authority can only take one or more of the steps listed in section 18(4), and (ii) it is empowered (although also obliged) to take only such of those steps it “considers necessary for the promotion of the licensing objectives”. The statutory provisions consequently both define and limit an authority’s powers in determining an application for a new licence.
28. Once a licence has been granted, if it is proposed to change the relevant business or premises such that the carrying out of licensable activities will fall outside the licence which has been granted, then the licence holder can change the licence in one of three ways.
29. First, if it is proposed to extend the period for which the licence has effect or to vary substantially the premises to which it relates, then a new application under section 17 has to be made (section 36(6), and paragraph 8.73 of the section 182 Guidance). That requires, not only advertisement and a period for the making of relevant representations to be made, but also the licensing authority to reconsider and review the entire licence afresh.
30. Second, at the other end of the scale, if the proposal is of a very limited nature, which is incapable of having an adverse impact on the promotion of any of the licensing objectives, then a simplified procedure involving restricted publicity can be adopted (sections 41A-41D, introduced by the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 (SI 2009 No 1772)). Paragraphs 8.59 and 8.60 of the section 182 Guidance provide:
- “8.59. Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by... affecting access between the public part of the premises and the rest of the premises or the street or public way, e.g. block emergency exits or routes to emergency exits....
- 8.60. Licensing authorities will also need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of a premises) which in themselves may not be significant, but which cumulatively may impact on the licensing objectives.

This emphasises the importance of having an up to date copy of the premises plan available.”

31. It is not suggested by any party that the changes proposed in this case, to which I shall come shortly, warranted a new section 17 application for a new licence, or could properly have been the subject of the minor variation procedure. It is common ground that it was appropriate for those proposed changes to be the subject of the third procedure, namely an application for a variation of the licence under section 34.
32. The procedure for an application under section 34 mirrors the procedure for a new application under section 17.
33. The Secretary of State has to make regulations for the due advertisement of the application (section 34(2)); and, by regulations 25 and 26 of the Premises Regulations, she has provided that the advertisement of such application must be the same as for an application under section 17 for a new licence.
34. Any premises licence has to be accompanied by a plan; but that does not mean that a plan always has to accompany an application to vary. Section 34(5) and regulations 27 and 27A of the Premises Regulations refer, expressly or implicitly, to accompaniment by a plan *where appropriate*; and regulation 23(1) only requires a plan to accompany an application for a new licence under section 17. For example, if an application to vary is made merely to extend hours for the same licensed activities without any change to the premises themselves, a plan would be unnecessary in practice and is not required by the scheme. However, it was properly common ground that where, as here, there is an application for a variation including significant changes to the internal layout of the premises (including elements required to be on a plan by regulation 23(3)), a plan complying with regulation 23(3) would be essential to the application.
35. Section 35(2)-(4) of the 2003 Act, reflecting to an extent section 18(2)-(4) in respect of a section 17 application for a new licence, provides that, where no relevant representations are received within the relevant period, then the licensing authority must grant the variation; but, where such representations are received, then they trigger a decision making process. The authority must hold a hearing and must, having regard to the representations, take such steps from those listed in section 35(4), if any, as it considers necessary for the promotion of the licensing objectives. Sub-section (4) states that:

“(4) The steps are –

(a) to modify the conditions of the licence;

(b) to reject whole or part of the application

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.”
36. Again, the licensing authority has a discretion in its decision making here; but, as with section 18(4) for an application for a new licence, where there are relevant

representations in respect of an application to vary, it is limited: the authority can only respond to the application in one or more of the ways set out in section 35(4), and it can only take such steps “as it considers necessary for the promotion of the licensed objectives.” Again, that requires an evaluation of what is necessary for the promotion of those objectives.

37. Therefore, as with a section 17 application, it can be seen that it is the making of relevant representations in respect of an application to vary that triggers a process of decision making by the authority, in the form of a hearing and decision to take such steps as are allowed and required by section 35(3) and (4). Where no representations are received within the relevant period, the applicant is entitled to the variation he seeks: no decision making process is triggered at all (Corporation of the Hall of Arts and Sciences v The Albert Court Residents’ Association [2011] EWCA Civ 430, “Corporation of the Hall of Arts and Sciences”). It was suggested, obiter, in Corporation of the Hall of Arts and Sciences that an authority has no power to take into account late representations even where the decision making process may have been triggered by other, in-time representations (see, e.g., [41]): and it seems to me that that follows from the wording of section 35(3), which focuses exclusively on relevant representations which are defined in terms of being in-time. However, it was common ground before me – and, in my view, properly so – that, if someone has made relevant representations, then he may later amplify them.
38. There is one final procedure that should be mentioned. Under section 51, where a premises licence is in effect, a responsible authority or interested party may apply to the licensing authority for a review of the licence. The onus of establishing grounds for review falls upon the person initiating the application – including establishing that the ground is relevant to one or more of the licensing objectives (section 51(4)(a)) – but, otherwise, the procedure again reflects that for a new licence. In particular, any such application has to be the subject of advertisement (as well as notice to the licence holder), and there is a period in which representations may be made. There must be a hearing to consider the application and any relevant representations, which are again defined by reference to relevance to the licensing objectives (section 52(7)). In response to an application, the authority again must take such steps that are listed as it considers necessary for the promotion of the licensing objectives, those steps being, in this context:
 - “(a) to modify the conditions of the licence;
 - (b) to exclude a licensable activity from the scope of the licence;
 - (c) to remove the designated premises supervisor;
 - (d) to suspend the licence for a period not exceeding three months;
 - (e) to revoke the licence.”
39. Such an application would be appropriate where a licence holder performs licensable activities, within the scope and in accordance with the terms and conditions of his licence, but nevertheless those activities impact adversely on local residents, by

causing unanticipated disorder or a public nuisance. It might be prompted by, e.g., a change in the manner in which the business is conducted (albeit within the scope and conditions of the licence), or merely busier trade.

The Facts

40. Canal Street is an area of restaurants and bars, as well as residential accommodation, in a central part of Manchester known as the Village.
41. Since September 2005, TGC Bars have operated a bar in premises at 28-30 Canal Street, under a premises licence granted by the Council. Those premises front onto Canal Street, and back onto Richmond Street, a parallel street. They comprise essentially two licensed floors: the ground floor including a mid-level mezzanine floor, and a basement.
42. The licence authorises three activities: the retail sale of alcohol, the provision of identified regulated entertainment and the provision of late night refreshment. The licence as initially granted was subject to 94 conditions, including the following in Annex 2:

Condition 31: "The licensed premises shall be provided with an adequate number of exits clearly indicated and so placed and maintained so as to readily afford the audience ample means of safe egress."

Condition 33: "Emergency doors must not be fitted with any securing device other than an approved type of panic bolt fitting...."

Condition 34: "Doors not in normal use, which are regarded as emergency exits, should be fitted with an alarm which is activated when they are opened. The alarm should be inaudible in public areas and should sound in an area permanently manned by management/staff whilst the premises are occupied...."

Condition 60: "Alterations or additions, either permanent or temporary, to the structure, lighting, heating or other installations or to the approved seating gangways or any other arrangements in the premises must not be made except with the prior approval of the City Council."

Condition 71: "Occupancy: Basement 240 persons, Mid Level 120 persons, Ground Level 260 persons, Total 620 persons."

Condition 72: "The windows and external doors on the Canal Street façade to be kept closed after 23.00 hours except for access and egress."

43. The licence had a plan of each floor attached to it, showing the matters required by regulation 23(3), and more. It showed five sets of external doors on the Canal Street

façade ground floor, two (each with a lobby inside) marked, “Entrance”; and one, at the south east end of the building, giving access to the basement only via a doorway onto Canal Street (“the V2 doorway”) and a set of stairs. The V2 doorway is adjacent to the door to the residential apartments on the upper floors of 10 Canal Street (the first floor, ground floor and basement of those premises being another licensed bar called “Crunch”, owned and managed at the relevant time and now by the Appellant, which has an entrance just a few yards further up Canal Street). At the bottom of those stairs from the V2 doorway, the basement plan attached to the licence for the Via premises shows double doors marked “FD” into a bar area with dance floor.

44. The extent to which the V2 doorway had been used prior to the application to vary is contentious. However, it was common ground before the Deputy District Judge that it had not been used as the principal entrance and exit to the premises, and use of the doorway had not been required to cease as a result of being a breach of licence. For the purposes of the preliminary ruling, the parties agreed that it was not necessary for the judge to make a finding about the extent of the use that had been made of that doorway (Case Stated, paragraph 13) – and he did not make any such finding.
45. On those licence plans, there are a number of doors shown from the rear of the building onto Richmond Street; notably one set, again to the east end of the building, giving access to a second set of stairs down to the basement (“the Richmond Street doorway”). The external doors to the Richmond Street doorway are again marked on the plan, “FD”. The evidence was, and the Deputy District Judge found (Case Stated, paragraph 10), that at all material times that doorway was in fact only used by staff and as an emergency escape.
46. In addition, the plans showed that there were several sets of internal stairs joining the ground floor and basement.
47. On 9 August 2011, TGC Bars made an application to the Council, under section 34, to vary their licence. The proposed variation had a number of elements, comprising in effect as follows (Case Stated, paragraph 14):

“ ...

- An extension of hours [for both sale of alcohol and provision of entertainment by one hour per day, ending one hour later each day].
- Internal works to the ground floor premises.
- The creation of two separate venues (Via – ground floor; Club Polari – basement), by the construction of internal walls, which had the effect of providing new toilet accommodation for Via at basement level. Club Polari would have its own completely separate toilet accommodation.
- The provision of a wholly new and independent means of access to Club Polari for members of the public/club patrons by way of a public entrance doorway on

Richmond Street (necessary because the previously utilised access from Via would no longer be possible with the new layout)."

The "previously utilised access from Via" is, of course, not a reference to the V2 doorway and stairs; but to the internal access from the ground floor.

48. The application was based upon a completed prescribed form, schedule of alterations and plans. The plans showed considerable changes to the internal walls and general layout of each floor (which made a plan a vital component of the application: see paragraph 34 above); but no change to the structure or layout of either the staircase at the north east corner of the building to the Richmond Street doorway (where the legend "FD" still appeared on the external doors), or the staircase at the south east corner onto Canal Street via the V2 doorway (where the doors at the foot of the stairs were also still marked "FD"). However, the schedule made clear that the alterations would include:

"... a full refurbishment of the rear staircase (currently used for staff and as an emergency escape) to provide improved and independent public access to this basement area from the rear of the building."

49. The application was duly advertised, and a number of representations were received by the Council in respect of the proposed extension of hours and the public access from Richmond Street. None objected to the division of the premises into two separate public venues, *per se*.
50. The Council's Environmental Health Department opposed both the proposed increase in hours and the proposed public use of the Richmond Street doorway on grounds of public nuisance. In respect of the latter, they said that that door was likely to lead to issues of public nuisance because Richmond Street is very narrow and bordered by high sided buildings, so any noise created by customers using that side of the building would likely be exaggerated by the corridor effect of the buildings which could lead to noise nuisance for the occupiers of the apartments that back onto Richmond Street. Those apartments include some in 10 Canal Street. No representations were received from any other responsible authority.
51. With regard to interested parties, the occupants of Flat 8, 10 Canal Street (Mr & Mrs Seymour) objected to the public use of the Richmond Street doorway on similar grounds, asking for permission for that new public entrance to be refused. Mr Taylor (who lives in Flat 1), the occupant of Flat 3 (Mr Welford) and another local resident living in a different block, all objected to the extension of hours. All of those representations were received by the Council before the close of statutory period for representations, on 7 September 2011.
52. On 12 September, solicitors for TCG Bars responded to those representations by writing to the Council as follows:

"The application is made up of three parts –

1. To carry out some internal alterations.

2. To create a new entrance on Richmond Street.
3. To extend the operation hours at the premises for alcohol and entertainment.

We have received representations from some residents and from the Environmental Health [Department] which our client has considered fully.

We are instructed, therefore, to amend the application in the light of the representations as follows.

1. We withdraw the part of the application to extend the hours for licensable activities which will remain as existing.
2. We attach amended layout plans which remove the application for the new entrance on Richmond Street.

The application to carry out other internal works which have not received any representation remains as per the amended plans.

We have copied in all authorities and the residents with email addresses and would ask them to confirm as soon as possible that the representations are now withdrawn as they have no relevance to the application so that the application can be granted by delegated powers.”

It is be noted that the letter purported to “amend” the application to vary.

53. The “amended plans”, dated 12 September 2011, were headed “Revision A – Main entrance to basement bar now positioned to front elevation”. They showed most of the external doors at the back of the building (including the Richmond Street doorway) marked, “Escape”; and the V2 doorway marked, “Entrance to Basement Bar”. However, there were no differences in the structure or layout from the plan used for the original application. The doors in the basement at the foot of the V2 doorway stairs, and the external doors of the Richmond Street doorway, were both still marked “FD”.
54. The new proposal came to Mr Taylor’s immediate notice, and he discussed it with three other residents of 10 Canal Street on the evening of 12 September, before writing to TGC Bars’ solicitors, with a copy to the Council, the following day:

“Looking at your revised plans. On your ground floor plan there is a new second entrance planned for named “Entrance to Basement Bar”. This entrance is new on this plan which is currently a fire escape for the premises. This new proposed Entrance is directly next to the entrance door way to the 10 Canal Street flats. This is of great concern as Via already

creates more than an acceptable amount of noise and I believe that this entrance will create further noise and disturbance.

My objection has been based around noise...

... I believe most if not all premises in the area now include operating conditions in their licences to assist with the management of noise and disturbance including having sound limiters, closing doors and windows when regulated entertainments are taking place, and the use and training of dispersal aids and policies with staff.

If the applicant can provide some conditions in their licence for this, I believe I would be happy to agree the application."

55. Mrs Seymour, having first withdrawn her representation, reinstated it on 7 October, having been contacted by Mr Taylor who pointed out the intention to use the V2 doorway as the sole means of public access to the basement. Mr Welford, the same day (7 October) also objected to the revision, on that same basis. The Environmental Health Department appears to have withdrawn its objection on the basis that the hours were not to be extended and Richmond Street would not be used for public access.
56. The hearing before the Council's Licensing Sub-Committee was held that day, 7 October 2011. Mr Taylor was the only interested party to attend, and he pressed for a number of conditions. In the event, the Sub-Committee granted the application, but included two further conditions on the licence, as follows:
 1. Exit from the premises onto Richmond Street is to be used as a fire exit only.
 2. A barrier to ensure queue forms in front of Via is to be operational from 20.00 daily. The barriers to be removed at the same time as the barriers which define the smoking area.

The second additional condition reflects paragraph CD1 of the Council's Statement of Licensing Policy, which requires the effective management of queues to prevent any nuisance or disorderly behaviour: "... [L]icensees are expected to demonstrate how they will manage queues to the premises."

57. That decision was formally notified to Mr Taylor on 20 October 2011. On 24 October, he lodged an appeal with the Magistrates' Court, under section 181 of the 2003 Act. It was in the context of that appeal that the Deputy District Judge made his ruling in respect of the preliminary issue, which has in turn been appealed to this court.
58. To complete the chronology, without prejudice to this appeal, the Council, TGC Bars and the interested parties who had made representations (notably, Mr Taylor) have now agreed that further conditions should be imposed; the Council have imposed those further conditions; and the premises have been operating as two discrete bar venues for some months on the basis of those conditions. No application for any review of the licence has been made under section 51, and there is no evidence of any

difficulties in practice occurring as a result of the business operating under the licence with those conditions. Mr Cooper's apparently unchallenged evidence (paragraph 3 of the undated and unsigned statement used before the Deputy District Judge) was to the effect that, since the opening of the discrete basement bar in November 2011, there have been no issues with the Council's Environmental Health Department, the premises have been trading well, and he has maintained good relations with neighbours including those who live in 10 Canal Street.

The Parties' Contentions

59. Mr Phillips for the Appellant Mr Taylor stressed that the 2003 Act, Regulations and Guidance do not on their face allow for *any* change to an application to vary a licence. Whilst he was prepared to accept that *de minimis* changes to an application might be made, he submitted that no amendment could be made that might reasonably be considered capable of having an adverse impact on the promotion of the licensing objectives. Where such a change is contemplated, an applicant is bound to start again by resubmitting the application, with the consequent new obligations for advertisement and new rights for responsible authorities and interested parties to make representations. Such changes, he submitted, should not generally arise when an applicant has engaged in pre-application consultation with responsible authorities and interested parties, as encouraged by paragraph PN3 of the Council's Statement of Licensing Policy. However, to allow amendments greater than that after the application had been made and advertised would fundamentally undermine the regulatory scheme's provisions for representations; encourage the undesirable practice of applicants lodging applications in a form designed to attract a lesser degree of objection, with the intention of amending subsequently and without notice to those who might be detrimentally affected; and be "transparently at odds" with local residents' right to private life under Article 8 of the European Convention on Human Rights.
60. Applying those principles to this case, Mr Phillips submitted that the 12 September amendment, with its change of route for public access to the basement floor, was clearly at least capable of having an effect on the licensing objectives, notably the prevention of public nuisance. By advertising the initial proposal to create a discrete basement venue with a new means of access on Richmond Street and then, after the expiry of the time for making representations and without public notice, amending the location of that access to the V2 door onto Canal Street, responsible authorities and interested parties were effectively deprived of the opportunity to make representations in relation to potential effects the revised scheme might have upon the promotion of the licensed objectives. They would not necessarily have become aware of the new means of access at all; but, even if they did, they could not have become aware of them until, at the earliest, 12 September 2011, when the revision was put forward. By that date, they would have been debarred from making any representations against the revised scheme, as the time limit for representations is strictly construed and had expired.
61. In the circumstances of this case, the legislative scheme required responsible authorities and interested parties to be given an opportunity to make representations in respect of that new proposal. As they were denied that opportunity, the Sub-Committee acted unlawfully in proceeding on the basis of the amended application.

62. Miss Clover for the Council submitted that, under the premises licence, the licence holder had always been able lawfully to use the V2 doorway for public access to the premises. On 12 September 2011, TGC Bars abandoned their application for extended hours and the refurbishment of the Richmond Street stairway and entrance to enable them to be used for public access to the basement. The application was thereafter restricted to the internal structural and layout changes, which did not include any changes to the structure of the V2 doorway and stairs, nor any changes to which any relevant representations had been made. The mere increase in intensity of use of that doorway for public access that was likely as a result of the proposed change did not require any formal variation to the licence.
63. The Sub-Committee was therefore able, and indeed right, to deal with the application solely on the basis of that limited remaining proposed variation in structure and layout. If, in the view of interested parties such as local residents, the change of business operation in fact impacted upon the licensing objectives, then the appropriate remedy lay in an application for review under section 51 (see paragraphs 38-39 above).

Discussion

64. This appeal concerns the principles and structure of the licensing scheme implemented by the 2003 Act.
65. As I have described (paragraph 12 above), regulation of the retail sale of alcohol and prescribed entertainment is effected by imposing a criminal sanction upon those who carry out such activities other than in accordance with a licence granted by the relevant local authority. This means that a licence holder is entitled to sell alcohol and provide entertainment in any manner he wishes, so long as the licence does not prohibit that manner of provision in some way, because (e.g.) it falls entirely outside the scope of the licence or it breaches one of the licence conditions.
66. If those activities are carried out lawfully, within the scope of the premises licence and in accordance with the licence conditions, but the manner in which they are carried out adversely impacts on one of the licensing objectives (e.g. by in fact causing disorder or a public nuisance), then the remedy of any person affected (whether a responsible authority or an interested party) is to apply for a review of the licence under section 51, to which the licence holder, and responsible authorities and other interested parties can respond.
67. Where the holder of a licence intends to carry out activities in a way that he considers may not be in accordance with his licence, then he is able to apply for a variation of the licence to extend the scope of the licence to cover that manner of carrying out those activities or remove a condition in respect of which he considers he would be in breach, using one of the three procedures set out above. If he does not, and the activities do fall outside the scope of the licence or breach the licence conditions, he is liable to prosecution. So the risk of not applying for a variation is his. That is no doubt why the terms of section 34(1) do not require an application for variation to be made in any circumstances, those terms being merely permissive: "The holder of a premises licence *may* apply to the relevant licensing authority for variation of the licence" (emphasis added).

68. On an application to vary, the Premises Regulations provide detailed rules for both advertisement, and as to how, when and by whom representations can be made in respect of the application. Representations can only be made on the public interest grounds set out in section 4, and must be made within 28 days: although representations can be amplified once made, once the 28 day period has expired the authority has no power to receive representations from those who have not previously submitted any. If no representations at all are made on those grounds in that 28 day period, then the licence holder is entitled to his variation as of right. If representations are made on those grounds, then that triggers a process of decision making by the authority. The very purpose of the representations is, initially, to be that trigger.
69. Once the decision making process is triggered, it is driven by the terms of the scheme, the discretion given to the authority by the scheme, and the requirement that the authority acts fairly.
70. The scheme provides no mechanism for amending an application once made, and neither the Act nor the regulations, nor the Secretary of State's Guidance nor the Council's own Statement of Licensing Policy, makes any mention of the possibility of amendment. Clearly, a power to amend that would defeat or undermine the object of the procedural provisions relating to advertisement and right of responsible authorities and interested parties to make representations could not conceivably be implied; and neither Mr Phillips nor Miss Clover suggested otherwise.
71. However, the scheme has no express power enabling an applicant to amend an application to vary; and, in my judgment, properly construed, the regulatory scheme does not as such allow or envisage any amendment to an application to vary once it has been made.
72. It does not need to do so, because of the nature of the decision making process with which the authority is involved. As stressed in the illuminative judgment of Toulson LJ in Hope and Glory Public House (see paragraph 9 above), in respect of licensing, a licensing authority exercises an administrative function given to it by Parliament. Whilst the authority must no doubt take into account the rights of those people who live and work in the vicinity, those interested parties can only make representations as to the "likely effect of grant of the application on the promotion of the licensing objectives", i.e. on the basis that the *public* interest will be adversely affected. It is the potential impact upon that *public* interest, and that alone, which triggers any decision making process at all. In its absence, the licence holder has a right to the variation it seeks.
73. Once triggered, it requires the making of an evaluative judgment, involving (as Toulson LJ said in Hope and Glory Public House) the weighing of a variety of competing public policy considerations, such as the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, and including the impact generally on the lives of those who live and work in the vicinity. It inherently involves an evaluation of what is to be regarded as reasonably acceptable in the particular location, and of what is necessary and proportionate to the promotion of the statutory licensing objectives in terms of scope of the licence and conditions in a local context.

74. The scheme is based on the premise that the relevant local authority is uniquely equipped and well-placed to make such judgments. In such areas of quintessential policy, the State generally has a wide margin of appreciation, or, in the more domestic terms used by the Divisional Court in Meade v Brighton Corporation [1968] 67 LGR 289 (a case concerning a gaming machine permit under the Betting, Gaming and Lotteries Act 1963): “The discretion in the local authority is about as wide as it could be”. The court will be cautious before interfering with the exercise of such a discretion.
75. However, wide as a licensing authority’s discretion might be in general, it is limited by the specific terms of the scheme: in the context of premises licence applications under the 2003 Act – whether for new licences under section 17, or for variations under section 34, or for review under section 51 – a licensing authority does not simply have a open discretion, even when its decision making function is brought into play.
76. The principle restrictions on an authority’s discretion are, for the purposes of this appeal, two-fold.
77. First, an application to vary never triggers a general review of the licence: the scope of the review of the licence is limited. “Relevant representations”, which trigger the review, must be (i) confined to the subject matter of the variation (paragraph 9.4 of the section 182 Guidance), and (ii) “about the likely effect of the grant of the application on the promotion of the licensing objectives”. That focus reflects the fact that, where those representations are made, they trigger an enquiry by the authority into the effect the proposed variation may have upon the promotion of the licensing objectives (and, to that extent, I respectfully agree with the authors of *Alcohol and Entertainment Licensing Law* by Manchester, Poppleston & Allen (2nd Edition) (2008), at paragraph 6.9.4, to that effect). An application for a new licence or for a review is similarly limited, although the precise statutory restrictions are different, tailored to the nature of the particular application.
78. Second, in the light of the conclusions of that enquiry, the authority must determine the application to vary. However, the scheme again does not give the authority an open discretion to do whatever it likes. Indeed, the provisions are prescriptive. Section 32(5) requires the authority to consider whether, for the promotion of the licensing objectives, it is necessary to reject the application (in whole or in part) and/or to modify the conditions of the licence to accommodate the variation in the context of the licence as a whole. There is a discretion here, insofar as the authority only has to act if it considers such rejection or modification is necessary: but, if and insofar as it does consider that, then it has both a power and an obligation to reject the application or modify the licence conditions accordingly. The authority can do no more, and no less. Again, an application for a new licence or for a review has similar restrictions on the authority’s powers.
79. These provisions therefore effectively define and limit the extent of the authority’s powers as to how a licensing authority may respond an application to vary a licence. Its field of potential action is limited by the scope of the extant licence and the application to vary that licence; and it is limited to rejecting the application to vary (in whole or in part) and/or to modifying the conditions of the licence to accommodate the variation in the context of the licence as a whole.

80. It is here that an applicant's changing wishes or intentions may come into play. Given the power of a licensing authority to reject part of an application for variation or modify the licence conditions, it is open to an applicant (e.g. in the face of relevant representations received) to indicate to both licensing authority and responsible authorities/interested parties who have made relevant representations that (i) he does not wish to pursue part of an application and/or (ii) he is willing to agree to a modification to the licence conditions to cater for the concerns expressed.
81. Whilst that may be expressed, as in this case, as an "amendment" to the application to vary, in my view it does not amount to a formal amendment to his application; but the licensing authority is bound to take those views of the licensee into account in exercising its discretion as to appropriate steps it might take in deciding the application in its original form. An authority would not usually consider it necessary to consider further any part of the application which the applicant no longer wishes to pursue - although, on particular facts, it may do so if, for example, the part abandoned cannot be properly be severed from other aspects of the licence. The authority would also wish to consider, with the responsible authorities/interested parties, whether the conditions to which the applicant is prepared to submit address the concerns raised in their relevant representations as to the potential impact of the proposed variation on the promotion of the licensed objectives.
82. Given the administrative nature of the authority's function, it is perfectly appropriate for the authority thus to liaise with the applicant licensee and the responsible authorities/interested parties to see whether a compromise can be reached. Where, after relevant representations are lodged, discussions between the licensing authority, the applicant and responsible authorities/interested parties who have made relevant representations lead to an agreement within the scope of the extant licence and original application to vary as to the parts of the application to be granted and the conditions upon which that grant will be made, then it is open to the authority to make a grant on those conditions; so long as it considers that the rejection of the parts agreed to be rejected and modification of the conditions agreed to be modified are necessary for the promotion of the licensing objectives. In those circumstances, the responsible authorities/interested parties might withdraw their representations (regulation 10 of the Hearing Regulations), or the parties may agree that a hearing is unnecessary and the authority may dispense with a hearing if it agrees that it is unnecessary (section 35(3)(a), and regulation 9 of the Hearing Regulations)
83. For the reasons already explored, given the decision making power granted to it by Parliament, the administrative nature of that power and the unique position an authority is in to make the relevant judgments, subject to any restrictions expressly imposed by the terms of the statutory scheme itself, the discretion of a licensing authority is necessarily wide, and the exercise of such a discretion with which this court should be cautious of interfering. Whilst the pre-hearing procedure is detailed and prescriptive, and does not have the equivalent of regulation 21 of the Hearing Regulations (which expressly gives the authority power over its own procedure), that discretion applies to the procedure the licensing committee adopts pre-hearing, subject to the procedure adopted (i) complying with the procedural requirements of the scheme, and (ii) being "fair" and directed to promoting the licensing objectives in section 4. That was illustrated in Corporation of the Hall of Arts and Sciences, in which, in addition to the mandated advertisement of the application to vary, the

authority had a practice of notifying directly businesses and residents in the immediate vicinity of the relevant premises. “Fair” here has to be seen in the context that the authority is performing an administrative function: it is not acting in a judicial or quasi-judicial capacity (see Hope and Glory Public House at [41] per Toulson LJ). If the licensing committee stray outside that wide discretion, and adopt a procedure which is irrational or otherwise unlawful, then the resulting decision may be open to challenge by way of appeal or judicial review (see Hope and Glory Public House at [51]-[52] per Toulson LJ; and Corporation of the Hall of Arts and Sciences at [39] per Stanley Burnton LJ).

84. In conclusion, it is to that extent, but only to that extent, that an applicant may notify “amendments” to the parts of the application he wishes to pursue, and the conditions he is prepared to accept to enable the variation to be granted. However, the licensing authority in the form of the licensing committee or sub-committee must eventually itself come to a judgment as to whether the promotion of the licensing objectives requires the rejection of the whole or part of the original application as made, and, insofar as it does not, whether it requires any modification to the licence conditions. In making that judgment, it cannot however extend the scope of the licence.
85. If the variation is granted in terms that are unacceptable to an interested party, then there are a number of routes of challenge. First, of course, as in this case, an appeal can be made to the Magistrates Court. Second, if the procedure adopted by the authority is irrational or otherwise unlawful, then the resulting decision would be open to challenge by way of judicial review (see paragraph 83 above). Third, if the variation results in unexpected adverse effects on the licensing objectives, then an interested party can seek a review of the licence under section 51.
86. Let me deal finally with two specific submissions made by Mr Phillips.
87. First, he submitted that, on an application to vary, no change to the licence could be made that might reasonably be considered capable of having an adverse impact on the promotion of the licensing objectives, unless that change was made clear in the initial application as advertised; and, where such a change to an application to vary is contemplated, an applicant is bound to start again by resubmitting the application, with the consequent new obligations for advertisement and new rights for responsible authorities and interested parties to make representations.
88. I do not agree with that proposition – or, at least, the full extent of it – which, with respect, does not seem to me to be in line with the nature of the scheme when looked at as a whole.
89. The proposition might have more force if the function of the decision maker were judicial, rather than administrative. However, relevant representations trigger an administrative investigation by the licensing authority into the effect the proposed changes will make to the promotion of the licensing objectives: that decision making process having been triggered, it is then for the authority to weigh the various strands of public interest and determine whether the promotion of those objectives requires the rejection of any part of the application or modification of the licence conditions.
90. It is true that the investigation is restricted to the matters raised in the representations, but the important point is that the action the authority can take is restricted by the

scheme to rejecting the application in whole or part, or modifying the licence conditions.

91. In respect of the former, insofar as the authority rejects the application to vary, that will have the effect of leaving the licence, to that extent, unaltered: the authority cannot extend the scope of the licence beyond that of the extant licence and the variation proposed.
92. With regard to modification of the licence conditions, the statutory scheme gives the authority full scope to add, subtract or vary any conditions to accommodate the variation in the context of the licence as a whole. The scheme requires the authority to modify the conditions if and to the extent that it considers modifications necessary to promote the licensing objectives. "Promoting the licensing objectives", as I have described, requires the balancing of various strands of public interest; and, in performing that balance, it is possible, of not inevitable, that one of the objectives may be demoted in order to benefit another. Where that is so, the scheme simply does not require further consultation of local residents and other interested parties in the form of re-advertisement with a fresh opportunity to make new relevant representations. It does not do so because:
 - i) The authority is already charged with the task of balancing the strands of public interest involved, on the basis of such evidence as it has collected. In many cases, it will consider that it is in a position to make that decision without formally consulting interested parties and local residents again. If it is not – e.g. if it considers that the procedure will be unfair to local residents without such further consultation – then it is open to the authority to require the applicant to start again with a fresh application. However, absent a proposed change extending the scope of the licence, that would be an exceptional case.
 - ii) If the authority were required to start the process over again, simply because the exercise of its statutory powers might adversely affect one strand of the public interest involved, that would seriously compromise the dialogue between the authority, applicant and responsible authorities/interested parties who have made representations, which is encouraged as an inherent part of the scheme.
93. Responsible authorities and interested parties can take considerable comfort from the fact that the authority cannot extend the scope of the licence beyond that of the extant licence and variation proposed. Furthermore, where such authorities and parties have made relevant representations, they are able to play a full part in both the pre-hearing dialogue (designed to come to a result that is satisfactory to the applicant and responsible authorities/interested parties) and the hearing itself. If they are dissatisfied with the result of the hearing in practice, they are able to appeal or challenge the result by way of judicial review or seek a review of the licence. If the manner in which the licensed business is operated causes (e.g.) a private nuisance, then they can bring a private law claim. But, in licensing terms, their rights and interests are not paramount: they are just one factor which the authority must take into account, when determining an application to vary. For the reasons I have given, in exercising a licensing function, the focus is on the public interest.

94. For those reasons, I do not accept Mr Phillips' proposition.
95. Nor do I find Mr Phillips' reliance on Article 8 effective. Article 8 concerns an individual's right to a private life. For the reasons I have just given, there are considerable safeguards for that right in the scheme, and in the private law. There is no arguable breach of Article 8 simply because the scheme does not provide for re-advertisement of any proposed change of licence conditions which might arguably affect either the licensing objectives or the private life of a specific individual. Far from being "transparently at odds" with local residents' right to private life under Article 8, I do not consider that Article 8 has any role to play in the issue in this appeal.
96. It seems to me that the principles that I have outlined are not only clear from the terms of the regulatory scheme, but are also practical in their application. Whilst I have been involved in an exercise in the proper construction of the terms of the statutory scheme, that comes as some comfort – particularly as it must have been Parliament's intention to impose a regulatory scheme that is workable. On the evidence before me, they also appear to be the principles which, in practice, licensing authorities have in substance generally applied since the advent of the new scheme in 2005. That may explain why the issue in this appeal has not until now ever come before the courts.

Application of the Principles to this Appeal

97. I now turn to apply those principles to the appeal before me.
98. The Appellant's complaint is that the initial application to vary the licence did not indicate that the V2 doorway would be used as the only means of public access to and egress from the new self-contained basement bar. In that application, the proposal was to refurbish the Richmond Street doorway and stairway to or from the basement, and use that to get the public to and from the basement. That change to the application was not the subject of advertisement, and consequently the Appellant and other local residents were denied the opportunity to make representations in respect of the use of the V2 doorway for that purpose. That amendment, it was submitted, required the licence holder applicant to start the variation process again – at least so far as advertisement and period for representations are concerned. It was that failure which rendered the decision of the authority unlawful.
99. For the reasons I have given above, the applicant could not formally amend his application, once it had been submitted; but the Council, in determining whether it was appropriate to reject the whole or part of the application, or modify the licence conditions to accommodate the proposal, was entitled to take into account the applicant's changed wishes and intentions. In the face of opposition to both the extension of hours and the refurbishment of the Richmond Street doorway and stairway to enable public access to the basement bar by that route, the Council was entitled to conclude that they could and should properly reject those parts of the application.
100. The real issue, of course, is whether the Council was entitled to grant the variation, on the basis of the original application, with the V2 doorway being the sole public means of access to the newly-discrete basement bar, without requiring the applicant to submit a new application or at least requiring the new proposal to be re-advertised

with a fresh period for responsible authorities and interested parties to lodge relevant representations.

101. As I have indicated, the extent to which the V2 doorway was in fact used for public access to the premises prior to the application to vary is controversial. As I understand it, there was some evidence that, for a short period, the V2 doorway had been used for public access to the basement; but the evidence suggests that the doorway was not used a great deal, and Mr Cooper (the premises licence's designated premises supervisor: see paragraph 19 above) appears to confirm that the V2 door was used as a fire door but not used as a (public) entrance, access to the basement being through the main doors of Via and internal stairs (paragraph 2 of an unsigned and undated statement used at the hearing before the Deputy District Judge).
102. However, as the parties properly conceded before the Deputy District Judge, in respect of the application to vary, what mattered was not the use to which the V2 doorway had actually been put, but the use of it that was lawful under the original licence. In my judgment, the licence as issued in 2005 undoubtedly allowed the V2 doorway to be used for public access to the premises.
103. Mr Phillips conceded before me that the 2005 licence enabled that doorway to be used for public access to the basement, in the sense that the licence did not limit the use to which that entrance/exit could be put and, therefore, if that doorway were used for public access to the basement, a prosecution under section 136 for breach would fail. He submitted that it would fail merely because of the high burden of proof required in criminal proceedings; but, in my view, there was clearly no restriction on the use of that entrance/exit to the premises in the 2005 licence.
104. I accept that, by virtue of regulation 23(3)(b) and (c) (paragraph 21 above), a licence plan should identify the location of points of access to and egress from the premises on the one hand, and, if different, identify discretely the location of escape routes from the premises; but the marking "FD" in the internal doors at the foot of the V2 stairs cannot indicate that the route from the basement to the V2 doorway was merely an escape route and no more. Many internal doors are marked on the plans with "FD" and, whatever that means (and, of course, it might stand for "Fire Door": see also paragraph 2 of Mr Cooper's statement), it does not appear to identify mere escape routes. Even on the final plan, from the face of which it is clear that the applicant proposed to use the V2 doorway and stairs as the only means of public access to the basement, the doors at the foot of the stairway are marked "FD".
105. In the 2005 licence, in my judgment, there were no restrictions on the use of doorways between the premises and the streets, front and back, either in the conditions or on the face of the plans that form part of the licence. In those circumstances, any of the doorways (including the V2 doorway and the Richmond Street doorway) could be used for public access to and egress from the premises. If the means of access through a particular door caused an adverse impact on the licensing objectives, it would have been open to either a responsible authority or an interested party to have made an application for review under section 51.
106. Mr Phillips relied upon the well-known passage from the judgment of Scott-Baker LJ in Crawley Borough Council v Stuart Attenborough [2006] EWHC 1278 (Admin) at [6]-[7], to the effect that licence conditions must be enforceable, and consequently

sufficiently clear for that purpose; but, in my judgment, the scope of the licence and conditions in this case, so far as the allowable use of the V2 entrance is concerned, were manifestly clear.

107. The ability of the licence holder lawfully to use the V2 doorway means of public access to and egress from the basement was not lost, even if the licence holder did not in fact use that doorway in that manner either very much or at all or to the extent that he may use it in the future. Nor, in my view, was it lost merely by the separation of the ground floor and basement bars into distinct units. That separation, of course, had an inevitable effect on how the business would operate. The final proposal, which involved the V2 doorway being used as the sole entrance/exit for the new discrete basement bar, inevitably changed the degree of use of the V2 doorway by (i) reducing the number of people who might use the V2 entrance/exit, from 620 (the total capacity of the premises) to 240 (the capacity of the basement alone), whilst (ii) meaning that all of those who used the basement bar would have to use the V2 entrance/exit. That was a change of business which resulted in a change of intensity of use of the doorway – in effect, reducing the possible maximum usage of that doorway whilst substantially increasing the likely use – but that did not require a variation to the licence at all.
108. That applied equally to the door into Richmond Street at the north east corner of the premises: there were no restrictions on the use of that doorway either, and, under the 2005 licence, the licence holder could have used that doorway for public access – although it may have been likely that, had they done so, there would have been an application for review by the Environmental Health Department, if not the occupiers of residential accommodation that abutted Richmond Street. However:
 - i) The application to vary included an application to change the structure and layout of the building to this extent, namely the “full refurbishment of the rear staircase... to provide improved and independent public access to this basement area from the rear of the building...”. That appears, not from the plan – the plan was unaltered from that attached to the 2005 licence – but from the schedule of proposed alterations (see paragraph 48 above). Insofar as that involved a change to the structure or lay out of the premises, it may have required a variation to the licence (and/or approval under Condition 60 of the licence conditions: see paragraph 42 above).
 - ii) In any event, it was open to the applicant, in the light of opposition to the use of the Richmond Street doorway, to indicate that it would not use that doorway for the public, but would use the V2 doorway. No structural or layout changes were requested (or, as I understand it, required) for use of the V2 stairs and doorway for the purposes of access to the basement. The only change marked on the final plans, and the only change intended, was substantially greater use of that route for public access to the premises than had previously occurred. However, that was not required to be put into the plan, and that use already fell within the boundaries of the extant licence. Increased use of a means of egress and ingress in fact, where that use is already lawful in terms of the licence, does not require a variation of the licence.
109. In those circumstances, TCG Bars did not need a variation in their licence to enable them lawfully to use the V2 doorway for public access to the basement. After 12

September 2011, the only variation proposed by TCG Bars related to the internal structure and layout of the premises, in respect of which no representations were made and of which neither Mr Taylor nor any other person making relevant representations made any complaint.

110. However, the TCG Bars nevertheless had to satisfy the Council that queues would be managed effectively (paragraph CD1 of the Council's Statement of Licensing Policy: see paragraph 56 above). It was open to the Council, in the light of the likely future use in fact of the V2 doorway as a public entrance/exit to modify the conditions of the licence, by imposing an additional condition relating to queuing. It can properly be assumed that that condition was imposed because the Council considered it necessary for the promotion of the licensing objectives relating to the prevention of disorder and public nuisance.
111. For those reasons, in my judgment, the Council's Licensing Sub-Committee was lawfully entitled (i) to proceed with the application to vary the licence; (ii) to take into account the applicant's express wish not to proceed with parts of the application, namely the extension of hours and refurbishment of the Richmond Street entrance and stairway for use by the public; (iii) to determine, in accordance with those wishes, to reject those parts of the application as not being necessary for the promotion of the licensing objectives; (iv) to determine that, if the remaining parts of the application were to proceed, a new condition relating to queuing outside the V2 entrance was necessary for the promotion of those objectives; and (v) to grant the variation on that basis. That is the substance of the Sub-Committee's decision in this application.

Conclusion

112. For those reasons, in my judgment, the judge was correct in ruling that it was lawful for the Council to proceed to determine the application to vary in accordance with section 35 as it did, even though the applicant had notified the change of scheme whereby the public access to and egress from the basement would be by way of the V2 doorway and not the Richmond Street doorway. The result was not outwith the scope of the existing licence and application to vary as seen together.
113. I would consequently answer the question posed by the Deputy District Judge in the affirmative, and I dismiss this appeal accordingly.

Licence & Appeal History

Application	Details of Application	Decision	Date Determined
05/10267/LIPC	Conversion Application	Granted under Delegated Authority	03.10.2005
06/00659/LIPV	Variation Application	Refused by Licensing Sub-Committee	23.03.2006
06/00692/LIPDPS	Application to Vary the Designated Premises Supervisor	Granted under Delegated Authority	03.02.2006
06/11045/LIPDPS	Application to Vary the Designated Premises Supervisor	Granted under Delegated Authority	08.11.2006
06/07411/WCCMAP	New Premises Application	Granted under Delegated Authority	07.03.2007
07/11192/LIPV	Variation Application	Granted by Licensing Sub-Committee	17.01.2007
08/03918/LIPDPS	Application to Vary the Designated Premises Supervisor	Granted under Delegated Authority	03.06.2008
11/12582/LIPV	Variation Application	Refused by Licensing Sub-Committee	15.03.2012
13/02093/LIPVM	Minor Variation Application	Granted under Delegated Authority	15.04.2013
13/09468/LIPDPS	Application to Vary the Designated Premises Supervisor	Granted under Delegated Authority	20.01.2014
15/00234/LIPT	Transfer Application	Granted under Delegated Authority	19.01.2015
15/09736/LIPT	Transfer Application	Granted under Delegated Authority	15.12.2015
16/13174/LIPT	Transfer Application	Granted under Delegated Authority	20.02.2017

16/13620/LIPV	Variation Application	Application Withdrawn	02.03.2017
17/01144/LIPDPS	Application to Vary the Designated Premises Supervisor	Granted under Delegated Authority	20.02.2017

Application	Details of Application	Decision	Date Determined
12/04793/LITENP	Temporary Event Notice	Notice Granted	15.06.2012
12/05043/LITENP	Temporary Event Notice	Notice Granted	20.07.2012
12/01858/LITENP	Temporary Event Notice	Notice Granted	14.03.2012
12/03499/LITENP	Temporary Event Notice	Refused	01.05.2012
12/11308/LITENP	Temporary Event Notice	Notice Granted	03.01.2013
12/11314/LITENP	Temporary Event Notice	Notice Granted	07.01.2013
13/01404/LITENP	Temporary Event Notice	Notice Granted	07.03.2013
13/02684/LITENP	Temporary Event Notice	Notice Granted	24.04.2013

There is no appeal history

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application to vary a premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers appropriate for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as appropriate for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

Conditions: On Current Licence -

Mandatory:

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

- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
- 7. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;

- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
9. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

Mandatory Film Condition to be added.

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 reproducing the effect of conditions subject to which the relevant existing licences have effect

Conditions relating to regulated entertainment

Applicant proposed condition 10 be deleted

10. This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.

Applicant proposed condition 11 be deleted, replaced by proposed condition 54

11. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).

Applicant proposed condition 12 be deleted

12. Notwithstanding the provisions of Rule of Management number 6, the premises may be kept open for the purposes of this licence from 11pm on each of the days Sunday to Saturday to 3.30am on the day following.

Applicant proposed condition 13 be deleted, replaced by proposed condition 47

13. All entrance and exit doors shall be kept closed except when in use for immediate entrance and exit.

Duplicate of proposed condition 66

14. An attendant shall be on duty in the vicinity of the cloakroom during the whole time that it is in use.

Applicant proposed condition 15 be deleted, replaced by proposed condition 74 & 75

15. That the applicant will use best endeavours to ensure that patrons leave the premises via the Jermyn Street exit.

Applicant proposed condition 16 be deleted, replaced by proposed condition 74 & 75

16. When both parts of the premises are in use for the same private function, only the Jermyn Street exit will be used, except in an emergency when both exit routes will be available to the patrons.

Applicant proposed condition 17 be deleted, replaced by proposed condition 74 & 75

17. When the premises are open solely to the public, only the Jermyn Street exit will be used, except in an emergency when both exit routes will be available to patrons.

Applicant proposed condition 18 be deleted

18. That the applicant will use best endeavours to ensure that the taxi and minicab companies collect and deliver patrons from the club from the Jermyn Street exit of the premises.

Applicant proposed condition 19 be deleted, replaced by proposed condition 75

19. That the applicants shall use reasonable endeavours to ensure that customers do not cause any nuisance in Ormond Yard.

Applicant proposed condition 20 be deleted

20. That the sound limiting device installed at the premises shall be set and maintained at a level to be decided upon by the Environmental Health Officer.

Applicant proposed condition 21 be deleted, replaced by proposed condition 76

21. A noise limiting device 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 Community Protection Department so as to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of 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.

Applicant proposed condition 22 be deleted

22. 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.

Applicant proposed condition 23 be deleted

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

Applicant proposed condition 24 be deleted

24. No speakers shall be located in the entrance lobby or staircase area.

Applicant proposed condition 25 be deleted, replaced by proposed condition 76

25. Upon a request being made by local residents, the licensee shall provide such residents with telephone numbers to enable them to contact the premises, the management and the licensee.

Applicant proposed condition 26 be deleted

26. The provision of music and dancing on the ground floor must remain ancillary to A3 restaurant use.

Applicant proposed condition 27 be deleted, replaced by proposed condition 77

27. The licensee will use a designated cab/taxi company to collect patrons from Jermyn Street and encourage patrons not to use illegal cabs by displaying such notices.

Applicant proposed condition 28 be deleted, replaced by proposed condition 75

28. The licensee to use his best endeavours to encourage patrons and/or motor vehicles not to congregate or cause a nuisance on the public highway outside the premises or in the vicinity.

Applicant proposed condition 29 be deleted, replaced by proposed condition 75

29. The licensee to use his best endeavours to ensure that no queuing or gathering of patrons or patrons' motor vehicles will be permitted in Ormond Yard.

Applicant proposed condition 30 be deleted

30. Details of an adequate and dedicated refuse storage area are sent to Westminster City Council for approval within 28 days of the grant of any licence.

Applicant proposed condition 31 be deleted, replaced by proposed condition 78

31. The licensee to use the Jermyn Street address on all literature that advertises the public entertainment which will take place at the premises.

Duplicate of proposed condition 57

32. The number of persons accommodated at any one time (excluding staff) shall not exceed the following:- Basement - 100, Ground Floor – 135.

Conditions relating to the Sale of Alcohol:

Applicant proposed condition 33 be deleted

33. Intoxicating liquor may only be sold or supplied to persons who have paid a minimum admission fee of £5.00 or persons who are dining at the premises at not less than £10.00 per head. Such fees not to be credited against consumables.

Applicant proposed condition 34 be deleted, replaced by proposed condition 58

34. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.

Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified enactments:

Applicant proposed condition 35 be deleted, replaced by proposed condition 55 & 56

35. Alcohol shall not be sold or supplied except during permitted hours.
- (a) Subject to the following paragraphs, the permitted hours on weekdays (Monday to Saturday) shall commence at 10.00 (12.00 on Christmas Day and Good Friday) and extend until 03.00 on the morning following, except that -
- (i) the permitted hours shall end at 00.00 midnight on any day on which music and dancing is not provided after midnight; and

- (ii) on any day that music and dancing end between 00.00 midnight and 03.00, the permitted hours shall end when the music and dancing end.
- (b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect-
 - (i) with the substitution of references to 04.00 for references to 03.00.
- (c) Except on Sundays immediately before bank holidays (apart from Easter Sunday), the permitted hours on Sundays shall commence at 12.00 and extend until 00.30 on the morning, except that-
 - (i) the permitted hours shall end at 00.00 midnight on any Sunday on which music and dancing is not provided after midnight;
 - (ii) where music and dancing end between 00.00 midnight on any Sunday and 00.30, the permitted hours on that Sunday shall end when the music and dancing end.
- (d) On Sundays immediately before bank holidays (other than Easter Sunday), the permitted hours shall commence at 12.00 and extend until 03.00 on the morning, except that-
 - (i) the permitted hours shall end at 00.00 midnight on any Sunday on which music and dancing is not provided after 00.00 midnight;
 - (ii) where music and dancing end between 00.00 midnight on any Sunday and 03.00, the permitted hours on that Sunday shall end when the music and dancing end.
- (e) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.
- (f) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00.00 on New Year's Eve.

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the

Secretary of State or an authorised mess of members of her Majesty's naval, military or air forces;

- (g) the taking of alcohol from the premises by a person residing there;
- (h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

Applicant proposed condition 36 be deleted

36. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:
- (a) He is the child of the holder of the premises licence.
 - (b) He resides in the premises, but is not employed there.
 - (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
 - (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

Applicant proposed condition 37 be deleted

37. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):
- (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
 - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
 - (c) to take all other reasonable precautions for the safety of the children.

Applicant proposed condition 38 be deleted, replaced by proposed condition 54

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

Annex 2 – Conditions consistent with the operating Schedule

Applicant proposed condition 39 be deleted, replaced by proposed condition 79

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

Duplicate of proposed condition 80

40. 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.

Duplicate of proposed condition 63

41. There shall be a personal licence holder on duty on the premises every Friday and Saturday night from 22:00 until closed, when the sub-basement 'club area' is open.

Duplicate of proposed condition 84

42. All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility armbands and will display the SIA badges prominently.

Applicant proposed condition 43 be deleted, replaced by proposed condition 68

43. All persons entering the premises after 23:00 for the purpose of attending the sub-basement 'club area' shall be searched by an SIA trained member of staff using a 'wand' and monitored by the premises CCTV system.

Duplicate of proposed condition 86

44. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
- (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system or searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.

Applicant proposed condition 45 be deleted

45. All drinking containers used within the basement area of the venue shall be polycarbonate. All glass bottles to be decanted into polycarbonate glassware carafes, with the exception of champagne or bottles of spirits with a minimum size of 70cl by waiter/waitress service to tables. Staff will clear empty champagne and spirit bottles promptly.

Annex 3 – Conditions attached after a hearing by the licensing authority

None

Proposed conditions by applicant:

46. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
47. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
48. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
49. 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.
50. 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.
51. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
52. Any special effects or mechanical installations shall be arranged, operated and stored so as to minimise any risk to the safety of those using the premises. The

following special effects will only be used on 10 days prior notice being given to the licensing authority where consent has not previously been given:

- dry ice and cryogenic fog
- smoke machines and fog generators
- pyrotechnics including fireworks
- firearms
- lasers
- explosives and highly flammable substances.
- real flame.
- strobe lighting.

53. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased. NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
54. The premises may remain open for regulated entertainment, the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
55. On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00.
56. The number of persons accommodated at any one time (excluding staff) shall not exceed the following:
- Sub-Basement – 100
Basement– 135.
57. 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.
58. The sale of alcohol must be ancillary to the use of the premises for music and dancing and/or substantial refreshment.
59. The supply of alcohol in the Basement Restaurant area, as marked on the licensing plans, shall be to persons seated taking a table meal there and for consumption by such persons as ancillary to their meal. The supply of alcohol shall be by waiter or waitress service only.
60. A minimum number of 50 seats shall be maintained in the Sub-Basement area at all times of operation.

61. A minimum number of 70 seats shall be maintained in the Basement area at all times of operation.
62. There shall be a personal licence holder on duty on the premises from 22:00 until close, when the sub-basement is open to patrons.
63. The reception lobby shall be manned by staff whenever the premises is open for trade and patrons shall be greeted by a member of staff when entering the premises.
64. There shall be waiter or waitress service available throughout the premises at all times the floors are open and trading
65. An attendant shall be on duty in the vicinity of the cloakroom during the whole time that the premises is open and trading
66. Admission to the premises by patrons shall be through the Jermyn Street entrance lobby area only
67.
 - (i) When the premises are open all customers entering the premises after 23:00 will have their ID and/or membership card scanned on entry, or be subject to a biometric scanning system (when fingerprint scanning will be required for all customers who have previously shown identification at the premises).
 - (iv) All customers entering shall have their facial image captured by the ID Scanner camera with the exception of persons who enter using finger print scanning and have provided a recent facial image captured by the ID Scanner
 - (v) The above requirement is subject to the following exception, namely that a maximum number of 25 guests per night may be admitted at the Managers discretion without necessarily ID being scanned and recorded. The admission of such guests however shall be in accordance with the following procedure
 - a. The Police shall approve in writing the names of those managers (Police Approved Managers) who are authorised to sign in such guests, such approval shall not be unreasonably withheld. There shall be a maximum of three Police Approved Managers.
 - b. A legible record (the Signing in Sheet) of these guests' names shall be retained on the premises for inspection by the licensing authority and Police for a period of 31 days. The name of the Police Approved Manager authorising the admission will also be recorded by that Manager.
 - c. Guests shall be required to produce some form of ID such as a bank card (or emailed electronic photo ID) and an ID scan entry with a live photo shall be created.

- d. Where there are appropriate reasons for a guest not to be able to produce ID and be subject to ID scan, the Police Approved Manager may nevertheless permit entry. In such circumstances he shall also record the reasons for this in the Signing in Sheet
 - (iii) Notwithstanding (i) and (iii) above, patrons who are attending a pre-booked private event at the premises do not need to have their ID scanned on entry and instead a written guest list shall be held at reception for the event, and will be retained for 31 days after the event for inspection by the police and responsible authorities upon request"
68. In relation to any membership scheme at the premises, no person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission.
69. A list of the names and addresses of members of the club shall be kept on the premises at all times together with a record showing the names and dates of attendance of any guests introduced by members. Both the list and the record shall be produced on demand for inspection by the police or an authorised officer of the Council
70. There shall be no entry or re-entry (save for existing customers who have left for smoking) to the premises after 02:00 hours.
71. When the sub basement is open to patrons there will be a minimum of 1 SIA at the premises from 6pm. From 11pm there will be a minimum of 2 SIA at the premises.
72. The internal glass doors on the ground floor shall be kept closed after **(21:00)** hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
73. Patrons shall not enter or leave the premises from / by Ormond Yard, except in the event of an emergency.
74. Any patrons that use Ormond Yard to gain access, smoke or leave the premises (whether by vehicle or on foot) shall be refused entry or subsequent re-entry to the premises.
75. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

76. 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
77. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services. It will be a condition of any agreement that patrons will not be collected from Ormond Yard
78. The licence holder to use the Jermyn Street address on all literature relating to the premises.
79. 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.
80. 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.
81. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area on Jermyn Street.
82. The premises licence holder shall ensure that any patrons 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
83. 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.
84. All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility armbands and will display the SIA badges prominently.
85. Staff shall clear all empty bottles promptly from any tables. Customers shall not be permitted to leave their table carrying any such glass bottles or drink directly from the bottle

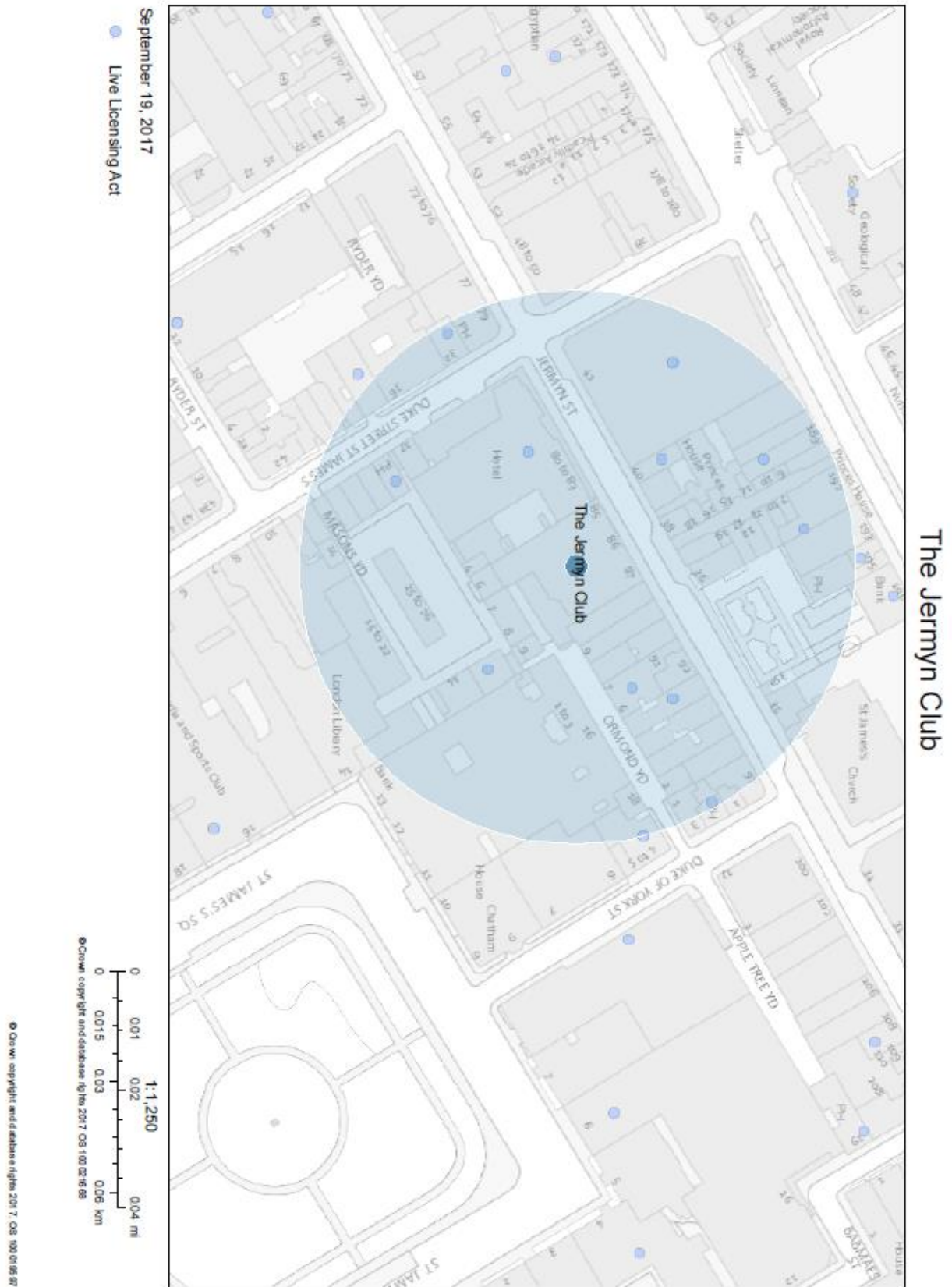
86. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
- a. all crimes reported to the venue
 - b. all ejections of patrons
 - c. any complaints received
 - d. any incidents of disorder
 - e. all seizures of drugs or offensive weapons
 - f. any faults in the CCTV system or searching equipment or scanning equipment
 - g. any refusal of the sale of alcohol
 - h. any visit by a relevant authority or emergency service.

Police propose condition 86 be amended to:

- An incident log shall be kept at the premises and shall be completed within 24 hours, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
- a. all crimes reported to the venue
 - b. all ejections of patrons
 - c. any complaints received
 - d. any incidents of disorder
 - e. all seizures of drugs or offensive weapons
 - f. any faults in the CCTV system or searching equipment or scanning equipment
 - g. any refusal of the sale of alcohol
 - h. any visit by a relevant authority or emergency service
87. No unauthorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
88. 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.
89. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 07.00 on the following day.
90. With the exception of bakery, fish, meat, dairy and fruit and vegetable deliveries to the premises shall take place between 07.00 and 23.00 on the following day.
91. 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

92. Notices shall be prominently displayed at the Jermyn Street exit requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
93. 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.
94. 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
95. Prior to the licence taking effect, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the LFEPA, Environmental Health Consultation Team, the Police and the Licensing Authority.

Residential Map and List of Premises in the Vicinity



Resident Count: 25

Premises within 75 metres of: The Jermyn Club, 91 Jermyn Street.

p / n	Name of Premises	Premises Address	Licensed Hours
7720	The Cavendish Hotel	81-84 Jermyn Street London SW1Y 6JF	Monday to Sunday 00:00 to 00:00
10922	The Scotch Of St James	Basement And Ground Floor 13 Mason's Yard London SW1Y 6BU	Monday and Saturday 09:00 to 05:30 Sunday 09:00 03:30
29707	Tramp	40 Jermyn Street London SW1Y 6DN	Monday to Sunday 09:00 05:00
7734	Paxton & Whitfield Ltd	Basement And Ground Floor 93 Jermyn Street London SW1Y 6JE	Monday to Saturday 10:00 23:30
38532	The Chequers Public House	16 Duke Street St James's London SW1Y 6DB	Monday to Saturday 10:00 to 23:30 Sunday 12:00 23:00
53161	189 Piccadilly	189 Piccadilly London W1J 9ES	Monday to Saturday 10:00 to 01:30 Sunday 12:00 01:30
69383	Fortnum & Mason	41 Jermyn Street London SW1Y 6DN	Monday to Sunday 08:00 01:30
53315	Barbecoa	194 Piccadilly London W1J 9EX	Monday to Sunday 07:00 00:30
38555	Walkers Of St James	32A Duke Street St James's London SW1Y 6DF	Monday to Saturday 10:00 00:30
29881	Red Lion Public House	2 Duke Of York Street London SW1Y 6JP	Monday to Saturday 10:00 to 23:30 Sunday 12:00 23:00

Additional documents submitted by St James' Conservation Trust

THE CITY OF WESTMINSTER LICENSING SUB-COMMITTEE

Application Ref: 17/08750/LIPV

In the matter of an application to vary a premises licence relating to:

"THE JERMYN CLUB"

91 Jermyn Street,
London. SW1Y 6JT

SUBMISSIONS OF THE
ST JAMES'S CONSERVATION TRUST
(*"The Trust"*)

v.25.917

St James's Conservation Trust

1. The St James's Conservation Trust (*"the Trust"*) was established in 1998 by local people who live and work in the St James's area of London. The Trust's aims to:
 - Promote high standards of planning and architecture in the area;
 - Secure the preservation, protection, development and improvement of local features of historic and public interest;
 - Maintain the area's traditional character and integrity;
 - Inform the public of St James's unique historical and architectural heritage.
2. The Trust works closely with the City of Westminster and English Heritage to bring attention to specific, locally relevant planning, design and licensing issues that will impact the extraordinary area of St James's.

3. St James's has one of the country's highest densities of listed buildings of historic or architectural importance. It is one of the most interesting, eclectic areas of London and includes the ancient Palace and the historic 17th century St. James's grid. However, the area is witnessing a period of great change. The Trust, being a local, expert resource, plays a crucial role in monitoring and giving guidance regarding the preservation and development of such an architecturally important area and trying to prevent some of the damage that has been done in the past from being repeated.
4. In resisting inappropriate new planning, development and licensing proposals the Trust always looks to initiate practical discussions with major landowners such as the Crown Estate as well as any independent developers, architects and operators. The Trust's approach is not obstructionist, instead it welcomes proposals that would enhance the area in the modern age without undermining St James's unique character.
5. The 1999 study "Conserving Historic St. James's"¹ attributed the area's special character partly to its mixed specialist uses and activities. It found these to be under threat from the growth in licensed food and drink uses, connected with what it described as a "seemingly unstoppable increase" in the number of food and drink uses throughout London generally and the spread of such uses westwards from the West End Stress Area. The report and its recommendations were warmly welcomed by the City Council.
6. In Westminster generally the growth in entertainment uses has been associated with increases in crime and disorder, anti-social behaviour, noise and pressure on Council services. Nightclub type premises are the most problematic. The City Council's Statement of Licensing Policy (2016) observes:²

2.5.13 A study of crime reports in licensed premises in Westminster from April 2009 to March 2010, indicated on average that for every 10 restaurants there were just 3 violent incidents in the year. This compares to 8 incidents for every 10 pubs/pub restaurants and 37 for every 10 nightclubs during the year."

¹ <https://www.stjamestrust.org.uk/conserving-historic-st-james-1999>

² At paragraph 2.5.13 at: www.westminster.gov.uk/statement-licensing-policy

7. The Trust's 2005 study "St James's A3-Food and Drink Study"³ found evidence supporting the idea that the West End Stress Area had reached a point of saturation with food and drink uses. The proportion of food and drink uses granted consent between 1990 and 2005 within St. James's was even *greater* than within the Stress Area. This was taken as evidence that policies to control the growth of these uses in the West End Stress Area were placing enormous pressures on the St. James's area, leading to a growth of licensed uses threatening its distinct, historic character. The study warned that, without effective action to regulate growth, the further proliferation of entertainment uses going forward would eradicate the remaining traditional character of St. James's.
8. In January 2016, the Trust produced a new study "St James's Review of Licensing"⁴. The report concluded that in comparison with the 1999 and 2005 there had been a proliferation of restaurant/bar premises, cafes and shops seeking licences for alcohol consumption on premises. There had also been an increase in the overall licensed opening hours.
9. However, there had also been a very welcome *decline* in nightclub premises. The current application by PLH Bars Ltd risks undermining that progress.

Summary of concerns and objectives: 91 Jermyn Street

10. London's world-renowned Jermyn Street is an inappropriate place for a new nightclub-style venue. Such a venue is likely to undermine the licensing objectives. The effect of this variation application by PLH Bars Ltd is two-fold:
 - a. To modernise the existing premises licence conditions. The Trust has no objection to that element.And,
 - b. To permit much greater flexibility in the future usage of the premises that would enable this operator, or a future one, to operate a nightclub from this sensitive location. The Trust strongly objects to any variation being granted that would permit this.

³ <https://www.stjamestrust.org.uk/st-jamess-a3-food-and-drink-study-2005/>

⁴ <https://www.stjamestrust.org.uk/wp-content/uploads/2016/04/st-jamess-review-of-licensing-05012016.pdf>

11. 91 Jermyn Street is located right opposite the historic St James's Church designed and built by Sir Christopher Wren. Jermyn Street itself is known throughout the world for its gentlemen outfitters and specialist shops showcasing "quintessentially British" products. The street is believed to host the highest density of Royal Warrant holders of any street in the UK.
12. This site has not been operating since the end of 2014. Prior to that date, it was believed to have been owned and operated for a time by Mr Dave West. It operated under various names including "Abracadabra Restaurant" and "Hey Jo Club". Since it ceased operating (following the tragic murder of Mr West by his own son in December 2014), members of the Trust have noticed, with relief, an improvement in this part of Jermyn Street late at night. Members report less noise and less disturbances since this site stopped operating as a late night licensed premises. The area is, once again, a quiet and tranquil place at night. With the assistance of the City Council, we wish to preserve it as such.
13. The new proposed "Jermyn Club" is an unknown and untested quantity. The operators stated intentions for this venue have been inconsistent and seem to change with the wind. In December 2016, the same applicants applied for an SEV licence for this venue. This was refused by the licensing sub-committee at a hearing on 2 March 2017. At the same time, they applied for a variation of their premises licence which included a request to restrict the supply of alcohol to customers on the sub-basement floor to members of a private club or their guests. Similar private members club conditions were also suggested for the basement floor after 23:00hrs. That variation application was pre-emptively withdrawn by the applicants immediately after their SEV application was refused.
14. Appearing on behalf of PLH Bars Ltd at the last hearing (as Directors) were Mr Richard Traviss and Mr David Serlui. Both are believed to have extensive track records in operating a number of London nightclubs over the years.
15. For example, Mr Serlui has been the owner and DPS of "Ghost" nightclub on the Farringdon Road. Mr Traviss has been the operator of Centro/The Den nightclub in the London Borough of Camden. Both these premises were subjected to police-led licence reviews at a time when these gentlemen were associated with their management.

16. More recently, Mr Traviss has been associated with nightclub premises at 215-217 Piccadilly, the former home of “Le Pigalle” nightclub. In April 2014, together with his brothers, he was reported as having opened “Werewolf” nightclub at the site with (the Evening Standard reported) the promise of “*evoking the Rat Pack era mixed with 80s ‘sleaze’ and futuristic holograms*”. The venue’s offering was described as a “*fusion of performance art and clubbing*”.⁵
17. That licence was in turn transferred to a Mr Tony Flynn in August 2016, who re-branded the premises as “Rah Rah Room”. This nightclub was the subject of summary review proceedings following a multiple stabbing incident in January 2017. It is not suggested that Mr Traviss had any involvement in the Rah Rah Room at the time of the summary review proceedings (we simply do not know). However, it appears from Council’s licensing register that Mr Traviss has now applied for the premises licence of 215-217 Piccadilly to be transferred back into his own name so he can operate a club once again⁶.
18. In these circumstances, and with regret, the Trust currently feels unable to accept pledges or promises from the proposed operators as to the nature of their new venue or how it will be run - unless these are cemented onto the premises licence as enforceable conditions.

Response to variation of specific conditions

19. As indicated above, the Trust welcomes the proposals to modernise the existing conditions on the premises licence and delete otiose ones. These changes have been helpfully set out by the applicant’s solicitor in a document entitled “Tracked Change of Conditions”. Save in so far as they are addressed below, the Trust has no objection to these changes.
20. However, The Trust does object to the following variations :
- a. The proposed deletion of condition 26 which currently states: “*The provision of music and dancing on the ground floor [now re-named basement floor] must remain ancillary to A3 restaurant use.*” This condition was, we suggest, intended to ensure that the (now) basement floor, with a capacity of 135 customers, operated primarily as a restaurant rather than a nightclub or stand-alone bar.

⁵ <https://www.standard.co.uk/news/london/the-former-pigalle-club-reopens-in-piccadilly-under-new-name-of-werewolf-9277310.html> . Article attached.

⁶ 17/06314/LIPT

- b. However, the applicant now proposes to replace this old condition by two unsatisfactory and diluted new ones that provide:
 - i. *"The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment."* And,
 - ii. *"The supply of alcohol in the Basement Restaurant area, as marked on the licensing plans, shall be to persons seated taking a table meal there and for consumption by such persons as ancillary to their meal. The supply of alcohol shall be by waiter or waitress service only."* (i.e. additional condition 13). Importantly, reference to the plans submitted with the licence application demonstrate that the marked "restaurant area" forms only a very small part of the large Basement area.
- c. Instead, the Trust proposes that Westminster's model condition MC38 should regulate the whole of the Basement floor. This will update the old condition 26 yet retain its proper objective. MC38 states: *"The supply of alcohol on the [Basement Floor] of 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."*

Proposed additional conditions

- 21. To further promote the licensing objectives, the Trust respectfully invites the sub-committee to impose these additional conditions on the premises licence if the variation application is granted:
 - a. The premises shall not operate as a nightclub and there shall be no dance floor.
 - b. There shall be no display of nudity or semi-nudity permitted at the premises.
 - c. No pornographic plays or films shall be performed or screened at the premises.
 - d. There shall be no admittance or re-admittance to the premises after midnight except for patrons permitted to temporarily leave the premises to smoke.
 - e. All glass bottles shall be crushed inside the premises in a suitable machine before being placed outside as waste.

- f. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 6 persons at any one time.
- g. No customers of the premises shall be permitted to obstruct the footway/pavement on Jermyn Street.
- h. From 21:00hrs at least one SIA door supervisor must be stationed outside the premises to supervise outside smokers and arriving customers. The door supervisor must remain at his/her station at least 30 minutes after the last customer leaves the premises.
- i. There shall be no entry queue permitted to form outside the premises.
- j. No deliveries to the premises shall take place between 23.00 and 08.00hrs on the following day. [Amends proposed additional condition 7]

22. Further, the Trust believes that the licensing objectives are much more likely to be promoted if "The Jermyn Club" is in fact operated as a private members club rather than a "free for all". It is to be hoped that this exclusivity will be welcomed by the new operators. However the applicant's current proposal (additional condition 16) appears to be deliberately worded to enable the operators to decide not to operate any membership scheme at the club at all (the condition begins: "*In relation to any membership scheme at the premises...*"). We therefore invite the sub-committee to impose precisely the same conditions proposed by this applicant in their last variation application (as withdrawn at the hearing in March 2017). Those conditions stated as follows:

- a. In the sub-basement, alcohol may only be sold for consumption by (a) members of a private club and their bona fide guests (not exceeding 4 guests per member) and/or (b) by persons attending a private or pre-booked event organised by a member with a guest provided in advance which will be retained for 31 days following the event and be available for inspection by the responsible authorities.
- b. In the basement, after 23.00 alcohol may only be sold for consumption by (a) members of a private club and their bona fide guests (not exceeding 4 guests per member) and/or (b) by persons attending a private or pre-booked event organised by a member with a guest-list provided in advance which will be retained for 31 days following the event and be available for inspection by the responsible authorities.

- c. No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission.
- d. A list of the names and addresses of members of the club shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guests introduced by members Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the Council.

23. Finally, in relation to the proposed designated smoking area on Jermyn Street (additional condition 11) the Applicant is requested to define where this will be and how it will be demarcated. The pavement footway on Jermyn Street is particularly narrow and unsuitable for street furniture and so the preference of the Trust would be for the designated area to be indicated on a plan rather than marked physically on the street.

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25 September 2017

EveningStandard.

News › London

The former Pigalle club reopens in Piccadilly under new name of Werewolf

Wednesday 23 April 2014 09:47



New look: from left, brothers Anthony, Richard and Reg Traviss who are behind the new club. Shirley Bassey and Sammy Davis Jr performed at the Pigalle in its heyday (Picture: Nigel Howard)

A jazz nightclub where The Beatles and Shirley Bassey once performed is due to reopen tonight with the promise of evoking the Rat Pack era mixed with 80s "sleaze" and futuristic holograms.

The venue in Piccadilly has variously been the Pigalle club, a dinner and dancing club and an adult cinema.

Now it is opening under the name Werewolf in a "fusion of performance art and clubbing" created by the Tower Hamlets-born brothers Richard, Anthony and Reg Traviss.

The 400-capacity venue also uses 3D technology to create projections similar to holograms that will feature on stage alongside performers.

Its decor has elements of cult 80s films including *Escape From New York* and *Mad Max*.

Richard Traviss, 44, who previously owned Brown's in Covent Garden, said: "A lot of people from Frank Sinatra to The Beatles have performed here, and we've always known about the site and the potential it had.

"Most nightclubs at the moment are basement-based with low ceilings.

"This has a unique layout with a mezzanine floor, high ceilings and lots of original art deco architecture, from mirrors to seating.

"The crowd we're going to look at are the people who appreciate an artistic show and a creative clubbing experience.

"There's some real elements of the Rat Pack, Art Deco and the sleazy side of the 1980s. It's going to be a unique clubbing experience, with some real highbrow stage performances."

The freehold to the building, on the eastern edge of Piccadilly, is owned by the Crown Estate.

At the former Pigalle club, which closed in 2012, some of the more colourful incidents included a stand-off between two troupes of male strippers.

One group accused the other of trying to sabotage their opening night by tipping off council officials that nudity conditions were being breached.