



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** Committee held on **Thursday 25th September, 2014**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

Members Present: Councillors Tim Mitchell (Chairman), Susie Burbridge and Shamim Talukder

1 MEMBERSHIP

There were no changes to the membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 SOHO GRIND 19 BEAK STREET

LICENSING SUB-COMMITTEE No. 1

Thursday 25 September 2014

Membership: Councillor Tim Mitchell (Chairman), Councillor Susie Burbridge and Councillor Shamim Talukder

Legal Adviser: Barry Panto
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, 10 x local residents and 2 x local residents' associations

Present: Mr Alun Thomas (Solicitor, representing the Applicant), Mr David Abrahamovich and Ms Sophie Rochegale (Applicant Company) Ms Louise Joyce and Mr Dave Nevitt (Environmental Health), Mr Richard Brown (Citizens Advice Bureau Licensing Advice Project – on behalf of local residents), Mrs Liz Callingham (representing residents of 6 Upper John Street), Mr Martin Callingham and Mr David Jobbins (representing owners of Flats 5, 12 and Penthouse at 6 Upper John Street).

Soho Grind, 19 Beak Street, W1

14/06662/LIPN

1. Sale of Alcohol: On the premises

Monday to Thursday 10:00 to 23:30
Friday to Saturday 10:00 to 00:00
Sunday 12:00 to 22:30.

Amendments to application advised at hearing:

None.

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

The Sub-Committee initially heard from Mr Thomas, representing the Applicant. He informed Members that his client was proposing to operate the premises, a small coffee shop and restaurant, within the Council's Core Hours policy, including the opening hours. The Council's model restaurant condition was also being offered except for takeaway of teas, coffees and cold food as the premises would be operated slightly differently in the morning as a coffee shop. There would be no off-sales or alcohol taken outside. It was proposed that a maximum of 4 smokers would be permitted outside the premises at any one time after 23:00 hours. His client had operated 20 days of TENs at the premises for the same hours as applied for with alcohol being ancillary to food.

Mr Thomas also referred to the fact that there had been no representation from the Police and he believed Environmental Health were content with a capacity of 20 people in the basement and 30 on the ground floor. He disputed the view that the premises would add to cumulative impact in the area and made the case that intensification had actually been reduced as a result of some bars becoming restaurants and other licences being revoked such as Studio Valbonne.

Ms Joyce for Environmental Health advised the Sub-Committee that she maintained her representation as Soho Grind was an application for a new premises licence in the West End Stress Area. The plans appeared to be dominated by bar areas and did not indicate the food preparation area. The latest menu she had seen had given more of a priority to food. The concern was that there were no kitchen facilities or wash up area to prepare the food or non-disposable crockery. The Applicant had offered the majority of the Council's model restaurant condition and she was content for takeaway of teas, coffees and cold food to be permitted. A capacity of 50 for the premises was acceptable, particularly taking into account the toilet provision. There had been an intensification of premises converting from retail to restaurant use in Kingly Court. Mr Nevitt added that there was the context of the application in terms of what was occurring overall with Shaftesbury's portfolio in terms of conversion to licensed premises and whether, as was the view of local residents, this was significantly adding to cumulative impact.

Mrs Cunningham addressed the Sub-Committee. She stated she represented the views of residents of 6 Upper John Street and that she lived 20 metres from Soho Grind. She commented that in contrast to many other premises in Kingly Street and the surrounding area, there had been a lack of consultation between those involved with Soho Grind and its neighbours. It contrasted with Disco where the owner had spoken to Mrs Cunningham and she had supported its extension (Mr Thomas had stated this was an example of adding to cumulative impact until 3am). Disco now employed its own security marshall to patrol the streets and reduce the potential for crime and disorder.

Mrs Cunningham made the point that the Shaftesbury development at Kingly Court had been a great success and she had attended meetings and supported restaurants there. However, in the case of Soho Grind she had originally been informed by Shaftesbury it would be a coffee shop and that there would be no need for an alcohol licence. A bar was subsequently opened and cocktails were promoted on the website. A number of Temporary Event Notices had been operated without residents being informed. She was objecting to the application on the grounds that it would add to public nuisance, threaten public safety, lead to crime and disorder and add to cumulative impact. There were 13 licensed premises, most of which had opened in the last 3 years. This had resulted in increased visitor numbers. Pedestrians frequently had to walk off the pavement in Beak Street. She expressed the view that the area had reached a tipping point as a result of the extra people.

Mrs Cunningham stated specific concerns about the application including that after 23:00 hours customers were not allowed to take drinks outside with them but what about before that time? Overall she wanted to avoid the locality becoming like certain areas of Soho. In the past there had been a number of violent incidents including two murders connected with licensing premises and residents did not want a return to those days.

Mr Thomas had expressed concerns regarding Mr Jobbins speaking when his representation was believed to be connected purely to planning matters. Mr Jobbins clarified that he wanted to speak on behalf of residents on licensing matters. He added that the proposed use would result in severe noise and disturbance to residents in the local area with a number of people being intoxicated. The use of the premises would add to cumulative impact in the West End Stress Area. Mr Jobbins believed that the application was misleading as what the Applicant was envisaging was a bar/café and not a restaurant. This was reflected in the plans which he considered were dominated by a bar area and stools. There appeared to be no kitchen area or food storage and a limited dining area and space for vertical drinking. The premises had been advertised on a website as a cocktail bar.

Mr Brown spoke specifically on the issue of cumulative impact. He commented that whilst a couple of premises may have had their licence revoked, overall it was the experience of residents that the number of licensed premises was increasing. It was the increasing numbers drinking that was of greatest concern to the residents. Each new licensed premises added a few more people to the area and cumulatively this was significant. A 'tipping point' had been reached.

Mr Abrahmovich had sought to compare the situation at the premises he owned Shoreditch Grind with Soho Grind, including the coffee shop aspect of the business and that the offer was largely food based. Mr Brown stated that Soho Grind would be more likely to be a destination venue later in the evening than the Shoreditch one.

The Applicants responded to a number of points that had been made by the objectors. Mr Thomas stated that it was expected that the alcohol percentage of sales would be similar to the premises in Shoreditch. Shoreditch was a very busy night time economy and there were the same presumptions in terms of policy as at Westminster. There were wash-up facilities including dishwashers and glass washers. Mr Abrahmovich explained that no alcohol was dispensed in the bar service area on the ground floor. It was not possible for there to be vertical drinking in this area. Ms Rochegale made the point there was a full kitchen team at the premises with a head chef. A chef was always on site. The food was prepared and this involved cold food such as evening salads, meat plates and cheeseboards but constituted a full table meal. The only cooking equipment was a toaster. Mr Abrahmovich clarified that there had been a press release when Soho Grind had opened which had show the bar area in the wall and had mentioned aperitivo. There was a full reference to food on the website and the menu had developed since Environmental Health had visited Soho Grind.

Mr Abrahmovich wished to make it known that he had attempted to engage residents. He also apologised to the Sub-Committee that the plans had given the wrong impression. There were stools upstairs and downstairs tables and a seating area. There was no intention to have vertical drinking and not any space to do it. Mr Thomas made the point that Mrs Cunningham had described the re-development of Kingly Court as a success and that alcohol being ancillary to seated customers having table meals and served by waiter or waitress meant that Soho Grind was not a bar or café but a restaurant. He was not aware of any cases of the Sub-Committee having decided to refuse a restaurant on the grounds of cumulative impact.

Members of the Sub-Committee in granting the application were satisfied that Soho Grind would be a restaurant serving cold food and toasted sandwiches. The restaurant condition attached to the licence would, in any event, prevent it from operating as a bar and this condition could be easily checked by Council officers ascertaining whether alcohol was being served ancillary to alcohol. It was appreciated that the plans had not helped to make this case.

The Council's Statement of Licensing Policy 2011 states that 'applications for restaurants will be granted subject to other policies in the Statement and subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1, provided it can be demonstrated that they will not add to cumulative impact in the Stress Areas'. The Sub-Committee gave particular consideration to this and took the view that the fact there was no Police representation at all reflected the fact that the application was unlikely to add to crime and disorder. There is sufficient evidence that restaurants reduce the potential for crime and disorder. In terms of the potential for public nuisance, the Sub-Committee took into account that the proposed hours of operation were now within the Council's Core Hours

	<p>policy. Regulated entertainment and off-sales were not being applied for. There would be no drinking outside the premises. The premises could be effectively conditioned to further prevent the potential for public nuisance. This included that to avoid the appearance of a bar, the dispensary area for alcohol would be in the basement (bottles of alcohol would not be seen from the street) and smokers would be limited to a maximum of four at any one time after 21:00 hours.</p> <p>The Sub-Committee made the point in relation to cumulative impact that this was relevant to the whole of the West End Stress Area and not just Beak Street or the locality. Local residents were clearly concerned about the general loss of retail establishments and the increased restaurant use in the area. The suggestion was that this resulted in a concentration of premises in the locality that would create or contribute to negative cumulative impact. Whilst it was recognised that such an assertion can be made in relation to premises that are not drink led, the members of the Licensing Sub-Committee were of the view that these particular premises were conditioned in such a way as to ensure that they would not add to cumulative impact. The capacity of 50 for the restaurant in this instance was not so significant that it created a 'tipping point' in terms of cumulative impact across the Stress Area.</p>
2.	Late Night Refreshment: Indoors
	<p>Monday to Thursday 23:00 to 23:30 Friday to Saturday 23:00 to 00:00.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
3.	Opening Hours:
	<p>Monday to Thursday 10:00 to 23:30 Friday to Saturday 10:00 to 00:00 Sunday 12:00 to 22:30.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p>

	Granted, subject to conditions as set out below.
4.	Non Standard Timings:
	<p>For all licensable activities and opening hours:</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below.</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.	<p>(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children;</p> <p>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;</p>

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (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;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) 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.

5. The responsible person shall ensure that no alcohol is dispensed 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).
6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
7.
 - (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - (2) 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 a holographic mark.
8. The responsible person shall 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; and

(b) customers are made aware of the availability of these measures.

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.

- 9.
- (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.
 - (ii) For the purposes of the condition set out in paragraph 9(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.
- (iii) Where the permitted price given by Paragraph 9(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.
- (iv) (1) Sub-paragraph 9(iv)(2) below applies where the permitted price given by Paragraph 9(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

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

Additional Conditions

- 10. The premises shall only operate as a restaurant:
 - (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - (iv) which do not provide any take away service of food or drink after 23.00, and
 - (v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
- 11. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- 12. Notices shall be prominently displayed at all exits and all areas used for smoking requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- 13. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times

when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

14. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
15. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system or searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
18. 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.
19. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 on the following day.
20. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours.
21. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 50 persons, with no more than 30 persons on the ground floor and no more than 20 persons in the basement, at any time.
22. No persons are permitted to take alcoholic drinks away from the premises.
23. After 21:00 hours patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 4 persons at any one time.
24. A Challenge 21 proof of age scheme shall be operated at the premises where

the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

25. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
26. 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.
27. 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.
28. No alcohol shall be dispensed from the ground floor of the premises.

4 DELICIAS DE PORTUGAL 43 WARWICK WAY

LICENSING SUB-COMMITTEE No. 1

Thursday 25 September 2014

Membership: Councillor Tim Mitchell (Chairman), Councillor Susie Burbridge and Councillor Shamim Talukder

Legal Adviser: Barry Panto
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health and 1 local business

Present: Mr Manuel Rocha (on behalf of the Applicant Company) and Mr Dave Nevitt (Environmental Health).

Delicias De Portugal, 43 Warwick Way, SW1

14/01940/LIPV

1.	Sale of Alcohol (On the Premises)
	To permit sale of alcohol on the premises (Off Sales currently permitted) Monday to Saturday 10:00 to 23:00 Sunday 12:00 to 22:30.

	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below.</p> <p>The delicatessen was previously permitted to sell alcohol solely for consumption off the premises. Mr Rocha explained to the Sub-Committee that the Applicant Company was an importer of Portuguese wine and beer which had four delicatessen shops in the United Kingdom. It sought to sell a glass of wine or beer in order to increase income and would potentially wish to promote various types of wine.</p> <p>In reaching their decision to grant the application, the Sub-Committee took into account that the Applicant Company had taken a number of measures in order to promote the licensing objectives. These included that it had amended the commencement hours proposed originally so that they were now in keeping with the Council's Core Hours policy. Also, conditions had been agreed with the Police which promoted the licensing objectives including that the supply of alcohol at the premises would be ancillary to a seated person having a table meal and being served by a waiter or waitress and a condition to the effect that a Challenge 25 proof of age scheme would be operated at the premises.</p> <p>Mr Nevitt for Environmental Health emphasised the need for a public toilet to be provided given that the Applicant sought on-sales. The existing toilet in the basement was for staff only. Mr Nevitt advised the Sub-Committee that he had agreed in discussions with Mr Rocha that they would have a meeting the following week to find a suitable location for a public toilet. This could potentially affect the plans requiring the Applicant to submit a minor variation.</p> <p>The Sub-Committee asked Mr Rocha what capacity he envisaged for the premises. He replied that he hoped to have a maximum of ten inside the premises and two outside the premises. Members were aware that the premises had no tables and chairs licence and appeared not to have a private forecourt. Mr Nevitt clarified that the maximum capacity in respect of the British Standard for one public toilet on the premises would be twelve to fifteen customers. The Sub-Committee attached the condition to the licence that 'the number of persons accommodated at any one time shall not exceed 12 persons'. That capacity was to apply to both the internal and external areas of the premises and any capacity for the use of that outside area would be subject to a 'tables and chairs' licence being obtained.</p>

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who hold a personal licence.

Additional Conditions

4. No beer or cider to be sold above 5.5% Alcohol By Volume, excepting premium beers in glass bottles, such premium beers to be identified on request to the Licensing Authority and the Police with no self service and will only be exposed for sale or display with the spirits, located behind the counter on the deposited plan.
5. There shall be no self service of spirits.
6. In the judgement of the Designated Premises Supervisor, to maintain at all times levels of staff, so as not to undermine the Crime and Disorder objectives, to be disclosed on request to the Licensing Authority and the Police.
7. All deliveries and collections will only take place between the hours of 0700 and 1900.
8. All waste to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

Additional Mandatory Condition

9. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) 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 a holographic mark.

Additional Mandatory Conditions

10. (1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children;

(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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(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;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) 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.

11. The responsible person shall ensure that no alcohol is dispensed 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).

12. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

13. The responsible person shall 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; and

(b) customers are made aware of the availability of these measures.

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.

Further additional conditions

14. Notices will be prominently displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
15. 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.
16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
18. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
19. The supply of alcohol for consumption on the premises shall be by waiter or waitress service only.
20. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

21. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
22. All sales of alcohol for consumption off the premises shall be in sealed containers only.
23. The supply of alcohol for consumption on the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
24. The Licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the varied Licence.
25. The number of persons accommodated at any one time (inside and outside the premises) shall not exceed 12 persons.

5 KUPP 5 MERCHANT SQUARE WEST

LICENSING SUB-COMMITTEE No. 1

Thursday 25 September 2014

Membership: Councillor Tim Mitchell (Chairman), Councillor Susie Burbridge and Councillor Shamim Talukder

Legal Adviser: Barry Panto
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health and 2 x local residents' associations

Present: Mr Tim Shield (Solicitor, representing the Applicant), Mr Steve Cox (Designated Premises Supervisor and Managing Director, Applicant Company), Mr Dave Nevitt (Environmental Health), Mr Richard Brown (Citizens Advice Bureau Licensing Advice Project – on behalf of local residents' associations) and Mr John Zamit (Chairman, South East Bayswater Residents' Association).

Kupp, Unit 53, 5 Merchant Square West, W2	
14/06394/LIPN	
1.	Regulated Entertainment: Indoors
Films) Monday to Sunday 10:00 to 01:00

	<p> Indoor Sports) Live Music) Recorded Music) Performance of Dance) </p>
	<p>Amendments to application advised at hearing:</p> <p>Mr Shield, representing the Applicant, informed the Sub-Committee that Indoor Sports and Performance of Dance had been withdrawn from the application.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee initially heard from Mr Shield. He stated that his client's concept was Scandinavian and this would be different for the area. This included an early morning coffee bar and a casual dining offer. The Applicant was seeking not to have a restaurant condition attached to the premises licence which would require alcohol to be ancillary to a table meal. Food would be an important part of the offer and the ground floor would be laid out for tables and chairs. The proposed hours were beyond the Council's Core Hours policy. However, Kupp would not be located in a designated stress area. There would not be any residents within close proximity of the premises. Mr Shield informed the Sub-Committee that Indoor Sports and Performance of Dance had been withdrawn from the application. There would be regulated entertainment. Live music was not envisaged as being a major part of the operation. A noise limiter was being installed.</p> <p>Mr Shield advised that his client had agreed Environmental Health's proposed condition that substantial food was available at all times. It had also been agreed with the Police that the last admittance time was midnight although Environmental Health had requested 23:00 hours. Deliveries were to a garage in a shared delivery bay for the block which the Applicant did not have direct control over. He added that there were good links from Merchant Square West to Paddington train station and Edgware Road underground station.</p> <p>Mr Nevitt for Environmental Health expressed concerns that without a proposed restaurant condition Kupp could operate as a bar with regulated entertainment until 01:00 hours. This had been the reason why Environmental Health had maintained their representation. An acoustic report had been produced by the Applicant and a noise limiter would be installed. However there were offices above the premises. He appreciated that Kupp was not located in a designated stress area but there were residents in the area. A works condition was sought. Mr Shield had confirmed that 7 WCs were being offered. Mr Nevitt also made the point that if patrons were exposed to a high level of noise they would be likely to speak loudly or shout. It was not just the consumption of alcohol which caused this.</p> <p>Mr Brown, representing both Paddington Waterways and Maida Vale Society and South East Bayswater Residents' Association, explained that the two</p>

Amenity Societies were concerned about the late terminal hours and were requesting Core Hours in the interests of local residents. One of the main reasons for this was the dispersal of patrons. There were no residents above the premises at 5 Merchant Square West but when dispersing, patrons would go down West End Quay or North Wharf Road which had the potential to cause public nuisance. There were more residential premises being built in the area. A terminal hour of 01:00 would hinder dispersal and was after the last time for underground trains. The glass that fronted the building was also likely to echo when people left the premises. Mr Brown added that if the application was granted the licence could be transferred and the premises operated as a bar. The Grand Union in West End Quay had a limited capacity as a bar and had a specific restaurant area. Paddington Waterways and Maida Vale Society was recommending that no alcohol was permitted outside without it being ancillary to food. Mr Brown recommended that if Core Hours was granted, the Applicant could return with a variation to the application if it could be demonstrated that there was no noise nuisance.

Mr Zamit also addressed the Sub-Committee. He stated that there was a major re-development of the area and this was predominantly residential. If the application was granted the Applicant could open a very large pub which had food available. Residents were likely to be adversely affected by patrons dispersing onto Bishop's Bridge Road, North Wharf Road or Praed Street. He requested that live music finished before Core Hours, there was a management plan for deliveries, there was no super-strength alcohol and that those drinking outside were seated and served by waiter or waitress as was the case at Grand Union in West End Quay. This was particularly influenced by the fact that the premises faced the canal.

Mr Shield responded to some of the points that had been made. It was proposed that the use of the outside area would stop at 23:00 hours as would off-sales. Staff would supervise the external area. It was not correct to call Kupp a pub. Food was a significant part of the operation and substantial food would have to be provided. He re-iterated that live music and recorded music was not a major part of the operation. There was a noise limiter being used. He added that if the Sub-Committee wished to restrict the proposed hours for regulated entertainment it was not of great concern to his client. Mr Shield made the case that in relation to people dispersing from the establishment Paddington was not a quiet area. There were good public transport links. His client was content not to sell super-strength alcohol. He was seeking that on and off sales were not restricted.

Mr Cox described how the outside area would be serviced. There was a front elevation which opened up with access to tables and chairs. There was 25 to 30 dedicated floor staff. The windows were then sealed when the outside area was no longer being used.

The Sub-Committee explored the options regarding deliveries. Members were keen to ensure that residents of new flats behind the loading bay area were inconvenienced as little as possible. Mr Shield and Mr Cox commented that the Applicant had little control over when deliveries to the garage bay area took place. 20-30 minute delivery windows were allocated to tenants of the block

throughout the day. Members appreciated that deliveries went into the garage then underneath into the building.

The Sub-Committee decided to grant Core Hours (a terminal hour of 23:30 Monday to Thursday, Midnight Friday to Saturday and 22:30 on Sunday) for licensable activities except for regulated entertainment which would cease half an hour before Core Hours. Members noted that Environmental Health had maintained their representation as the proposed hours were in excess of the Council's Core Hours policy. Members shared Environmental Health's and the Amenity Societies' concerns that whilst there were no residents living within close proximity of Kupp, there was the significant potential for public nuisance as a result of the dispersal of patrons past residents' flats in the event the premises operated until 01:00 hours. Whilst food was stated to be an important part of the offer at Kupp, it was not a restaurant and patrons could consume alcohol without having to eat food which increased the likelihood for public nuisance as patrons left the premises. Members considered that it was necessary to conclude regulated entertainment half an hour prior to Core Hours, taking into account Mr Nevitt's advice that patrons were likely to speak loudly or shout having been exposed to music in the premises. There would be a natural winding down period after the conclusion of regulated entertainment. The Sub-Committee noted that live music and recorded music was not a major part of the operation as stated on behalf of the Applicant.

Conditions attached to the licence included that there would be no outside drinking after 21:00 unless customers were seated. There would be no sales of super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles. Deliveries to the premises would only take place in the designated area within the basement loading area.

2. Late Night Refreshment: Indoors and Outdoors

Monday to Sunday 23:00 to 01:00.

Amendments to application advised at hearing:

None.

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

The Sub-Committee decided to grant Core Hours (a terminal hour of 23:30 Monday to Thursday, Midnight Friday to Saturday and 22:30 on Sunday) (see reasons for decision in Section 1).

3. Sale of Alcohol: On and Off the premises

Monday to Sunday 10:00 to 01:00.

	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee decided to grant Core Hours (a terminal hour of 23:30 Monday to Thursday, Midnight Friday to Saturday and 22:30 on Sunday)(see reasons for decision in Section 1).</p>
4.	Non Standard Timings & seasonal Variations
	<p>Regulated Entertainment, Late Night Refreshment and Sale of Alcohol for consumption on and off the premises</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below.</p>
5.	Opening Hours
	<p>(i) Monday to Sunday 10:00 to 01:30</p> <p>(ii) From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee decided to grant Core Hours Monday to Sunday (a terminal hour of 23:30 Monday to Thursday, Midnight Friday to Saturday and 22:30 on Sunday) (see reasons for decision in Section 1). The Sub-Committee granted the proposed hours from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children;
 - (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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (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;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;

- (i) the outcome of a race, competition or other event or process, or
- (ii) the likelihood of anything occurring or not occurring;

(e) 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.

5. The responsible person shall ensure that no alcohol is dispensed 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).
6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
7.
 - (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - (2) 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 a holographic mark.
8. The responsible person shall 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; and
 - (b) customers are made aware of the availability of these measures.

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.

- 9(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.

- 9(ii) For the purposes of the condition set out in paragraph 9(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.
- 9(iii). Where the permitted price given by Paragraph 9(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.
- 9(iv). (1) Sub-paragraph 9(iv)(2) below applies where the permitted price given by Paragraph 9(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.
10. 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.

11. 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.

Additional Conditions

12. Alcoholic drinks may not be removed from the premises in open containers save for consumption in external areas provided for that purpose.
13. No customers carrying opened bottles of alcoholic drink upon entry shall be admitted to premises at anytime the premises are open to the public.
14. It is considered that for the nature of the operation door supervisors will not be required however, the Designated Premises Supervisor will undertake a risk assessment should unusual events takes place and if they consider it appropriate will employ the same.
15. The doors and windows to the premises are to be double glazed
16. Children under the age of 16 shall not be permitted to enter or remain at the premises after 22:00 unless resident, dining with an adult or attending a pre booked function.
17. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
18. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested
19. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service
20. Door supervisors will be employed by the Premises Licence Holder on a risk assessed basis. A suitable risk assessment will be undertaken and documented on a daily basis, in relation to whether or not door supervisors are to be employed on specific occasions. On occasions when door supervisors are employed they shall display their

SIA Licence at all times, worn with a high visibility arm band.

21. All tables and chairs shall be removed from the outside area or rendered unusable by 23.00 each day.
22. Substantial food and suitable beverages other than intoxicating liquor shall be available during the whole of permitted hours in all parts of the premises where intoxicating liquor is sold and supplied.
23. The layout of the licensed area both internally and externally as shown on the approved plan at the ground floor layout shall be substantially laid out for tables and chairs as indicated on the approved licensing drawing.
24. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.
25. Patrons permitted to temporarily leave and then re-enter the premises after 23:00 hours, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
26. There shall be no take away of hot food or hot drink after 23.00 hours.
27. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
28. After 23.00 hours the outside area shall only be used by patrons who have temporarily left the premises to smoke.
29. No drinks shall be permitted to be taken outside after 23.00 hours.
30. 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.
31. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
32. All external doors and windows shall be kept closed whilst regulated entertainment is taking place and in any case after 23:00 hours except for immediate access and egress of persons.
33. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
34. There shall be no regulated entertainment in the outside area.
35. Loudspeakers shall not be located in the entrance or exits areas or outside the premises building.
36. 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, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured 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.

37. There shall be no amplified live music.
38. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
39. During the hours of operation, sufficient measures must be in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and the 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.
40. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
41. 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.
42. 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.
43. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
44. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
45. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
46. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
47. The edges of the treads of steps and stairways shall be maintained so as to be

conspicuous.

48. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
- dry ice and cryogenic fog
 - smoke machines and fog generators
 - pyrotechnics including fireworks
 - firearms
 - lasers
 - explosives and highly flammable substances
 - real flame
 - strobe lighting
49. The certificates listed below shall be submitted to the Licensing Authority upon written request.
- Any permanent or temporary emergency lighting battery or system
 - Any permanent or temporary electrical installation
 - Any permanent or temporary emergency warning system
50. The Licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
51. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction a variation application may be required.
52. There shall be no cinema style seating at the premises.
53. Deliveries to the premises shall only take place in the designated area within the basement loading area.
54. The number of persons accommodated at any one time (excluding staff) shall not exceed 66 in the external area. The number of persons accommodated at any one time (excluding staff) in the internal area is to be finalised on completion of the works.
55. There shall be no drinking outside after 21:00 hours unless seated.
56. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.

LICENSING SUB-COMMITTEE No. 1

Thursday 25 September 2014

Membership: Councillor Tim Mitchell (Chairman), Councillor Susie Burbridge and Councillor Shamim Talukder

Legal Adviser: Barry Panto
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health and 2 x local residents

Present: Mr Mek Chukwudinma (Representing the Applicant) and Ms Louise Joyce (Environmental Health).

Piccola Cucina Restaurant, 89 George Street, W1	
14/06468/LIPN	
1.	Late Night Refreshment: Indoors
	Monday to Saturday 10:00 to 23:00 Sunday 10:00 to 22:00.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Members of the Sub-Committee were not required to consider this aspect of the application as Late Night Refreshment is only licensable after 23:00 hours.
2.	Sale of Alcohol: On the premises
	Monday to Saturday 10:00 to 23:00 Sunday 10:00 to 22:00.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below. The Sub-Committee considered that the Applicant had agreed all of the conditions proposed by the Metropolitan Police and Environmental Health. The Metropolitan Police had subsequently withdrawn their representation. The agreed conditions included the Council's

model restaurant condition. The Council's policy for restaurants outside the designated stress areas is that applications will generally be granted subject to the relevant criteria in policies CD1, PS1, PN1 and CH1 being met. The Sub-Committee were of the view that the proposed hours which had been reduced from those set out in the original application by the Applicant and the conditions that were attached to the licence would promote the licensing objectives. As stated by Mr Chukwudinma at the hearing, no regulated entertainment or late night refreshment was being applied for.

In reaching their decision, Members of the Sub-Committee also noted that the Applicant had been responsive to two residents' concerns in reducing the terminal hour for licensable activities to 23:00 Monday to Saturday and also 03:00 specifically for New Year's Day.

Ms Joyce for Environmental Health confirmed at the hearing that her key concerns had been addressed following agreement of all her proposed conditions earlier that morning and the Applicant putting forward new plans which included toilet capacities. She was seeking that the ground floor bar area, where a maximum of ten people at any time would be able to consume alcohol prior to a table meal, was included in a hatched area on the revised plan and that these people were seated to prevent vertical drinking. Ms Joyce also was requesting the Council's model capacity condition that the licence would have no effect until the capacity of the premises had been assessed by the Environmental Health Consultation Team and a condition detailing the agreed capacity had replaced this condition on the Licence. These conditions were attached to the premises licence by the Sub-Committee. Ms Joyce advised the Sub-Committee that she had no issues with the proposed hours but wished to point out that the restaurant's commencement hour on Sundays was prior to the Council's Core Hours policy.

One of the conditions proposed by Environmental Health and agreed by the Applicant was that outside tables and chairs would be rendered unusable by 21:00 each day which was also attached to the premises licence by the Sub-Committee. Mr Chukwudinma informed Members that the external terrace was within his client's domain.

It was noted by Members of the Licensing Sub-Committee that the Applicant had not applied for additional opening hours to match the additional hours that were being sought for the sale of alcohol on Good Friday, Christmas Day and New Year's Eve. It was decided that the additional opening hours would nevertheless be granted as it was clear from the application that such additional hours would obviously be required if the additional hours for the sale of alcohol were granted.

3. Seasonal Variations and Non-Standard Timings

(i) Sale of Alcohol: On the premises plus opening hours to match

Good Friday 10:00 to 23:30

Christmas Day 10:00 to 15:00 and 19:00 to 23:30

	<p>(ii) Sale of Alcohol for consumption on the premises plus opening hours to match</p> <p>From the end of permitted hours on New Year's Eve to 03:00 on the following day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 2).</p>
4.	Opening Hours:
	<p>Monday to Saturday 10:00 to 23:00 Sunday 10:00 to 22:00.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 2).</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.	(1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children;
- (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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- (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;
- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;
- (i) the outcome of a race, competition or other event or process, or
- (ii) the likelihood of anything occurring or not occurring;
- (e) 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.

5. The responsible person shall ensure that no alcohol is dispensed 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).

6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

7. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

- (2) 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 a holographic mark.

8. The responsible person shall 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; and
- (b) customers are made aware of the availability of these measures.

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.

9(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.

9(ii) For the purposes of the condition set out in paragraph 9(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.

9(iii). Where the permitted price given by Paragraph 9(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.

- 9(iv). (1) Sub-paragraph 9(iv)(2) below applies where the permitted price given by Paragraph 9(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.

10. The licensee shall ensure that the consumption of alcohol is restricted to the areas identified on the plan attached to the licence.

11. No customers carrying open bottles shall be admitted to the premises.

12. No customers shall be allowed to leave the premises whilst carrying open drinking vessels.

13. The removal of bottles from the licensed premises and the placing of refuse such as bottles into receptacles outside the premises shall take place at times that will minimise disturbance to nearby properties

14. There shall be no playing of Live or Recorded music in external areas of the premises.

15. Children under the age of 16 years shall be accompanied by an adult at all times.

16. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any

light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

17. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
18. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
19. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
20. The premises shall only operate as a restaurant
 - (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - (iv) which do not provide any take away service of food or drink for immediate consumption,
 - (v) which do not provide any take away service of food or drink after 23.00, and
 - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding the above condition, alcohol may be supplied and consumed prior to their meal in the ground floor bar area indicated by the "hatched" area on the plan drawing number 107-PL-00 (revision 1), by up to a maximum at any one time, of 10 persons dining and seated at the premises.

21. 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
22. The licence will have no effect until the capacity of the premises has been assessed by the Environmental Health Consultation Team and a condition detailing the agreed capacity has replaced this condition on the Licence.
23. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

24. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
25. 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. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to **10** persons at any one time.
26. 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.
27. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
28. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
29. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
30. The Licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
31. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority by way of variation.
32. All outside tables and chairs shall be rendered unusable by 21:00 each day.

7 AM 2 PM 122-124 CHIPPENHAM ROAD

LICENSING SUB-COMMITTEE No. 1

Thursday 25 September 2014

Membership: Councillor Tim Mitchell (Chairman), Councillor Susie Burbridge and Councillor Shamim Talukder

Legal Adviser: Barry Panto
Committee Officer: Jonathan Deacon

Relevant Representations: Police Licensing Authority (Applicant), Environmental Health and 1 local resident

Present: PC Reaz Guerra (Metropolitan Police), Mr Dave Nevitt (Environmental Health), Mr Gary Grant (Counsel, representing Licence Holder), Mr Khalid Javed (seeking to become owner of premises), Mr Philip Andrews (Licensing Consultant – Joshua Simons & Associates Ltd) and Mr Julian Sargeon (Founding Director, Serve Legal).

AM 2 PM, 122-124 Chippenham Road, W9

14/06486/LIREVP

An application submitted by the Police Licensing Authority for a review of the premises licence for AM 2 PM was received on 1st August 2014 on the grounds of undermining the Prevention of Crime and Disorder and Protection of Children from Harm licensing objectives.

Guidance issued under section 182 of the Licensing Act 2003 (para 11.2) states that at any stage following the grant of a premises licence, a responsible authority, such as the Police or the Environmental Health Service, or any other person who can seek a review, may ask the Licensing Authority to review the premises licence because of a matter arising at the premises in connection with any of the four licensing objectives.

As such, in accordance with section 52(2) of the above-mentioned Act, the Licensing Authority must hold a hearing to consider the application and any relevant representations.

The premises currently benefits from a premises licence that permits:

Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit Unrestricted

Sale by Retail of Alcohol (Off Sales)

Monday to Thursday	08:00 to 23:00
Friday to Saturday	08:00 to 00:00
Sunday	10:00 to 22:30

The opening hours of the premises:

Monday to Thursday	08:00 to 23:00
Friday to Saturday	08:00 to 00:00
Sunday	10:00 to 22:30

On 24th May 2014, police officers conducted a test purchasing operation in specified Licensed Premises in the City of Westminster. Alcohol was sold to a person under the age of 18 years. In addition, the alcohol sold at the premises was above 5.5% Alcohol by Volume which breached condition 11 of the premises licence which stated: '*No Beer or Cider to be sold above 5.5% Alcohol by Volume.*'

Following the test purchase on 24th May 2014, a meeting was held with the licensees, who were requested to submit a minor variation application to add 11

conditions which primarily safeguarded children. An application was submitted on 12th June 2014 to add these conditions. The minor variation application was granted on 1st July 2014.

On 24th July 2014, another test purchase was conducted at the premises and alcohol was once again sold to a person under the age of 18 years.

At no point during the sales of alcohol to the individuals under the age of 18 on 24 May or 24 July were either child asked for any proof of age or identification.

The Environmental Health Service supported the review application. A local resident also wrote in support of the review application alleging that these premises are also an illegal shisha premises as well as running an internet café without permission. She alleged that the owners of this establishment have no intention of complying with the law and that the premises are a public nuisance.

The Authority must, having regard to the application and the representations, take such steps (if any), as it considers appropriate for the promotion of the licensing objectives. The steps are:

- (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;
- and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition added.

The Sub-Committee initially heard from PC Guerra. He advised that the Police had submitted an application for a review of the premises licence and were seeking revocation of that licence following two failed test purchases at the premises within a two month period. A Volunteer Police Cadet under the age of eighteen had on 24 May 2014 during a test purchase selected a bottle of Desperado Beer with alcohol by volume of 5.9%. He had placed it on the counter and been served by Mrs Jihad Beaini, the wife of the owner of the premises, Mr Jihad Albeainy. A fixed penalty notice was issued to Mrs Beaini.

PC Guerra stated that following the incident the Police held a meeting with Mr Rao, the Premises Licence Holder and Mr Jihad Albeainy where they outlined the seriousness of the failed test purchase, the failure to promote the licensing objectives in particular the Protection of Children From Harm and that the premises had breached the condition that no beer or cider would be sold above 5.5% alcohol by volume. The Police requested that the premises submit a variation to their premises licence to include conditions relating to staff training, a Challenge 25 proof of age scheme and electronic till prompts. The premises had submitted a minor variation to add the conditions to the licence on 12 June 2014. A second test purchase then followed on 24 July when a cadet had selected a bottle of Heineken beer, placed it on the counter and been served by a member of staff. At no point had the Cadet been asked for their age or proof of identification. PC Guerra added that the second

test purchase had triggered the review and request for revocation of the licence.

Mr Nevitt confirmed that Environmental Health supported the application for the review of the premises licence. He was proposing four conditions to promote the licensing objectives in the event that the Sub-Committee were not minded to revoke the premises licence for AM 2 PM.

Mr Grant, representing the Licence Holder, addressed the Sub-Committee. He began by conceding that the legalities of the paper work as to who the licence holder was were a mess. Mr Rao, stated as the Licence Holder, had sold the business to Mr Jihad Albeainy but had not transferred the premises licence to him. Mr Rao did have some involvement with the business but was not a hands-on Designated Premises Supervisor. Mr Grant also conceded that the failed test purchases were a deeply worrying scenario. He added that if Members of the Sub-Committee believed that it was inevitable that his client would continue to sell alcohol to children then he expected the premises licence to be revoked.

Mr Grant then made the case as to why there were grounds for the view that the licensing objectives would not continue to be undermined or conditions breached. The review had had the desired effect in rectifying the problems that had previously existed. Depending on the outcome of the review hearing, Mr Albeainy would now be looking to sell the business to Mr Khalid Javed who had operated similar premises in the North Finchley area with success and adherence to the licensing objectives. Conditions were being proposed on behalf of the Licence Holder that the premises licence would only have effect if Mr Javed was the licence holder or a director of the company that holds the premises licence and neither Mr Albeainy nor Mrs Beaini would be permitted to be employed at the premises or involved in the management of the premises. A transfer application had been submitted.

Mr Grant stated that the evidence bundle submitted by the Licence Holder showed the extensive training received by all of the staff including Mr Javed who would be the owner of the premises if the licence was not revoked. The training could be shown to have been successful because, as set out in the papers, Serve Legal a market leader in the provision of independent test purchases had recently carried out four test purchases at AM 2 PM convenience store and the store had passed on each occasion. Mr Grant informed Members that Serve Legal employed 18 and 19 year olds to purchase alcohol as they could not legally employ children below this age. With the adoption of a Challenge 25 scheme, however, Serve Legal expected those working for AM 2 PM to challenge anyone under the age of 25. The operator was not told when Serve Legal would be carrying out the test purchases. Mr Grant added that the training could also be shown to be successful as the Police had carried out its own test purchase the previous weekend and no issues had been raised. This was confirmed by PC Guerra.

Mr Sargeson spoke on behalf of Serve Legal at the hearing. He explained that the Sub-Committee could have confidence in their test purchase exercises as they provided them for a number of retailers, pubs and convenience stores across the UK including Sainsbury's, Tesco, Waitrose and Wetherspoon. Serve Legal tested whether training and complying with the policy was working and confirmed that four test purchase exercises had been carried out in September 2014 and had been passed by the premises. Serve Legal employed four young looking eighteen and

nineteen year old male and females which was a valid approach whether the premises had adopted a Challenge 21 or Challenge 25 policy. Serve Legal carried out approximately 70,000 test purchases every year and the processes were very robust.

Mr Grant described the overhaul of systems by Joshua Simons and Associates Ltd. A witness statement had been provided by Philip Andrews, an independent Licensing Consultant working for Joshua Simons and Associates Ltd who had checked whether this was effective. Challenge 25 posters were now being displayed, staff were receiving till prompts and there would be no super-strength beer or cider sold at the premises. Staff Certificates to confirm the training they had received was included in the Licence Holder's written evidence. One of the Licence Holder's proposed conditions required there to be independent age-related test purchase exercises to be carried out at the premises at least once a calendar month for at least six months. All records of the test purchases would be kept at the premises and made available for inspection by a police or licensing authority officer.

Mr Grant also made some additional points including that Parliament had previously indicated that were this a criminal prosecution under the provisions of the Licensing Act the maximum sanction a court would impose for persistently selling alcohol to children was a three month suspension. A resident had submitted a representation in support of the review and had commented in the past tense that the business had 'allowed my children to purchase whatever they wanted before they were 18'. Mr Grant clarified that Mr Albeainy had only owned AM 2 PM in the last two years. The shisha premises the resident had referred to was actually another business that had been sub-let by Mr Albeainy. Two local residents had written in support of Mr Albeainy's running of the premises and had never witnessed alcohol being sold to anyone underage there. One of the residents, Ms Doran, had seen young people turned away when they had been unable to show proof of their age and her own daughter, 17 years of age, had appeared to be unsuccessful in purchasing alcohol.

Mr Grant advised the Sub-Committee that his client had agreed Environmental Health's conditions in the event Members were minded to attach them to the premises licence. He was not inviting a suspension of up to three months but appreciated that Members might consider that the simple transfer of the premises licence was not a sufficient sanction and that further action was potentially required to deter premises from selling alcohol to those under the age of 18 on two occasions.

Mr Khalid Javed addressed the Sub-Committee. He explained that he had operated a similar convenience store in Finchley for five years. There was a till system in place at his previous premises which would scan products and if alcohol was potentially being purchased a prompt would require staff to check the age of the individual. The system would also shutdown at closing time, preventing further sales after hours. He had never had any test purchase failures there. Employees had a personal licence to sell alcohol and were expected to be personally responsible for their actions in the event they had sold alcohol to underage individuals. It was intended that the same procedures would be in place at AM 2 PM. Mr Javed explained that he had no family link to Mr Albeainy. It was purely a business relationship that he currently had with Mr Albeainy in seeking to buy AM 2 PM.

PC Guerra responded to some of the evidence supplied on behalf of the Licence

Holder. He pointed out that in contrast to Serve Legal's employment of eighteen to nineteen year olds, the Police's alcohol test purchases involved children aged fifteen to sixteen who were comparable to their peers. Mr Andrews' witness statement had also drawn attention to the compliance file requiring some updating and that the details of the person refused were not quite up to standard. Mr Andrews had also completed a training form for Mrs Albeainy. The Sub-Committee asked Mr Grant whether in the light of the review hearing approaching it would be expected that these matters would not have arisen. Mr Grant answered that the fact these points had been raised by Mr Andrews demonstrated his independence. Mr Andrews was asked to provide an assessment of what he had found when he had checked the validity of the compliance system.

Mr Andrews stated that he had found a clean, tidy and what appeared to be a well run establishment. The points he had made which he believed required improvement were he believed relatively minor details. Staff had not decided where the manager's phone number should be and it was agreed that this should be kept in the compliance file. Mrs Albeainy had demonstrated that she knew her responsibilities in refusing the sale of alcohol to an underage person and he had then assisted her in completing the training form.

The Sub-Committee also enquired as to whether four test purchases would generally take place over a week. Mr Sargeson replied that these tended to be carried out on a weekly basis but that there was a need to carry out extensive testing with the review hearing approaching. A condition had been proposed that there would continue to be test purchasing by Serve Legal for a further six months to ensure compliance with the licensing objectives and improve performance at the store.

Decision (including reasons):

That the premises licence would be suspended for a period of three months and a number of additional conditions would be imposed as set out below.

The Sub-Committee had very serious concerns about the two test purchase failures and made the point to the Licence Holder that Members abhorred the sale of alcohol to underage people. Members after careful consideration decided by a two to one majority to suspend the licence for three months rather than revoke the licence on the grounds that significant steps had already been taken prior to the review hearing to ensure that there were no further underage sales, including extensive training and the introduction of till prompts. It was noted that the Police's most recent test purchase exercise had not raised issues. The Chairman emphasised to the Licensee's Representatives that should the licensing objectives be undermined again or conditions, including additional ones attached by the Sub-Committee at the hearing, be breached at the premises, there should be an expectation that the licence would be revoked.

The opportunity was taken by the parties to remove a number of existing conditions on the licence that were either no longer relevant or had been replaced by the conditions proposed for the review hearing.

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - (2) 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 a holographic mark.
- 5(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.
- 5(ii) For the purposes of the condition set out in paragraph 5(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.

5(iii). Where the permitted price given by Paragraph 5(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.

- 5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Additional Conditions

6. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. There must be a camera above the till points to record all customer transactions. The CCTV system shall continually record whilst the venue 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.
7. A staff member who is conversant with the operation of the CCTV system shall be available when the premise 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.
8. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
9. A direct telephone number for the manager at the premises shall be made available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
10. There shall be no self service of spirits (except spirit mixers) on the premises.
11. All cashiers will receive refresher training on relevant alcohol laws and the

licence holders policy on challenging for ID. Such training to take place at least twice a year. Records will be maintained at the premises containing information about the training of any person who may make a sale of alcohol including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on request to a police officer or a relevant officer of a responsible authority

12. The licence holder shall ensure that all cashiers are trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) for evidence of age. This evidence shall be photographic, such as passport or photographic driving licence until other effective identification technology (for example, thumb print or pupil recognition) is introduced. All cashiers will be instructed, through training, that a sale shall not be made unless this evidence is produced.
13. There shall be an electronic till prompt when alcohol is scanned through the tills, to remind staff at point of sale of alcohol to ensure purchaser is over the age of 18.
14. A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
15. A Challenge 25 proof of age scheme, shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
16. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
17. No More than 15% of the sales area to be used at any one time for the sale, exposure for sale or display of alcohol.

Conditions attached to the premises licence by the Licensing Sub-Committee at the meeting held on 25 September 2014

18. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
19. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
20. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.

21. No super strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.
22. This premises licence only has effect if Mr Khalid Javed is the licence holder or a Director of the company that holds the premises licence.
23. Neither Mr Jihad Albeainy nor Mrs Jihad Beaini may be employed at the premises or involved in the management of the premises, nor may they be Directors, shareholders or officers of any company that holds the premises licence.
24. The licence holder must arrange for an independent age-related test purchase exercise to be carried out at the premises at least once a calendar month for at least 6 months. All records of the test purchases must be kept at the premises and made available for inspection by a police or licensing authority officer.