



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 12th February, 2015**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

Members Present: Councillors Tim Mitchell (Chairman), Nick Evans and Shamim Talukder

1 MEMBERSHIP

There were no changes to the membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 VANITY BAR AND NIGHTCLUB, BASEMENT TO FIRST FLOOR, 4 CARLISLE STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 12th February 2015

Membership: Councillor Tim Mitchell (Chairman), Councillor Nick Evans and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Joe McBride

Relevant Representations: Four objections have been received; three local residents and another from the Soho Society.

Present: Mr Gareth Hughes (Solicitor, representing the Applicant), Ms Mary Hennessey, Mr Manpal Singh (Applicant), Mr Richard Brown (on behalf of the objectors), Ms Alice Dugdale (resident), Mr Hugh Matheson (leaseholder of apartment 2 in the building)

Vanity Bar and Nightclub, Basement to First Floor, 4 Carlisle Street, London, W1D 3BJ

An application for the renewal of the sexual entertainment venue premises licence so as to provide striptease, including full nudity, between the hours of 09.00 on each of the days Monday to Saturday to 03.00 on the day following; and between 09.00 and 23.00 on Sunday. The applicant has not requested any change to the entertainment or to remove any standard conditions. The application is to renew on exactly the same terms as the existing licence which had previously been varied by the Licensing Sub-Committee on 18th December 2014.

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

An application for renewal of the sexual entertainment venue (SEV) licence for a period of 12 months. The Applicant applied for a renewal of the SEV licence on the basis that the existing licence is due to expire within two months of the venue's scheduled opening date. Mr Gareth Hughes, representing the Applicant, explained that the current application is concerned only with the renewal of the SEV licence and stressed that all other aspects of the variation application made in December 2014 remained the same. He had no objection to the Licensing Sub-Committee taking into consideration a further late representation from a resident who was supporting Ms Dugdale's representation against the renewal application.

Mr Richard Brown, representing the objectors, raised concerns regarding the prevention of crime and disorder and of public nuisance if the renewal was granted. Mr Brown referenced the Court of Appeal decision in the case of Thompson V Oxford City Council when questioning the appropriateness of an SEV licence in what is a largely residential area. He submitted that the decision in the Thompson case confirmed the licensing authority is (a) afforded a wide discretion in determining SEV applications, including the capacity to revise the decision of a previous Sub-Committee and (b) entitled to take into account not only the locality in which the premises is situated but also future changes to the locality when considering the 'character of the relevant locality'.

The Sub-Committee also heard objections from Ms Alice Dugdale who had lived in the same building as the Applicant's premises for a period of 27 years. Ms Dugdale explained that the escape of noise had been a particular concern for her and fellow residents and was unconvinced that conditions imposed in the original application would prevent noise from the venue penetrating her apartment. Mr Hugh Matheson, the lease holder of an apartment in the building, also made a representation to the Sub-Committee stressing both the unsuitability of the proposed application in the locality and the inability of the building to cope with the noise that would be generated from the Applicant's premises once operational.

In granting the renewal for a period of 12 months, the Sub-Committee was mindful of the decision of a previous Sub-Committee to grant a variation of both the premises licence and an SEV licence in December 2014. Members were not persuaded that there had been a change in circumstances since that date given that, as the premises is not yet operational; there have been no complaints or instances of public nuisance recorded against the Applicant's premises.

The Sub-Committee also noted that when the venue reopens it will do so with a reduced capacity, agreed as part of the variation applications, and that SEV premises generally provide for a lower intensity of use than alcohol led premises. Both these factors were significant in contributing to the Members' decision to grant the renewal for a period of 12 months.

The Sub-Committee felt that the main concerns of objectors, namely the inappropriateness of an SEV licence in the locality, noise escape and the increase of public nuisance were dealt with sufficiently under the conditions imposed in the variation applications. Members decide not to grant the renewal for a period of less than one year as requested by Mr Brown on behalf of the objectors. Although there was no means to seek revocation of the SEV licence on the grounds of public nuisance or crime and disorder, the premises clearly intended to operate in conjunction with a premises licence under the 2003 Act so as to allow the sale of alcohol. Members reminded objectors that they were entitled to bring a review of the premises licence under the 2003 Act should there be an increase in public nuisance when the premises opens.

Conditions attached to the Licence

Standard Conditions:

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of Relevant Entertainment, or material depicting nudity or Relevant Entertainment, shall be visible from outside the premises.
5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.
6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the Relevant Entertainment at the premises.

7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.
9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period together with facilities for viewing.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
 - (a) all crimes reported to the venue;
 - (b) all ejections of patrons;
 - (c) any complaints received;
 - (d) any incidents of disorder;
 - (e) 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;
 - (i) any breach of licence conditions reported by a Performer.
13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or

national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.

15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
16. Relevant Entertainment shall be given only by performers and the audience shall not be permitted to participate in the Relevant Entertainment.
17. There shall be no physical contact between Performers whilst performing.
18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.
20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
21. Where Relevant Entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.
23. Performers must redress fully immediately after each performance.

Additional conditions

24. No Relevant Entertainment shall take place unless CCTV adequately covers and monitors the stage area to the satisfaction of the Environmental Health Consultation Team and the Licensing Service.
25. Relevant Entertainment shall be restricted to the area outlined in red. On the ground floor performers may only perform on the stage area.
26. Whilst Relevant Entertainment is taking place at the premises, the maximum number of persons accommodated at any one time (excluding staff and dancers) shall not exceed 10 persons in the basement, 70 persons on the ground floor and

9 persons on the first floor.

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

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

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

30. 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.

31. 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.

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

33. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.

- i. pyrotechnics including fire works
- ii. firearms
- iii. lasers
- iv. explosives and highly flammable substances.
- v. real flame.
- vi. strobe lighting.

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

35. There shall be at least one SIA registered door supervisor on duty on every floor where Relevant Entertainment is provided for the entire time the Relevant Entertainment is provided.

36. a) Applying to the basement only:

- i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
- ii. Before this area opens 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.

b) Applying to the ground floor only:

- i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
- ii. Before this area opens 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.

c) Applying to the first floor / mezzanine only:

- i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
- ii. Before this area opens 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.

37. All windows and external doors shall be kept closed at any time when Relevant Entertainment takes place, except for the immediate access and egress of persons.

38. 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.

39. No sexual entertainment performances will take place which will involve the passing round of a glass or jar or any other container that has to be filled with money before the performers remove any clothing.

4 AUBAINE, HILTON LONDON HYDE PARK HOTEL, 129-134 BAYSWATER ROAD, W2

LICENSING SUB-COMMITTEE No. 1

Thursday 12th February 2015

Membership: Councillor Tim Mitchell (Chairman), Councillor Nick Evans and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Joe McBride

Relevant Representations: Four objections have been received; one from the Metropolitan Police Service, one from the Environmental Health Service, one from a local residents' association (SEBRA) and another from a local resident.

Present: Mr Gary Grant (Solicitor, representing the Applicant), Mr Andrew Wong (Solicitor), Michele Pollard (Operations Director), Dave Nevitt (Environmental Health Officer), Jim Sollars (Metropolitan Police Service), John Zamit (SEBRA)

Aubaine, Hilton London Hyde Park Hotel, 129-134 Bayswater Road, London, W2 4RH

1. Regulated Entertainment: Indoors

Playing of Recorded Music

For the public:

Monday to Saturday 10:00 to 23:00

Sunday 12:00 to 22:30

For the hotel residents and their bona fide guests:

Monday to Sunday 00:00 to 00:00

	Amendments to application advised at hearing: No change
	Decision (including reasons if different from those set out in report): Listed under Section 4
2.	Late Night Refreshment: Indoors and Outdoors
	<u>For the public:</u> This part of the application has been withdrawn by the applicant. <u>For the hotel residents and their bona fide guests:</u> Monday to Sunday 00:00 to 00:00
	Amendments to application advised at hearing: No change
	Decision (including reasons if different from those set out in report): Listed under Section 4
3.	Sale of Alcohol: On and off the premises
	<u>For the public:</u> Monday to Saturday 10:00 to 23:00 Sunday 12:00 to 22:30 <u>For the hotel residents and their bona fide guests:</u> Monday to Sunday 00:00 to 00:00
	Amendments to application advised at hearing: Mr Grant indicated that the commencement hour on Sunday would be amended to 12.00 so as to comply with core hours.
	Decision (including reasons if different from those set out in report): Listed under Section 4
4.	Opening Hours
	<u>For the public:</u> Monday to Thursday 07:00 to 00:00

	<p>Friday to Saturday 07:00 to 00:30 Sunday 07:00 to 23:00</p> <p><u>For the hotel residents and their bona fide guests:</u></p> <p>Monday to Sunday 00:00 to 00:00</p>
	<p>Amendments to application advised at hearing:</p> <p>Monday to Saturday 07:00 to 23:30 Sunday 07:00 to 23:00</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Applicant applied for a licence to operate as a French restaurant that is open to the public and will also serve as the Hilton London Hyde Park hotel restaurant servicing its residents and bona fide guests.</p> <p>Mr Gary Grant, representing the Applicant, explained that under the current application there would be a significant reduction in licensable activity in comparison with the previous licence by bringing the public opening hours in line with core hours and the elimination of 24-hour private entertainment. Mr Grant contended that the current application would transform a vertical drinking hotel bar into a hotel restaurant where drinking would be largely ancillary to a table meal. For these reasons, Mr Grant was of the view that this application is ideal for a premises located within the stress area.</p> <p>The Sub-Committee heard from Mr Dave Nevitt, on behalf of the Council's Environmental Health Service, who maintained a representation on the basis of on-going concerns from residents and due to the uncertainty over opening hours prior to the committee hearing. Environmental Health are, however, generally supportive of the application because of the introduction of a capacity (200 persons) and the reduction in licensable activity noted above. Furthermore, the uncertainty regarding opening hours was cleared up prior to the Sub-Committee meeting. Mr Jim Sollars, representing the Metropolitan Police Service, echoed the statements made by Mr Nevitt and had nothing further to contribute.</p> <p>Mr John Zamit, representing SEBRA, welcomed the application and was keen to emphasise the thorough consultation undertaken by the Applicant to all relevant parties. The Applicant agreed to two conditions put forward by Mr Zamit that ensured all windows and doors would be kept closed after 21:00 and prohibited deliveries between 23:00 – 08:00. Mr Zamit also expressed his confidence that the condition providing for off-sales under the current application would be limited to bottles of wine and picnic hampers as put forward by the Applicant.</p> <p>The Sub-Committee, in granting the application, considered the significant reduction of licensable activities, in comparison to the previous licence, within the stress area as a key factor in their decision. Members were content with the</p>

two conditions proposed by the Applicant to restrict the capacity of the restaurant to 200 persons and to operate a 'Challenge 25' proof of age scheme rather than the 'Challenge 21' scheme that was operational under the previous licence.

Conditions attached to the Licence

- | |
|---|
| <ol style="list-style-type: none">1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.4. <ol style="list-style-type: none">(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—<ol style="list-style-type: none">(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;<ol style="list-style-type: none">(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or(ii) drink as much alcohol as possible (whether within a time limit or otherwise);(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining |
|---|

a licensing objective;

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

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

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

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

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

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

7. The responsible person must ensure that—

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

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

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

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

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

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

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

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

- (b) "permitted price" is the price found by applying the formula -

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

Where -

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

- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
9. Non-intoxicating beverages, including drinking water, shall be available to patrons throughout the permitted hours for the sale or supply of alcohol.
10. The licence holder shall maintain a CCTV system that ensures the entry point is covered to enable frontal identification of every person entering. All cameras shall continually record whilst the premises are open to the public and the recordings shall be kept available for a minimum of 31 days with time and date stamping. Recordings shall be made available to a duly authorised Council officer or a police officer together with facilities for viewing. The recordings for the preceding 31 days shall be made available immediately on request. The CCTV system shall be operated in accordance with the Data Protection Act 1998.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show Police recent with the absolute minimum of delay when requested.
12. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
13. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, is swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
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. All outside tables and chairs shall be rendered unusable by (23.00) each day.
16. The supply of alcohol shall be by waiter or waitress service to seated persons only.
17. Substantial food shall be available during the whole of the permitted hours in all

parts of the premises where intoxicating liquor is sold or supplied.

18. The maximum number of persons accommodated at any one time (excluding staff) shall not exceed 200 persons.
19. 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
20. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
21. 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.
22. 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.
23. 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.
24. 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.
25. The premises shall operate as a restaurant in the area hatched black (i) in which customers are shown to their table, (ii) where the supply of alcohol is by waiter or waitress service only, (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery, (iv) which do not provide any take away service of food or drink for immediate consumption, (v) which do not provide any take away service of food or drink after 23.00, and (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals. Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
26. 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.
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. With the exception of residents and their bona fide guests, no alcohol shall be consumed more than 30 minutes after the permitted hour for the supply of alcohol.
29. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
30. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.

5 SHAFTESBURY FOOD AND WINE, 25-27 SHAFTESBURY AVENUE, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 12th February 2015

Membership: Councillor Tim Mitchell (Chairman), Councillor Nick Evans and Councillor Shamim Talukder

Legal Adviser: Barry Panto
 Policy Adviser: Chris Wroe
 Committee Officer: Joe McBride

Relevant Representations: An adverse representation was received from the Environmental Health Service

Present: Thomas O'Maoileoin (Solicitor, representing the Applicant), Louise Joyce (Environmental Health Officer)

Shaftesbury Food And Wine, 25-27 Shaftesbury Avenue, London, W1D 7EQ	
1.	Late Night Refreshment
	Monday to Thursday – 23:00 to 23:30 Friday to Saturday – 23:00 to 00:00
	Amendments to application advised at hearing: No change
	Decision (including reasons if different from those set out in report): Listed under Section 2
2.	To add the following conditions

	<ol style="list-style-type: none"> 1. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a convenience store. 2. Late night refreshment shall be limited to hot food that is reheated in a microwave oven operated by staff behind the counter where customers will not have access. There shall be no primary cooking on the premises. 3. A personal licence holder shall be on the premises during the hours licensable activities are permitted. 4. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly. 5. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity. 6. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
	<p>Amendments to application advised at hearing:</p> <p>No change</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>This was a variation application to an existing premises licence seeking to allow for the provision of late night refreshment indoors from 23:00 – 23:30 Monday to Thursday and from 23:00 – 00:00 on Friday to Saturday. It was noted that the report inaccurately suggested that alcohol could be sold for consumption on the premises. The premises operated as a shop and were allowed to sell alcohol for consumption off the premises only. Mr O’Maoileoin explained that the variation had been applied for as a result of the Applicant’s calculations that it could contribute an extra £10-15k in revenue per annum to the business.</p> <p>Mr O’Maoileoin stated that the small provision for late night refreshment applied for under the current application would be primarily concerned with the reheating of foodstuffs such as sausage rolls and samosas in a microwave situated behind the shop counter. In order to mitigate any potential nuisance as a result of this variation being granted, the Applicant provided a list of detailed conditions that he was content to adhere to. These conditions included the provision that there would be no primary cooking on the premises and a restriction to the reheating of food in one microwave only.</p>

Mr O'Maoileoin accepted that the Applicant's premises, in policy terms, fall within the category of a fast-food restaurant but contended that, in reality, these policies were written with more conventional fast-food restaurants in mind. Given the very limited nature of the Applicant's proposals Mr O'Maoileoin appealed to the Sub-Committee to grant the variation.

The Sub-Committee questioned Mr O'Maoileoin in relation to potential for litter that may be a result of the provision of late night refreshment. In response, Mr O'Maoileoin stated that he had spoken with the Applicant on this subject and had been assured that all packaging would be branded to avoid the premises being blamed for any potential litter that may be discarded by customers of other fast-food restaurants in the vicinity.

Environmental health, represented by Louise Joyce, maintained their representation on the basis that the application is against policy in the stress area and could potentially contribute to intensification of public nuisance and litter.

The Sub-Committee granted the application on the basis that late night refreshment was ancillary to the main operation of the business as a convenience store and that it would not undermine the licensing objectives. Members also considered the issue of cumulative impact but did not deem it relevant in this case because the application was within core hours and the nature of the hot food provided (there being no primary cooking and only one microwave being used to re-heat food) was such that it would not constitute an attraction to customers leaving other premises and would not result in customers remaining in the stress area.

Conditions attached to the Licence

Mandatory:

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
- 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.
6. The licence 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 a date and time stamping. Viewings of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 days.
7. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show Police 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 publicly

available at all times the premises is open. This telephone number is to be made available to residents in the vicinity.

10. 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.
11. There shall be no self service of spirits on the premises except for spirit mixes below 5.5% Alcohol by Volume.
12. No super-strength beer, lagers, ciders or spirit mixes 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.
13. All cashiers will receive refresher training on the relevant alcohol laws and the licence holder's policy on Challenging for such 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 relevant officer of a responsible authority.
14. The licence holder shall ensure that all cashiers are trained to ask any customers attempting to purchase alcohol, who appears 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.

20. 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.
21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
22. No deliveries to the premises shall be arranged between 23.00 and 08.00 next day.
23. No single cans or bottles of beer or cider shall be sold at the premises.
24. The licence holder shall ensure that outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, all alcohol within the trading area is to be secured behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
25. The licensable activities authorised by this licence and provided at the premises shall
be ancillary to the main function of the premises as a convenience store.
26. Late night refreshment shall be limited to hot food that is reheated in a microwave
oven operated by staff behind the counter where customers will not have access.
There shall be no primary cooking on the premises.
27. A personal licence holder shall be on the premises during the hours when licensable
activities are permitted.
28. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
29. There shall be no more than one microwave on the premises.
30. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23:00 and 08:00 on the following day.
31. No collections of waste or recycling materials (including bottles) from the premises shall be take place between 23:00 and 08:00 on the following day.
32. No fumes, steam or odours shall be emitted from the licenced premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

33. 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

6 TOP LOOK FOOD & WINE, 528 HARROW ROAD, W9

LICENSING SUB-COMMITTEE No. 1

Thursday 12th February 2015

Membership: Councillor Tim Mitchell (Chairman), Councillor Nick Evans and Councillor Shamim Talukder

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Joe McBride

Relevant Representations: A local resident has written in support of the review application stating that there is considerable street drinking in the area leading to public nuisance and crime and disorder, and would support less establishments being licensed to sell it

Present: Maria Johnson (Licensing Enforcement Inspector) Glyn Franks (Licensing Enforcement) Mrs Kavitha Arulanathan (appearing on behalf of Saravanai Rajaratnam – licensee) Veerasingam Arulanathan (Licensee)

Top Look Food & Wine, 528 Harrow Road, London, W9 3QF

An application submitted by the Licensing Authority for a review of the premises licence for

Top Look Food & Wine, 528 Harrow Road, London, W9 3QF, was received on 13th November 2014 on the grounds of the Prevention of Crime and Disorder.

On 8th May 2014, during an operation between customs and excise and trading standards

alcohol was seized from the premises when it became apparent that Excise Duty had not been paid on the goods. This is an offence under the S 170 of the Customs and Excise management Act 1979 and S144 of the Licensing Act 2003.

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 Saturday	08:00 to 23:00
Sunday	10:00 to 22:30

Regulated entertainment (recorded music and private entertainment): Unrestricted

The opening hours of the premises:

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

Decision (including reasons):

The licensee, without legal representation present, accepted that alcohol had been purchased from a delivery man by his co-owner and that no paper work was available for those purchases but contended that the vast majority of alcohol bought for the premises is purchased legally at a cash and carry outlet. However, nearly 684 litres of canned beer and 104 litres of wine had been seized from the premises.

The Sub-Committee asked the licensee how he normally keeps control of his stock and maintains relevant invoices to prove that stock within the premises is sourced legally. In response, the licensee stated that on his regular trips to the cash and carry outlet he keeps receipts and invoices. Furthermore, he proposed a condition that in future they would maintain proper records of all receipts and invoices for inspection by the Council or HMRC officers for a time deemed appropriate by the Sub-Committee.

Ms Johnson, representing Licensing Enforcement, explained that the amount of illegal alcohol seized on this occasion represented a minority of the total stock in the store. This led inspectors to believe that the majority of stock had been purchased

legally as the licensee had suggested. Ms Johnson also confirmed that in the ten years the licensee had held the licence, there were no previous issues of any kind against the licence holder. Ms Johnson stated that if the Sub-Committee were minded not to revoke the licence then Licensing Enforcement officers would be keeping monitoring the premises closely in future.

In order to stress the severity of the case against the licensee, Mr Panto, reading from guidance issued to the licensing authority, explained for the record that the licencing authority must seriously consider revocation of the licence in cases where illegal goods such as alcohol are seized even in cases where it is the licensee's first offence. That guidance further stated that criminal activity may have taken place despite the best efforts of the licence holder. It was nevertheless the duty of the licensing authority to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

The Sub-Committee considered the licensee's previous good character and his proposed condition to make all invoices available to officers in future when making their decision. After consideration of the licencing objectives, specifically the prevention of crime and disorder, members decided to suspend the licensee's licence for a period of three months and ordered that two further conditions should be imposed on the licence. The first condition was that "all alcohol must be removed from the premises for the period during which the licence is suspended following the review of the premises licence by the licensing authority in February 2015". . The second condition was that "the premises licence holder shall keep all invoices relating to alcohol stored on the premises for a period of 12 months so that they can be cross-referenced with stock on the premises during unannounced inspections by police officers and officers from Westminster Council and Her Majesty's Revenue and Customs".

Members of the Sub-Committee reinforced the point that the unlawful purchase of alcohol not only deprives HMRC of the duty paid but also exposes customers to the danger of drinking potentially harmful or poisonous alcohol that have been manufactured illegally.