



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (2)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** Committee held on **Thursday 17th December, 2015**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

**Members Present:** Councillors Nickie Aiken (Chairman), Nick Evans and Murad Gassanly

#### 1 MEMBERSHIP

There were no changes to the Membership.

#### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 1 WATERSTONE'S, 203-206 PICCADILLY, W1

#### LICENSING SUB-COMMITTEE No. 2

*Thursday 17th December 2015*

Membership: Councillor Nickie Aiken (Chairman), Councillor Nick Evans and Councillor Murad Gassanly

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon

**Waterstone's, 203-206 Piccadilly, W1  
15/09428/LIPV**

Application adjourned at the request of the Applicant prior to the hearing.

#### 2 SIR JOHN BALCOMBE, 21 BALCOMBE STREET, NW1

## LICENSING SUB-COMMITTEE No. 2

Thursday 17th December 2015

Membership: Councillor Nickie Aiken (Chairman), Councillor Nick Evans and Councillor Murad Gassanly

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon

Representations: Residents both in support of the review (x5) and in support of the premises (x15). Environmental Health in support of the review.

Also Present: Mr Gerald Gouriet QC (Representing the Applicants), Mr James McDonough and Mrs Natalie McDonough (Applicants), Mr Anil Drayan (Environmental Health), Ms Kay Cummings (Senior City Inspector), Mr Philip Kolvin QC (Representing the Licence Holder), Mr Richard Taylor (Solicitor, on behalf of the Licence Holder), Mr Rhys Scrivener (Noise Consultant on behalf of Licence Holder), Mr Paul Harbottle (Premises Manager), Ms Cynthia Poole (Chair of the Planning Committee for St Marylebone Society), Mr Brian and Mrs Elizabeth Aubrey (local residents), Mrs O'Connell (local resident), Mr Ollie Brown (local resident), Ms Gaby Higgs (local resident).

### **Sir John Balcombe, 21 Balcombe Street, NW1 15/08646/LIREVP**

An application submitted by Mr James McDonough, Mrs Natalie McDonough and Mr Jacob Rawel for a review of the premises licence was received on 6 October 2015 on the grounds of the Prevention of Public Nuisance, Crime and Disorder & Protection of Children from Harm.

#### **Decision:**

The Sub-Committee considered all of the material received from the parties involved carefully. The Sub-Committee also heard submissions and evidence at a hearing lasting for approximately four hours prior to Members retiring to a different room to reach a decision.

The Sub-Committee initially heard from Mr Gouriet, representing the Applicants. He referred to a photograph by Enterprise Inns, the Licence Holder, taken on the evening of 17 July 2015 (page 277 of the report) which showed customers standing and drinking outside the Sir John Balcombe Public House. This had been included in Mr Scrivener's report which had also mentioned that on the evening of 16 July 2015 and 17 July 2015 the number of people drinking externally on both sides of the venue in Balcombe Street and Taunton Mews between 18:30 and 19:30, in the Licence Holder's view was likely to have been approximately 80. The patrons drinking outside the pub, Mr Gouriet asserted, were causing noise nuisance to his clients.

Audio and video recorded by Mr and Mrs McDonough was played and shown to the Sub-Committee. Mr Gouriet made the point that the recordings were an indication of the level of noise given that they were taken on a mobile phone. The recordings were made in different locations including one made three floors above the McDonough's premises next door to the pub at 13:03 hours on 30 May 2015. This was an audio recording (from the day of the FA Cup Final) which appeared to include the raised voices and chants of football supporters. A second video recording taken from the McDonough's bedroom window on 15 August 2015 at 23:15 hours demonstrated the effects of a crowd of people outside. A similar third video recording was taken from the window of the premises opposite the McDonough's premises on 22 October at 21:56 hours. A fourth video recording was taken from the McDonough's bedroom window on 2 October at 18:15 hours where a larger crowd appeared to occupy the pavement and people walked into the street to pass them. A fifth video recording of patrons at street level was taken on 20 September 2015 at 16:00 hours.

Mr Gouriet stated that the noise logs submitted as written evidence by Mr and Mrs McDonough also gave an indication of the noise levels that they experienced. He referred to an entry from 21 May which described 'about 60 people yelling and drinking outside the pub' and in response to a telephone call to the Noise Team, Mr Sibanda an Environmental Health officer had arrived and found the noise to be 'unbearable' from within their property. Environmental Health had sent an email to Mrs McDonough in relation to noise complaints and within the list was an entry from Mr Sibanda on 21 May that he had visited in response to a complaint at 20:15 hours and 'on arrival could hear raised voices emanating from the patrons outside the pub. Could clearly hear laughter and raised voices clearly audible approximately 100 meters away from the pub. Visited customer and noise from raised voices was unbearable within the customer's study room, living room and dining room'. The entry had referred to 54 patrons.

Mr Gouriet drew Members' attention to the photographs on pages 135 and 136 of the report which showed patrons leaning against railings away from the premises. He also stated that a quote from Mr Scrivener on page 289 of the report was illuminating that 'having reviewed the residents' videos I have not seen anything which indicates that with the windows closed the internal noise levels would not be acceptable and reasonable'. He questioned why it should be necessary for residents to continually keep their windows closed in order to proceed with their everyday lives. Mr Gouriet commented that the pub had appeared to turn into a 'different animal' with greater activity and noise since the Licence Holder had re-opened it in November 2014. He was not saying that the owners or the patrons were malicious but that a nuisance was taking place in a manifestly residential area. He noted the point in the Licence Holder's submission that significant money had been spent on refurbishing the pub and that not permitting use of the outside area in the evenings would be likely to 'render the business unviable'. However, it was not for the Sub-Committee to assist the business at the expense of residents. Patrons could be encouraged to enjoy the refurbishment inside the pub rather than drinking in the external area. He added that the fact that a SIA registered door supervisor was required spoke volumes. Mr Gouriet also stated that the Licence Holder's approach set out in the submission was, rather than suggesting what could be done to try and resolve problems, to suggest that there were few problems or complaints and that the vast majority were against the review. Mr Gouriet referred to there being five representations from seven

people in support of the review submitted by the residents which demonstrated that they were not a small minority. Many of those who had written in support of the premises were customers rather than close residents and some were under the mistaken impression that the Applicants were seeking a revocation of the licence. He added that there needed to be a bigger steer from management that the problems would be dealt with.

Mr Gouriet concluded with the comments that there were more disturbances from external drinkers on Thursday, Friday and Saturday but as could be seen in the Applicants' noise logs and Environmental Health's records, complaints were made relating to the noise on every day of the week. Complaints were also at different times of the day from early afternoon to late evening. Smaller numbers of patrons were as capable as larger crowds of causing a nuisance. He expressed the view that what was taking place in the outside area was inappropriate for a residential street adjacent to a conservation area. On one occasion, he pointed out, 15 people were counted inside the premises compared to 35 outside the premises. There was no inherent right for patrons to drink outside and he was seeking that this practice was discontinued.

The Sub-Committee next heard from Mr Drayan on behalf of Environmental Health. He initially responded to additional submissions from Mr Harbottle and Mr Scrivener which had commented on his previous written representation. These included that he was of the view that the ambient noise levels in the street were low in contrast to Mr Scrivener's opinion that the background noise levels to be high and that he believed that the management was operating a different business model from previous operators, as it had not been on the radar of officers for several years in the residential area. He also advised that he did not consider that amplified music was still an issue at the premises. The Noise Team had previously served a noise abatement notice (on 7<sup>th</sup> May 2015) prior to the operator installing a sound limiter with the levels being set in conjunction with Environmental Health.

Mr Drayan stated that this was a residential area with a pub and that residents should expect some disturbance. The question was whether there should be restrictions to drinking outside, particularly at a later hour and what the level of supervision should be. He was proposing conditions that before 18:30 hours there should be a maximum of 30 patrons at any one time permitted outside and that staff supervised them so that outside patrons remained within the area under the canopy in Balcombe Street and close to the pub in Taunton Mews without causing obstruction to traffic. Between 18:30 and 21:30 Mr Drayan was proposing that there should be a maximum of 12 patrons at any one time outside the premises and that they should be seated. Clear signage was required for patrons to respect the needs of local residents and leave the area quietly. In his opinion, if the Licence Holder did not then supervise the external area effectively then further action could potentially be required.

The Sub-Committee asked Ms Cummings for her opinion on how management of the premises had responded to the issues that she had raised with them. She replied that residents had asked her and Richard Brown, Solicitor for the Citizens Advice Bureau Licensing Advice Project to assist them. Measures had been attempted by the Licence Holder including removing the outside tables and chairs so that they moved closer to the pub but residents had not felt this had helped. Residents had concerns that any changes would not be sustained. Ms Cummings made the point

that the management of the premises had sought to make improvements including ceasing live music and she had witnessed on occasions better management of the outside area. Management had agreed to other measures including controlling glasses used outside the premises, use more visible signage, have more resident friendly beer delivery times and employ a designated SIA registered door supervisor after 21:30 hours on Thursday and Friday evenings which started in March 2015. The Designated Premises Supervisor had not always dealt with disturbance outside the premises and Ms Cummings advised that management needed to implement robust working practices. She suggested that the Sub-Committee might also want to consider a capacity limit on drinkers and smokers outside and also restrict the timings for outside drinkers as proposed by Mr Drayan.

Mr Drayan also wished to emphasise that any interpretation of the degree of nuisance being experienced by residents had to take into account that people's ears were tuned to others' voices and there was the potential to be disturbed by it. When alcohol was consumed, the sound level of voices rose accordingly. Traffic noise levels did not necessarily cause the same nuisance to residents as the human voice.

In response to questions from Mr Panto on behalf of the Sub-Committee, Mr Gouriet informed those present that he was hopeful that any issues relating to the playing of music were resolved and this was not an issue that was being raised by his clients as part of the review at the hearing. The view of the Applicants was that the conditions proposed by Environmental Health depended on the Applicant including supervising the outside area, monitoring the numbers of patrons there and ensuring they are seated. They did not have confidence that the Licence Holder would address the problems. Mr Gouriet referred to footage shown at the beginning of the meeting which appeared to show that the DPS was not ensuring that patrons were quiet in the outside area. He believed that dispersal from the premises at closing time was an issue for residents and there had been complaints late into the evening. However, it was not to the same extent as drinking outside the pub. The view of his clients was that the meetings management of the pub had arranged with residents was less important than the Licence Holder addressing the issues raised by Mr Brown and Ms Cummings.

Members of the Sub-Committee were then addressed by Mr Kolvin. He initially asked Mr Drayan whether he had been inside the Applicant's home and whether he thought it was important to the understanding of the Applicant's recordings that they were conducted through an open window. Mr Drayan replied that he had been inside the Applicant's home but not when the pub was operating and that it did make a difference that the window was open but that it was reasonable for them to have an expectation that they should be able to open their window and not be inconvenienced by nuisance.

Mr Kolvin stated that the key to the review was proportionality. He took the view that the dates that had been highlighted by Mr Gouriet with large numbers of people outside were not typical of what took place on a daily basis at the pub. These dates included the first day of the Lords Test Match and the FA Cup Final. He stated that Members needed to consider what was the appropriate balance between the needs of the pub, an asset valued by the local community, which was operating during Core Hours and had traded there for centuries and the needs of the Applicants who had moved in next door.

Mr Harbottle provided some background on the management of the premises in terms of how he had planned to fulfil his aspiration that the pub be an asset to the community, both to residents and businesses. This was set out in more detail in his written submission. Live music for Royal Academy students had initially been encouraged but following complaints this was stopped and a noise limiter had been installed for background music. Sporting events were shown but not premier league football. He was keen to continue to have regular meetings with local residents.

Mr Kolvin expanded on skeleton submissions made on behalf of the Licence Holder which was submitted in the written papers received by the Sub-Committee. He stated that the existing licence contained a condition preventing outside drinking after 21:30 hours and that this continued to represent a fair and proportionate balance. The Licence Holder had proposed conditions to offer further protection. It had also taken hourly counts of patrons in the external area from 09:00 to 23:00 between 23 September 2015 and 2 December 2015 and found that there had rarely been any cases of more than 20 people being outside the premises. It was the assertion of the Licence Holder that any suggestion of large crowds gathering noisily throughout daytime and evening hours was exaggerated and wrong. There was a risk of occasional disturbance which was for a very short period of time. Mr Kolvin also referred to 21 visits by the City Inspectors in the last six months, stating that on no occasion had they raised anything which they considered to be a nuisance which he believed to be the result of improved supervision. He also made the point that there had been no representations in respect of the review from the residents living above the Applicant's premises, local councillors or from the Police.

Mr Kolvin emphasised that the management arranged quarterly meetings at the pub with residents, including on 28 October 2015. 18 local residents had attended and the feedback received by management had been that those attending were keen to prevent noise from dispersal and were not keen to have outside drinking scaled back. In general, it had been the management's perception that residents had been strongly supportive of the changes made at the pub. Mr Kolvin also addressed Members on the fifteen representations from local residents who had written in support of the premises. He then asked some of the residents who had written the representations to speak as witnesses at the hearing. Mr Aubrey, who lives eight doors from the premises (at number 37) commented that the present management ran the pub to a high standard. The pub had a community spirit, was not rowdy and there had never been any altercations there. He did not believe large crowds were typical. He conceded that if he could hear the sound of people in his own home it would probably bother him but made the point that it had been the choice of the Applicants to live next door to a pub. Mrs Aubrey spoke of a mixed age clientele who was well behaved. Mr Ollie Brown who lives at 25 Balcombe Street (immediately next door to Mr and Mrs McDonough) commended what the management had achieved to date at the pub. He informed Members that the kitchen had previously been run down and there had been a noisy fan. There had been a renovation and the fan had been replaced. The community had come back to the pub. He referred to the previous management having closed the pub during the early evenings and not operating it on Saturday evenings and expressed the view that the Applicants had arrived when the pub had not been successful and was less busy. He did not believe that the operating of the pub was the issue and that it was a drawback for the Applicants that they could not install double glazing as their home was in a

conservation area. Mr Brown commented that there were occasions when there were more patrons drinking outside the pub such as before or after sporting events.

Ms Poole spoke on behalf of St Marylebone Society. She expressed the view that it was very important to keep the pub and permit it to operate the external area until 21:30 hours. It was the last in the area and three other pubs had been lost in the last fifteen years. She believed that the management were and would respond to residents' concerns. The Chairman made the point to Mr Kolvin that photographs showing residents occupying and blocking the public highway beyond the premises' demise were concerning. It was unacceptable that people were unable to walk along the highway or that patrons were leaning against railings. Mr Kolvin replied that his client was content for conditions to be introduced to control these instances.

The Licence Holder had commissioned Mr Scrivener to assess noise generation from customers outside the pub. The report he had subsequently produced was included in the main report. Mr Scrivener took Members through the findings of the report. He had taken background measurements in the area to ascertain the noise environment against which sound generation occurs in order to create a noise map of the area. Against this he had measured the sound generation from different numbers of customers at the premises over a period of time, in order to demonstrate the relationship between the number of customers and the noise produced. It had been Mr Scrivener's assessment that with up to 50 customers outside the noise levels within adjacent dwellings remain acceptable. He had been critical of the Applicant's noise report, including that he believed it to be based on one set of measurements taken after close of play on the evening following play of the England versus Australia test match at Lords. Mr Scrivener was also of the view that if as proposed by Environmental Health patrons were seated there would be a greater distance between them and a greater potential for noise than if they were standing. He did not believe that there was a technical reason as to why the numbers of patrons outside the pub should be reduced to twelve after 18:30 hours. He believed 21:30 was a reasonable cut-off point for outside drinking. He had not viewed any specific activity outside which had caused a nuisance.

Mr Kolvin addressed Members on the Applicant's noise logs and the views of Environmental Health. He stated that most of the issues raised were before 20:00 hours and that the logs revealed little more than there would be occasional noise outside a pub. This was why the Council operated Core Hours and why it was likely that a condition on the existing licence had limited outside drinking to 21:30 hours. He did not consider that to reduce the number of patrons to a maximum of 30 outside as proposed by Mr Drayan had any scientific basis and later in the evening if the seats were taken it would not be possible to drink outside. The proposals would make the pub unviable. It was not the case that the business model relied on amplified music and sporting events. Mr Kolvin commented that in attempting to promote a balance between the needs of local residents and those of pubs and its customers, this would not be achieved by achieving silence for the next door neighbour. He added that there was not an excessive level of noise over a long period of time. It was believed that a balance had been struck effectively with a 21:30 cut-off time for drinking outside but this area needed to be managed better.

Following the Sub-Committee expressing concerns regarding photographic evidence from the Applicants showing patrons blocking the whole pavement whilst drinking

outside and leaning against railings, the Licence Holder offered to have an additional condition attached to the licence that barriers were introduced restricting patrons drinking outside to the premises' private forecourt from the north end of Balcombe Street to Taunton Mews. Mr Kolvin referred to the fact that no representations had been made in support of the review from residents of Taunton Mews and his clients believed there was an approximate capacity of approximately 18 in front of the Balcombe Street part of the premises and a further 18 in front of the Taunton Mews part of the premises.

In response to Mr Kolvin's comments, Mr Gouriet re-iterated that what had been proposed still required the Licence Holder to deliver and it was still apparent in his view that the Applicants' position was being minimised. A reliance on officer visits after phone calls to the Noise Team missed the point as they were arriving one to two hours after the calls had been received. He had reservations about Mr Scrivener's evidence given that evidence from Mr Sibanda on 21 May 2015 that the noise from raised voices was unbearable in rooms within Mr and Mrs McDonough's home. Mr Drayan also expanded on his point that the noise reports had not sufficiently taken into account that the human voice with talking and laughing was different from plant or machinery noise. He was of the view that patrons outside were on occasion causing a public nuisance and a possible compromise was to restrict outside drinking including the number of patrons as the evening progressed. If patrons were seated it would mean that their behaviour would be that much more relaxed.

The Sub-Committee asked two specific questions prior to retiring to consider the decision. Firstly, Mr Drayan was asked whether he could confirm that no issues had been apparent following visits during the last six months. Mr Drayan replied that officers had tended to advise how the premises could manage the outside area of the premises better. Ms Cummings added that the premises had sought to take remedial steps and sometimes the systems in place were falling down. Secondly, the Sub-Committee asked for reassurance from the Licence Holder that the outside area would be managed to the standards expected in the future. Mr Harbottle responded that there had been a change in approach. There were regular staff training programmes every few months and personal licence holders would always be on site. Both Mr Harbottle and the regional manager for Enterprise Inns had increased their number of visits to the premises. He believed having barriers in place would definitely assist the situation.

The Sub-Committee considered that in terms of a balance between the needs of the residents and the pub, it was important to note that the pub had been trading at the location for a long time and was valued by many members of the local community. The residents who had chosen to live in the vicinity of the pub would expect that there would be a certain amount of noise resulting from its use. However, it had been clear from representations received, including from the Applicants and additional evidence such as that from Mr Simbala, that on occasion there had been instances where local residents were experiencing public nuisance. The noise logs that had been kept by Mr and Mrs McDonough were very detailed. Whilst it was noted that there were not many complaints late at night, it did not follow that noise nuisance was acceptable during the earlier hours of the day. 30 or 40 people talking loudly outside a pub could potentially cause a nuisance at any time of the day, particularly in an area that was primarily residential in nature.



Detailed expert evidence was produced at the hearing which contained a considerable amount of technical data. However, the conclusions reached by the expert witnesses were different. The witness for the applicants (Peter Rogers) concluded that there was a public nuisance and suggested that the outside area should not be used after 6 pm. However, he also suggested that the situation witnessed when he visited the premises on 16th July was reasonably typical of the activities that occur on a regular basis. The members could not agree with that assertion because that was a date when the Ashes test was taking place at Lords Cricket Ground. The witness for the operators (Rhys Scrivener) concluded that customers were not causing a statutory nuisance but that seemed to depend on residents closing their windows between 19.00 and 21.30. The Environmental Health Officer, Mr Drayan, did not agree with the conclusions reached by Mr Scrivener and did not agree with Mr Scrivener's evidence relating to the ambient noise level in the immediate area.

Evidence, including from Ms Cummings, was that the Licence Holder had taken a number of steps to improve the management of the premises but that the systems were falling down on occasion. As Mr Kolvin had stated, the outside area still needed to be managed better. The Licence Holder had proposed a number of conditions and Mr Kolvin asserted that these would ensure that the management of the outside area did improve. These included the response to the Sub-Committee's concerns during the hearing so that barriers would be introduced restricting patrons drinking outside to the premises' private forecourt from the north end of Balcombe Street to Taunton Mews. Also, there would be a SIA registered door supervisor responsible for managing the outside area from 18:30 hours until thirty minutes after the last alcohol sale (the Sub-Committee considered that this should be a SIA door supervisor and not a personal licence holder).

The Sub-Committee decided to uphold the review application, accepting that a public nuisance was being caused to at least some of the residents living nearby and particularly to Mr and Mrs McDonough. However, the Sub-Committee also accepted that the steps to be taken had to be proportionate in the circumstances and agreed with Mr Kolvin that what was required was a better management regime for the use of the external area. The Sub-Committee advised that the Licence Holder needed to take residents' concerns on board in order to ensure that further action was not required. A number of Environmental Health proposed conditions were also attached but at this stage Members did not consider that either preventing outside drinking as suggested by Mr Gouriet or imposing strict limits on numbers of patrons outside after 18:30 and requiring them to be seated as suggested by Mr Drayan were proportionate. What was required were measures to ensure that customers outside the premises were generally reduced in number and not allowed to congregate in areas that were situated immediately adjacent to 23 Balcombe Street. This could best be achieved by restricting them to an area that was unlikely to cause disturbance to Mr and Mrs McDonough. It was hoped that these measures would ensure that no further nuisance would be caused to the applicants or any of the other local residents who had supported the review application. It was also hoped that the Licensee would maintain a proper dialogue with those residents so as to ensure that the new arrangements were achieving their purpose.

## Conditions attached to the Licence

### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance

by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
7. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) "permitted price" is the price found by applying the formula -
 
$$P = D + (D \times V)$$
 Where -
    - (i) P is the permitted price,
    - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
    - (i) the holder of the premises licence,
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that 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. 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.

10. All persons guarding the 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**

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. Children under the age of 18 shall not be permitted to use the AWP machine on the premises.
13. Films shall be exhibited by video entertainment on TV screens and amusement machines only.
14. Indoor sporting events shall be Pub Games only that may attract an audience whether by advertisement or spontaneous.
15. Recorded music shall be played with jukebox and karaoke, with or without a DJ, during normal business or as part of functions, and including audience participation.
16. Hot drinks and snacks shall be provided particularly during the chill out hour.
17. The maximum capacity within the basement shall be 50 persons excluding staff.
18. There shall be no outside drinking after 21:30.
19. Live entertainment is restricted to four performers with no amplification.
20. Substantial food and non-intoxicating liquor (including drinking water) shall be available during permitted hours.
21. All children shall be off the premises by 21:00.
22. Amplified music is restricted to the basement area and limited to two performers.
23. All outside tables and chairs shall be rendered unusable by 21:30 each day.
24. There shall be a personal licence holder on the premises at all times when the premises are open and authorised to sell alcohol.
25. The consumption of alcohol on the premises but in outside areas shall be restricted to the area of private forecourt shown cross-hatched on the premises licence. When used for the consumption of alcohol, the area of private forecourt shall be separated from the footway by barriers. The licence holder

shall take measures to ensure that the barriers are maintained in the correct position and do not extend on to the footway.

26. No customers shall be permitted to consume alcohol on the footway at the front of the premises in Balcombe Street.
27. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
28. The dispersal policy provided to Westminster City Council will be operated to ensure that customers leave the premises quietly and without causing disturbance to neighbours. A copy shall be kept at the premises at all times and shall be made available for immediate inspection by police or an authorised officer of the Council.
29. Between 1<sup>st</sup> May and 30<sup>th</sup> September on Wednesday, Thursday and Friday evenings, a minimum of one SIA registered door supervisor will be responsible for managing the outside area from 18:30 until thirty minutes after the last alcohol sale.
30. On any other day when the premises are the subject of a private function which is defined as a booking of more than 25 people in the basement area of the pub, one SIA Door Supervisor will be employed to assist with enforcement of the dispersal policy.
31. On any date that an event is scheduled that is expected to increase footfall in the local area (for example events at Wembley Stadium or Lords) a risk assessment will be undertaken with regard to SIA Door Supervisor requirement. Door supervisors will be employed between such times and in such numbers as identified by the risk assessment.
32. When door supervision is employed then at least one SIA Door Supervisor will remain on duty until thirty minutes after the last alcohol sale.
33. The written dispersal policy will be given to the SIA Door Supervisors' company detailing the expectations of their employees whilst on duty at the premises.
34. A verbal briefing will be given to door supervisors by the duty manager advising of the standards required in managing the outside area.
35. Any customers waiting for taxis will be requested to wait for those taxis within

the premises.

36. The DPS will arrange residents meetings to discuss any changes in operating practices and to gain feedback from residents. These will be held on a quarterly basis which will be reviewed on an annual basis. This meeting will be chaired by the Regional Manager or Operations Director and will include information on forthcoming events.
37. Local residents will be provided with a contact number for the pub and a contact number and e-mail address for the Regional Manager via the residents meetings.
38. All staff will be trained with regard to the new operating policies and the conditions on the premises licence. The training will be regularly refreshed and staff records maintained on site.
39. All policies and training records will be regularly reviewed and made available to the responsible authorities on request.
40. 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.
41. 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.
42. 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 or passport.
43. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime, disorder and nuisance
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.

44. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
45. All windows and external doors shall be kept closed after 21:30 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
46. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
47. The premises licence holder shall ensure that any patrons leaving the premises do so in an orderly manner and are supervised by staff to ensure that they do not congregate outside and disperse away from the premises so there is no public nuisance.
48. 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.
49. 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.