



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 14th January, 2016**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

Members Present: Councillors Nickie Aiken (Chairman), Susie Burbidge and Rita Begum

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

1 CLEVELAND ARMS PUBLIC HOUSE, 28 CHILWORTH STREET, W2

LICENSING SUB-COMMITTEE No. 2 *Thursday 14th January 2016*

Membership: Councillor Nickie Aiken (Chairman), Councillor Susie Burbidge and Councillor Rita Begum.

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Toby Howes

**Cleveland Arms Public House, 28 Chatworth Street, W2
15/09112/LIPV**

Application adjourned prior to the hearing.

2 58 BREWER STREET, W1

LICENSING SUB-COMMITTEE No. 2

Thursday 14th January 2016

Membership: Councillor Nickie Aiken (Chairman), Councillor Susie Burbridge and Councillor Rita Begum.

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Toby Howes
Licensing Officer: Yolanda Wade

Relevant Representations: Environmental Health, Metropolitan Police, Great Pulteney Street and Bridle Lane Residents Association, The Soho Society and twelve local residents.

Present: Mr Alun Thomas (Solicitor representing the Applicant Company), Mr Andrew Price (Applicant Company), Ian Watson (Environmental Health), PC Reaz Guerra (Metropolitan Police), Mr Richard Brown (Westminster Citizens Advice Bureau, representing local residents Mr Leslie Hardcastle, Mrs Wendy Hardcastle, Ms Marina Tempia, Ms Isabel Anderton and Mr Tino Giglio-Vigna), Mrs Wendy Hardcastle and Ms Marina Tempia.

58 Brewer Street, W1 15/10264/LIPN	
1.	Late night refreshment
	Monday to Saturday: 23:00 to 01:00 On the morning that Greenwich Mean Time changes to British Summer Time, one hour to be added to the terminal hour. To be extended from the terminal hour on New Year's Eve through to the commencement time on New Year's Day.
	Amendments to application advised at hearing: Withdrawn: Additional hour on the morning that Greenwich Mean Time changes to British Summer Time.
	Decision (including reasons if different from those set out in report): Mr Thomas, representing the Applicant Company, began by confirming that the application had been amended in respect of sale of alcohol to an earlier terminal hour from 01:00 to 00:30 Monday to Saturday. Mr Thomas also confirmed the withdrawal of proposals for an additional hour to all licensable

activities applied for and opening hours on the morning Greenwich Mean Time changes to British Summer Time (BST), following the legal adviser to the Sub-Committee, Barry Panto, advising that as the application proposed to close the premises at 01:00 Monday to Saturday, this would be exactly the same time when BST would commence.

Mr Thomas referred to additional document from the Applicant Company which sought address policy issues and concerns raised in the representations. He acknowledged that although the area was partly residential, there were also a significant amount of businesses and he considered the area mixed use. The Applicant Company, Shaftesbury Soho Ltd, had bought the premises that had previously operated as a café opening at 6.00am. The premises had planning permission for A3 use and for use of an extract plant.

Mr Price, from the Applicant Company, then addressed the Sub-Committee. Mr Price explained that previous owners of the property lived above the café and shared W/C facilities with it. Upon purchasing the premises which included both the café and the property above it, the Applicant Company had undertaken significant structural modifications and repairs, including installing additional soundproofing, double-glazed sash windows and completing a noise assessment. Local residents had been made aware that the application was for a licensed premises. In respect of the loss of the all day café, Mr Price contended that the opening of a Bills restaurant further down the street had taken some of its trade. The application presented an opportunity for a new, independent restaurant operator who could choose to offer all day breakfasts if they so wished.

Mr Thomas advised that a capacity of 60 people for the ground floor only had been provisionally agreed with Environmental Health and all other conditions had been agreed with Environmental Health, including the full model restaurant condition. The Applicant Company was one of the largest landlords in London and behaved responsibly, selecting its tenants carefully and had a track record of promoting the licensing objectives. Mr Thomas referred to the additional document that highlighted action taken by the Applicant Company to ensure one of its tenants, Jane Tira restaurant (situated at 28 Brewer Street), changed its extract plant following concerns raised by local residents. He stated that the Applicant Company developed or owned premises that were previously public houses or vertical drinking establishments into seated restaurants, including Duck and Rice on Berwick Street, Mr Foggs on St Martin's Lane and The Opera Tavern on Catherine Street, which he contended all contributed to reducing cumulative impact.

Mr Thomas then addressed the issues raised in the residents' representations which he felt were mainly based on policy. With regard to representations referring to a Licensing Sub-Committee refusing to extend the licensable hours for Mele and Pere until 01:00, Mr Thomas stated that the circumstances of that application were appreciably different as it was closer to residential properties, had double the capacity of 58 Brewer Street, and there was also some evidence of nuisance already associated with the premises. In addition, the 58 Brewer Street application only sought to sell alcohol up until 00:30 and offered a staggering of hours, with no other licensed premises in Brewer Street operating

the same hours that the Applicant Company proposed. In his view, Mr Thomas felt that the residents' representations had not demonstrated that granting the application was likely to add to cumulative impact. As the premises would be a small restaurant, it was even less likely to add to cumulative impact. The premises was also near Piccadilly Circus tube station, and although the last train left the station at 00:32, the restaurant was unlikely to be full at this time. Mr Thomas added that the imminent introduction of all night tube services would help reduce cumulative impact. He suggested that as the area had changed, with less vertical drinking establishments and more restaurants, crime had fallen. Customers leaving the premises would have no need to go down Bridle Lane where some residents making representations lived. Mr Thomas suggested that most customers would head towards Piccadilly tube station, take a taxi from Brewer Street or head to Regent Street to catch a bus home.

Mr Watson, of Environmental Health, then addressed the Sub-Committee. Mr Watson advised that Environmental Health had visited the premises following the submission of the application and all conditions had been agreed which satisfied him in terms of policy. However, as there was no restaurant operator as an end user currently in place, they could not be asked details such as the practical steps they would take to address the licensing objectives, particularly as the hours proposed went slightly beyond core hours and the premises was located in a cumulative impact area. With regard to the layout, Mr Watson advised that this was indicative whilst there was no operator at the premises, with the location of the stairway the only certainty. He confirmed that a capacity of 60 people had been agreed with the Applicant Company and that it related to the ground floor only, as the basement was not proposed to be part of the licensed area.

PC Guerra from the Metropolitan Police advised that his representation was based on policy grounds as the premises was in a cumulative impact area and the hours proposed were beyond core hours. He also had further reservations as it was not yet known who would operate from the premises.

Mr Brown from Westminster Citizens Advice Bureau, and representing Mr Leslie Hardcastle, Mrs Wendy Hardcastle, Ms Marina Tempia, Ms Isabel Anderton and Mr Tino Giglio-Vigna, then addressed the Sub-Committee. Mr Brown began by stating that the premises was approximately 10 yards from Bridle Lane and around 20 yards from Great Pulteney Street. He stated that essentially the representations were based in respect of policy considerations and that he did not doubt the Applicant Company's reputation as a reputable landlord. With regard to the claim that Duck and Rice helped reduce cumulative impact, Mr Brown commented that a public house still existed on the ground floor, with a restaurant added to the floor above and so in his view this would add to cumulative impact. Mr Brown stated that the policy was designed to address the cumulative impact of having a large number of licensed premises in a particular area. Where an applicant proposed to operate beyond core hours, Mr Brown stated that this was more likely to add to cumulative impact and the applicant would need to demonstrate that they were an exception to policy. He added that the proposed model restaurant condition in itself did not overcome policy and the applicant would still need to demonstrate that they would not add to cumulative impact.

Mr Brown contended that it would be difficult for residents to pinpoint the cause of public nuisance, disorder or crime on any particular premises, although in the case of Mele and Pere, examples of anti-social behaviour from its customers had been demonstrated. The premises was also closer to Bridle Lane than Mele and Pere. Mr Brown stated that although the proposed capacity of the premises was fairly modest, it would still mean up to an additional 60 people in a cumulative impact area. In addition, as the last train left Piccadilly tube station at 00:32, some customers may still remain in the area longer as the premises would not close until 01:00 and thus mitigating any advantage of staggered hours. Mr Brown contended that public transport provision was key to policy in forming core hours and cumulative impact, and policy stated that it was not yet known whether an all night tube service would be beneficial. The part of Brewer Street the premises was located in was also quieter and more residential and in terms of dispersal, customers would be leaving the premises beyond core hours with no late tube service currently available. Mr Brown added that even those customers who did board the last train at Piccadilly tube station would not arrive in time to change for the last train services on the Northern Line and so they may be stuck in another area attempting to find alternative transport, which would have the effect of causing a dispersal problem elsewhere.

Ms Tempia, a local resident, then addressed the Sub-Committee. Ms Tempia explained that she lived in the first block of flats in Bridle Lane down from the premises and residents lived either side of the premises. She asserted that all residents in the block suffered from witnessing anti-social behaviour, including drug dealing and taking and street fouling late at night and such activities also took place in the daytime. She acknowledged that there had been a reduction in nightclubs in the area in recent years, however there were now considerably more restaurants which she felt added to cumulative impact. Even though the proposed restaurant's capacity was small, it would still add to cumulative impact in a quiet, residential area, particularly as the premises would be open beyond midnight. Ms Tempia contended that crime figures in Soho and the West End were still increasing due to the sheer volume of people in the area.

Mrs Hardcastle, a local resident, addressed the Sub-Committee and stated that the loss of the café was regrettable as it was beneficial to the community and offered affordable food to local residents, workers and tourists. She stated that prices at Bills restaurant would be beyond many of the former customers of the café. Mrs Hardcastle commented that this end of Brewer Street was on the fringe of Soho and much quieter than the rest of the area. However, the noise from further up Brewer Street would funnel down to this part and the prospect of some residents living above the proposed restaurant would mean they would also be disturbed by noise from it. Mrs Hardcastle also referred to drug dealing and taking in the area.

Members enquired whether a designated smoking area was proposed by the Applicant Company and whether it undertook checks, such as on extractors, with the premises it owned without having to be approached by the Council. Members asked whether the Applicant Company would require the eventual operator to provide a telephone number for local residents to contact if the premises was the cause of any concern.

In reply to queries from Members, Mr Thomas stated that the Applicant Company had not yet considered a designated smoking area, however if customers did wish to smoke, it was likely to be directly outside on the street. He advised that it would not be possible for the Applicant Company to have a designated smoking area on the street due to the narrowness of the pavement. The Sub-Committee noted that there would be no outside tables or chairs. Mr Thomas confirmed that the Applicant Company would ensure that the operator provided a telephone number that residents could contact the operator with and, on behalf of the Applicant Company, advised that they would accept this as a condition on the premises licence. Mr Thomas also confirmed that all conditions with Environmental Health had been agreed.

Mr Price advised that the Applicant Company inspected all the extractors of the premises it owned and it was encouraging its tenants to modernise their extractor systems. He added that the Applicant Company usually owned entire buildings which may include residents, so in order to enhance its reputation it was important to take a proactive role and to engage with residents.

In summing up the case for the Applicant Company, Mr Thomas referred to concerns raised about not yet knowing who would operate on the premises and emphasised that Shaftesbury Soho Ltd selected its tenants carefully. He stated that the premises licence would be subject to a works condition and the final layout of the premises would likely require a variation application. In addition, the Police would need to be satisfied with the transfer of the premises licence to the operator. In respect of Duck and Rice, Mr Thomas contended that this was a big improvement to the previous occupier and although there was a public house on the ground floor, it also offered food. In respect of dispersal of customers, the imminent introduction of an all night tube service should be taken into account. Mr Thomas asserted that it was unlikely that the proposed restaurant would be associated with the reported drug dealing/taking and street fouling and that it would play a part in changing the area in a beneficial way.

Mr Brown concluded by stating that ideally residents did not wish that the application be approved on the grounds that it would add to cumulative impact. However, he suggested that granting of the premises licence if restricted up to a maximum of core hours would go some way in addressing residents' concerns.

The Sub-Committee granted the application, subject to the hours for licensable activities and opening hours being restricted to core hours (sale by retail of alcohol on the premises: Monday to Thursday – 10:00 to 23:30; Friday and Saturday – 10:00 to 00:00; Sunday - 12:00 to 22:30; late night refreshment: Monday to Thursday – 23:00 to 23:30; Friday and Saturday – 23:00 to 00:00; opening hours: Monday to Thursday – 10:00 to 23:30; Friday and Saturday – 10:00 to 00:00; Sunday - 12:00 to 22:30). The granting of the application was subject to the proposed conditions, including those agreed with Environmental Health. The granting was also subject to an additional model condition 22 limiting the number of patrons to temporarily leave and then re-enter the premises (for example, to smoke) to 6 persons at any one time and an additional model condition 24 requiring that a direct telephone number for the manager be publically available at all times the premises is open. In relation to

	<p>the proposed works condition, the Sub-Committee amended the wording to include that the capacity set shall not exceed 60 persons, excluding staff.</p> <p>In granting the application, the Sub-Committee acknowledged that the Applicant Company was a responsible landlord. However, the Sub-Committee considered that the Applicant Company had not provided sufficient evidence that there would be no detrimental effect on cumulative impact in a cumulative impact area in operating beyond core hours and so accordingly granted core hours. The Sub-Committee also acknowledged that the maximum capacity of the premises was modest, however if later hours beyond core hours had been granted, it would still have added to the number of people in a cumulative impact area. The Sub-Committee noted the Applicant Company's acceptance to add a condition concerning providing a direct telephone number of the manager to be publically available and this was duly added to the premises licence. The Sub-Committee also considered that the conditions added to the premises licence, would help the Applicant Company and the future operator of the premises to uphold the promotion of the licensing objectives (prevention of crime and disorder, prevention of public nuisance, public safety, protection of children from harm).</p>
<p>2.</p>	<p>Sale by Retail of Alcohol: On Sales</p>
	<p>Monday to Saturday: 10:00 to 00:30 Sunday: 12:00 to 22:30</p> <p>On the morning that Greenwich Mean Time changes to British Summer Time, one hour to be added to the terminal hour.</p> <p>To be extended from the terminal hour on New Year's Eve through to the commencement time on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>Withdrawn: Additional hour on the morning that Greenwich Mean Time changes to British Summer.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
<p>3.</p>	<p>Hours Premises are Open to the Public</p>
	<p>Monday to Saturday: 10:00 to 01:00 Sunday: 12:00 to 22:30</p>

	<p>On the morning that Greenwich Mean Time changes to British Summer Time, one hour to be added to the terminal hour.</p> <p>To be extended from the terminal hour on New Year's Eve through to the commencement time on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>Withdrawn: Additional hour on the morning that Greenwich Mean Time changes to British Summer Time.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>

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

- (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.

Additional Conditions

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

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

11. 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.

12. Loudspeakers shall not be located in the entrance lobby or outside the premises building.

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

14. 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.

15. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
16. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
17. 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.
18. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
19. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
20. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - a) all crimes reported to the venue
 - b) all ejections of patrons
 - c) any complaints received concerning crime and disorder
 - d) any incidents of disorder
 - e) all seizures of drugs or offensive weapons
 - f) any faults in the CCTV system, searching equipment or scanning equipment
 - g) any refusal of the sale of alcohol
 - h) any visit by a relevant authority or emergency service.
21. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
22. The premises shall only operate as a restaurant
 - a) in which customers are shown to their table,
 - b) where the supply of alcohol is by waiter or waitress service only,
 - c) 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,
 - d) which do not provide any take away service of food or drink for immediate consumption,

- e) which do not provide any take away service of food or drink after 23.00, and
- f) 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.

- 23. No licensable activities shall take place at the premises until the capacity of the premises, which shall not exceed 60 persons excluding staff, has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.
- 24. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
- 25. The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
- 26. Licensable activities shall be restricted to the ground floor of the premises.
- 27. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
- 28. 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.
- 29. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
- 30. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
- 31. 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.
- 32. 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.

- 33. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
- 34. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction a variation application may be required.
- 35. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 6 persons at any one time.
- 36. 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.

3 ZELMAN MEATS, 2 ST ANNE'S COURT, W1

LICENSING SUB-COMMITTEE No. 2

Thursday 14th January 2016

Membership: Councillor Nickie Aiken (Chairman), Councillor Susie Burbridge and Councillor Rita Begum.

Legal Adviser: Barry Panto
 Policy Adviser: Chris Wroe
 Committee Officer: Toby Howes
 Licensing Officer: Yolanda Wade

Relevant Representations: Environmental Health and seven local residents

Present: Mr Stephen Walsh QC (Counsel representing the Applicant Company), Mr Thomas O'Maoileoin (Solicitor representing the Applicant Company), Mr Nick Chambers (Project Manager, Applicant Company), Mr Daniel Luigi (Designated Premises Supervisor, Applicant Company), Mr Ian Watson (Environmental Health), Mr Richard Brown (Westminster Citizens Advice Bureau, representing local residents Ms Rebecca Taylor and Mr Niall MacAnna), Ms Rebecca Taylor and Mr Niall MacAnna.

Zelman Meats, 2 St Anne's Court, W1 15/08707/LIPV	
1.	Proposed Variation
	Change of layout, including inter alia <ul style="list-style-type: none"> • Re-arrangement of fixed seating • Moving of partition further away from bar area

	<ul style="list-style-type: none"> • Relocation of oyster bar • Removal of former cold station to be replaced by freestanding tables and chairs • Some reconfiguration of back-of-house area
	<p>Amendments to application advised at hearing:</p> <p>Additional conditions proposed in a minor variation application were noted:</p> <ol style="list-style-type: none"> 1. The extract plant shall be switched off at 23:00 hours. 2. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly. 3. A direct telephone number for the manager at the premises shall be publically available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity. 4. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway. 5. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
	<p>Decision (including reasons if different from those set out in report):</p> <p>Mr Walsh QC, Counsel representing the Applicant Company, began by advising that the application was only to modify existing plans and to refurbish the premises and not to extend the licensable activities or the hours for any licensable activities. He explained that before the Applicant Company had occupied the premises, it had operated as a bar called Revolution and had been associated with a number of complaints from residents. Upon taking over the premises, the Applicant Company had operated it as a restaurant (Rex and Mariano) with the full restaurant model condition on the premises licence. The premises had initially operated as a fish restaurant, however it now operated as a restaurant offering high quality meats, primarily in offering beef dishes. The change in the nature of the restaurant was driven by the need to boost trade, particularly at lunchtime. Mr Walsh emphasised that the premises still operated as a restaurant and all alcohol served was ancillary to a meal.</p> <p>Mr Walsh then referred to the revised plans which included re-arrangement of fixed seating and constructing a 'cosmetic separation'. Seating was also introduced to the former cold fish storage area. The revisions would not lead to an increase in capacity and all customers needed to be seated when they consumed alcohol. The intention of the 'cosmetic separation' was to separate a dining area from a bar dispensing area and not to create a separate bar area,</p>

as some residents had suggested in their representations. The Sub-Committee heard that the bar stools were in place so that customers could eat at the bar. Mr Walsh advised that works to change the layout had already been made and so a retrospective application had been submitted. This was because an employee handling the application had left the Applicant Company without submitting the application to the licensing authority. The application was submitted as a major variation in order to err on the side of caution. Mr Walsh added that the Applicant Company had originally displayed the notices advertising the application, however these had been moved or obscured by the contractor undertaking the works. He confirmed that the premises was currently operating under temporary event notices.

Mr Walsh stressed the Applicant Company's desire to work with residents to address their concerns. With regard to the noise caused by cleaners, the cleaning hours had since been regularised so as to take place from 08:00 to 11:00 before the premises opened at noon. The Applicant Company acknowledged the noise made by the existing plant and extractor unit and to address this, a minor variation application had been made for the extract plant to be tuned off at 23:00 and a timer had been fitted to it. The minor variation also included proposed conditions regarding display of notices asking customers to leave the premises quietly, a direct telephone number for the manager at the premises to be publically available, queuing outside the premises to be supervised by door staff and for the premises licence holder to enter into agreement with a hackney carriage and/or private carriage firm to provide transport for customers.

Mr Walsh felt that residents' perception that the premises had become more of a bar was incorrect and that the Applicant Company actually envisaged a higher spend on food than before, the average spend being £30. In respect of take away, Mr Walsh stated that the current premises licence prohibited consumption of take away food and drink immediately outside the premises, whilst take away was prohibited altogether after 23:00. The Applicant Company sought to increase lunchtime trade by offering take away food such as steak sandwiches, smoked brisket sandwiches and burgers. It was envisaged that the take away customers would then consume their food either in their offices or at home. In respect of a reported episode where there had been large queues outside the premises, Mr Walsh explained that this had occurred when free burgers had been offered upon the premises re-opening as Zelman Meats and this would not be repeated. Mr Walsh advised that to date take away had only contributed to 0.2% of turnover and the Applicant Company was re-considering whether it would continue to offer a take away service.

Mr Watson from Environmental Health then addressed the Sub-Committee. Mr Watson advised that residents had been disturbed by the hard knock noises from cleaning and noise from the plant and extractor unit. Environmental Health and the District Surveyor had visited the premises following the alternations and had signed off the new layout and works. Mr Watson felt the impact the alterations would have on the area were minimal and these could have been submitted as a minor variation. The Sub-Committee heard that every complaint lodged about the premises was now correctly recorded. Environmental Health's Noise Team had been in discussions with the Applicant Company about noise

from the plant and extractor unit and Mr Watson felt that the Applicant Company had been prudent in attaching a timer to the unit to shut it down after 23:00, as this removed any potential in human error in ensuring this happened each time. Members sought Mr Watson's views as to whether the alterations had led to the creation of a bar area. In response, Mr Watson advised that there was a sense of separation and the area could be accessed from the street, however there was both fixed and loose seating and it did not freely provide for a standing area. The tables were also the same height as in the rest of the premises and so Mr Watson did not consider the area to be a bar lounge.

Mr Brown, from Westminster Citizens Advice Bureau and representing Ms Rebecca Taylor and Mr Niall MacAnna, addressed the Sub-Committee. Mr Brown stated that residents who were objecting to the application were in close proximity to the premises and that the door providing access to the area referred to as the 'bar area' by residents was next to residential property at 4 St Anne's Court. Mr Brown stated that residents felt that the change to the layout of the premises was changing the nature of the premises and the way it operated and the 'bar area' had the appearance of one as such. Residents had experienced a number of public nuisance issues when the premises had operated as Revolution and had been happier since the premises had changed to a restaurant. However, residents felt the changes to the premises would mean it would operate more as a drinks led establishment and the issues experienced when Revolution existed would return. Mr Brown suggested that the changes to the premises meant it was moving away from the criteria listed under the model restaurant condition. He acknowledged that the proposed conditions in the minor variation submitted would partly address residents' concerns, particularly in respect of the plant and extractor unit. Regarding the reported incident of loud music at the premises (this being a complaint of noise nuisance from a private party on 18 November 2015), Mr Brown stated that Council officers' evidence seemed to support this claim and that use of DJs on the premise was a clear change in the nature of how the premises operated. Similarly reports of customers making noise outside the premises and residents witnessing customers taking their drinks outside suggested the premises was more alcohol led.

Mr Brown stated that residents had been alarmed when there had been queuing outside the premises for customers wanting to order take away and he referred to a previous decision of a Licensing Sub-Committee (31 July 2014) concerning the premises where a queuing condition had not been added as there no element of take away in the operation of the premises. He commented that the plant and extractor unit had become less of an issue to residents when the premises had operated as a fish restaurant and he pondered whether the more intense cooking required to cook meat had contributed to the extractor unit now causing more noise and disturbance. Noise caused by cleaning during the night and people making noise outside had also been a problem when the premises operated as Revolution. Mr Brown referred to a visit by Mr Watson to the premises and his observation that notices in respect of customers smoking were not in place was a basic error that the premises' management should not be making. Mr Brown concluded by asserting that the changes to the premises gave the impression both to residents and customers that the focus on providing alcohol had increased, particularly in respect of the 'bar area'.

Members also had regard to the written submissions from Mr Brown dated 12 January 2016.

Mr MacAnna, a local resident, stated that residents had been alarmed by the changes to the premises, in particular by what seemed to be the creation of a bar area. The introduction of cocktails, take away and the apparent attracting of a different type of crowd to the premises made it appear as if the operation of the premises had changed completely. Mr MacAnna also felt that the atmosphere of the premises had changed, with an edgier feel to it and the premises looked more like a club at night time. Residents were also disturbed by the noise and vibration when the extractor unit was turned on. Attempts had been made to speak to management about residents' concerns, however a lack of continuity amongst staff had hampered this and residents felt that promises were being forgotten or misplaced. Mr MacAnna stated that the Applicant Company had agreed to install CCTV, however this had not yet been done. Furthermore, the door providing access to the 'bar area' was next to the same door that provided access to residents to enter their homes, and many of these residents were older and were stressed by the noise coming from the premises. Mr MacAnna stated that he had undertaken some online research about the premises which he said gave information about there being a larger bar area, that Japanese whisky was available on tap and that the operator was focusing a lot more on the evening trade. Members also heard that customers were exiting the door to the bar area to smoke outside.

Members also had regard to the further detailed written submissions from Mr MacAnna and the written representations from the other local residents.

Members expressed concern about the application and sought assurances that the new layout of the premises complied with the premises licence and the licensing objectives. Members also raised concerns about whether a bar area had been created, the door providing access to this area and the incident involving a party with a DJ and they sought further comments from the Applicant Company in respect of these issues. Further clarification was sought in respect of the 'take away' area as referred to in the premises' new plans. Members also asked what the capacity for the total number of smokers in the premises was.

Mr Panto, legal adviser to the Sub-Committee, sought further clarification as to the process when a customer goes to the dispensary bar and requests an alcoholic drink. A possible concern on the part of residents might be that customers could be drinking at the bar without food whilst waiting to be seated for a meal elsewhere on the premises.

In reply, Mr Walsh asserted that there was no bar area and having visited the premises himself, he did not think the area in question did give the impression that it was a bar area. He stated that there was a sign on the door that gave access to this area requesting that customers use the main entrance. On behalf of the Applicant Company, Mr Walsh indicated that a condition restricting the use of this door as an emergency exit would be acceptable. Mr Walsh stated that it was a dispensing bar only and that the bar seats were for customers to eat at, with any alcohol served being ancillary to a meal. This area would also offer the same quality of food offered elsewhere in the restaurant. Mr Walsh

advised that if a customer ordered an alcoholic drink from the dispensing bar and did not order food too, they would not be served the drink. However, if a customer was seated at the bar and already eating when they ordered the alcoholic drink, then they would be served it.

Mr Walsh confirmed that the capacity for smokers on the premises was 15 people and a smoking area would be designated. The Applicant Company would also be happy for a condition to be added stating that no smoking was permitted in the vicinity of the door that currently provided access to the dispensing bar. With regard to reference of take away in the new plans, Mr Walsh advised that take away was in use and that take away service was offered between 12:00 and 14:30, however as he mentioned previously the Applicant Company was considering whether this service should continue as it only contributed a very small amount to turnover.

Mr Chambers, Project Manager for the Applicant Company, informed Members that there were many types of tables on the premises and that staff had made attempts to dissuade customers from using the door providing entrance to the dispensing bar. In respect of residents' reference to a party taking place on the premises, Mr Chambers explained that this had been a private party that had included a DJ and it was acknowledged that it was ill advised for the Applicant Company to have held this event. Mr Chambers stated that there would be no parties or DJs on the premises in future.

Chris Wroe, Policy Adviser, advised Members that the model restaurant condition sets out what type of premises a restaurant should be and the expectation is that take away would not be provided in most cases. However, a few restaurants did offer some form of take away, such as deliveries, and in any case take away should not be packaged or marketed so that the food could be consumed immediately outside the premises.

Mr Walsh indicated on behalf of the Applicant Company that they would not object to a condition prohibiting take away.

The Sub-Committee agreed the variation, subject to an amendment to the model restaurant condition so that no take away was to be provided. In making this amendment, the Sub-Committee acknowledged that the Applicant Company had indicated that they would not object to take away being withdrawn as a permitted activity on the premises licence. The granting of the application was also subject to a condition stating that entry and egress shall only be via the main double door at the east end of the frontage of the premises, except in the case of emergencies, in order to address residents' concerns about customers entering the premises via the door that led to the dispensing bar. The Sub-Committee also decided to add the conditions proposed in the minor variation application and requested that the Applicant Company consider measures to control smoking.

The Sub-Committee expressed disappointment in the way the Applicant Company had engaged with local residents and impressed upon it the need to act as a responsible operator. The Sub-Committee also expressed disappointment that the works had already taken place before the application

for variation had been submitted and requested that the Applicant Company make more effort to abide by the licensing regulations, licensing objectives and the conditions on its premises licence. The Applicant Company was warned that Council officers will monitor the premises and residents were reminded that if the licensing objectives were being undermined, they could also consider the possibility of submitting an application for the review of the premises licence.

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.

Additional Conditions

9. 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.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. 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 visit by a relevant authority or emergency service.
12. 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.
13. No deliveries to the premises shall take place between 23:00 and 08:00 the following day.
14. The premises shall only operate as a restaurant
- (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,

(iv) which do not provide any take away service of food or drink, and
(v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

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

15. There shall be no sales of alcohol for consumption off the premises.
16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 08:00 hours on the following day.
18. 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.
19. All windows and external doors shall be kept closed after 21:00 hours, except for the immediate access and egress of persons.
20. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 15 persons at any one time.
21. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
22. The number of persons accommodated at the premises (excluding staff) shall not exceed 200.
23. Entry and egress shall only be via the main double door at the east end of the frontage of the premises, except in the case of emergencies.
24. The extract plant shall be switched off at 23:00 hours.
25. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
26. A direct telephone number for the manager at the premises shall be publically available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
27. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
28. The licence holder shall enter into an agreement with a hackney carriage

and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.

4 ITSU, 31 BROADWICK STREET, W1

LICENSING SUB-COMMITTEE No. 2

Thursday 14th January 2016

Membership: Councillor Nickie Aiken (Chairman), Councillor Susie Burbridge and Councillor Rita Begum.

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Toby Howes
Licensing Officer: David Sycamore

Relevant Representations: The Soho Society and two local residents.

Present: Mr Mark Browning (Solicitor, representing the Applicant Company) and Ms Nuala Harkin (Operations Manager for the Applicant Company).

Itsu, 31 Broadwick Street, W1 15/09829/LIPN	
1.	Sale by Retail of Alcohol: On and Off Sales
	Monday to Saturday: 10:00 to 21:00 Sunday: 12:00 to 21:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): This was an application to sell alcohol from a restaurant operating in the West End Cumulative Impact Area. Mr Browning, Licensing Agent and representing the Applicant Company, began by stating that residents who had made representations had been sent letters to address their concerns. An earlier application made in 2013 had been withdrawn following concerns that it may encourage vertical drinking. Mr Browning stated that as this application was to sell alcohol only up to 21:00, there would be a very low impact on the area. Fresh food would be prepared on the premises on the same day that it was sold and food allergies were also catered for. Mr Browning advised that the Applicant Company wanted to sell a particular brand of Japanese beer that would only be

	<p>supplied to customers who were seated and also having a meal. Beer for take away would be placed in sealed bags and was mainly to cater for the business market. Mr Browning advised that all conditions had been agreed with Environmental Health and that the Applicant Company had other premises in cumulative impact areas that operated without any problems and it worked with residents to address any concerns.</p> <p>In reply to a query from Members, Mr Browning advised that the Applicant Company had other branches in Neal Street, Baker Street, Piccadilly, The Strand and Wardour Street. He added that the Applicant Company had responded to a Licensing Sub-Committee's request to improve recycling at a previous hearing, with a new recycling policy in place offering a comprehensive recycling scheme, including recycling of food. A new waste contractor had also been appointed and larger recycling storage bins had been introduced. Mr Browning requested that a condition requiring that there be no self-service of alcohol be removed, as the alcohol was stored in fridges before customers would arrive at the serving counter.</p> <p>Members noted the written representations from the local residents and the Soho Society and had regard to the fact that the premises was situated in the West End Cumulative Impact Area. However, the Sub-Committee also took account of the fact that the premises would not be drink led and would close by 21.30 every evening. It was also noted that there had been no objection from the Police and Environmental Health had withdrawn their representation upon the Operating Schedule being amended to include agreed conditions.</p> <p>The Sub-Committee granted the application subject to the conditions agreed with Environmental Health and to an amendment to a condition in respect of the terminal hour for takeaways to cease at 21:30, in order that this was in line with the opening hours. The Sub-Committee also agreed to delete the condition stating that there be no self-service of alcohol as it recognised that customers would need to take alcohol from the fridge before going to the serving counter. A proposed condition relating to off sales of alcohol was replaced by model condition 36 addressing this issue.</p> <p>In granting the application, the Sub-Committee acknowledged that the Applicant Company was a responsible operator and the hours applied for were well within core hours. It considered that the conditions added would help the Applicant Company uphold the promotion of the licensing objectives (prevention of crime and disorder, prevention of public nuisance, public safety, protection of children from harm).</p>
2.	Hours Premises are Open to the Public
	Monday to Sunday: 09:00 to 21:30
	<p>Amendments to application advised at hearing:</p> <p>None.</p>

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

Granted, subject to conditions as set out below (see reasons for decision in Section 1).

Conditions attached to the Licence

Mandatory Conditions

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

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

disability).

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

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor.

For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

- 8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 8(ii) For the purposes of the condition set out in paragraph 8(i) above –

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

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

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

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

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

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

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

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

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

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that 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.

Additional Conditions

9. The premises shall only operate as a restaurant; where the supply of alcohol is only

(i) provided with food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table,

(ii) which do not provide any take away service of food or drink for immediate consumption,

(iii) which do not provide any take away service of food or drink after 21.30, and

(iv) where alcohol shall not be sold, supplied, or consumed on the premises otherwise than to 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

10. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
11. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take away meal.
12. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
13. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
14. Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke, shall not be permitted to take drinks or glass containers with them.
15. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, 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
16. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
17. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
18. Children are welcome if accompanied by a responsible adult for the purposes of having a meal. Staff are trained on their responsibilities to not sell alcohol to persons who are or appear to be underage and a Challenge 21 scheme is in place.

19. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
20. The number of persons permitted on the premises consuming alcohol at any one time (excluding staff) shall not exceed 40 persons.
21. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, and at the point of sale.
22. Queuing outside the premises shall not be permitted
23. 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.
24. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device
25. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
26. The public toilet shall at all times be accessible to the public during hours the premises is open for licensable activities.

The Meeting ended at 1.48 pm

CHAIRMAN: _____

DATE _____