



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** Committee held on **Thursday 31st March, 2016**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Jean Paul Floru (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.

3 MNKY HSE, 8-9 DOVER STREET, W1

LICENSING SUB-COMMITTEE No. 4

Thursday 31st March 2016

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Nick Evans and Councillor Murad Gassanly

Legal Adviser: Horatio Chance
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Nick Nelson

Relevant Representations: 1 local resident.

Present: Ms Lana Tricker (Solicitor, representing the Applicant), Mr Eamonn Mulholland (Applicant Company), Mr James Rankin (Barrister, representing the local resident) and Mr David Green (local resident)

**Mnky Hse, 8-9 Dover Street, W1
16/00517/LIPN**

1.	Live Music (Indoors)
	Monday to Saturday 09:00 to 03:30 Sunday 09:00 to 00:00.
	Amendments to application advised at hearing: None.
	<p>Decision (including reasons if different from those set out in report):</p> <p>The hours sought for live music were granted, subject to conditions as set out below.</p> <p>The Sub-Committee initially heard from Ms Tricker, representing the Applicant. She stated that the application was for a new premises licence. However, MnkY House is located outside the West End Stress Area and there was an existing licence for a wine bar at the premises. The premises licence, which was held by the Applicant, largely mirrored the operating hours currently being applied for. This would be surrendered should the application be granted. Ms Tricker described the premises as a 'destination dining venue' with a musical atmosphere. It had recently been renovated. There was a pricing structure of approximately £80 to £100 per head. There would be approximately 90 staff in total. Ms Tricker referred to the one objection received from a local resident, Mr Green who owns flats to the rear of the premises in Albermarle Street.</p> <p>Ms Tricker explained that the licensed area was not being increased as a result of the application. The basement area was part of the licensed area which Mr Green had requested in his written representation should not be included due to concerns regarding noise outbreak. It was proposed that there were two bars, one on the ground floor and one in the basement rather than the three which had existed in the wine bar. There would be more seating than before. Ms Tricker made the point that the specific difference between the hours on the wine bar licence and those being applied for was that the Applicant was requesting that the sale of alcohol would commence at 10:00 hours on Sunday rather than midday on the existing licence. This was in order that a brunch option could be made available to customers. She added that she did not believe that this option would lead to anti-social behaviour.</p> <p>The Sub-Committee asked Ms Tricker whether she was of the view that there were any differences regarding the proposed terminal hours in the evening between the old wine bar premises licence and current application. She commented that she did not believe that there was. Mr Wroe raised the point that whilst the terminal hour on the face of the wine bar licence on Sundays appeared to mirror those of the current application, he was of the view that the hours on the face of the licence were erroneous as a condition (condition 22 on the most recent premises licence 14/10693/LIPT) set out that on Sundays the</p>

permitted hours for the sale or supply of alcohol 'shall extend until 00:00'. Mr Wroe added that he believed that the wine bar licence had therefore only permitted the sale of alcohol until midnight.

In response to a question from the Sub-Committee regarding the capacity, Ms Tricker replied that whilst a condition on the existing wine bar licence had permitted a maximum number of 420 persons excluding staff, there was also a condition which permitted 500 persons including staff in the basement. Therefore the proposed capacity of 480 for the current application was a reduction in the number of customers. Ms Tricker stated that her client had taken on board Mr Green's concerns regarding noise breakout. The Council's model condition was being proposed that 'no noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance'. A noise limiter would be fitted to the musical amplification system and Mr Mulholland was happy to work with Mr Green to set the limiter so that there was no noise disturbance.

Mr Mulholland provided Members with some background information regarding the renovation work which had been carried out. He had known when the lease had been acquired in 2014 that the issue of noise travelling through the building had to be addressed. He had consulted with the Council and worked with the owners of the Aston Martin showroom above to increase the soundproofing. They had looked to insulate from the basement up through the building. Mr Mulholland stated that the only current noise issue which he was dealing with was that caused by plant machinery.

The Sub-Committee was then addressed by Mr Rankin, representing Mr Green. He informed the Sub-Committee that Mr Green had lived in the flats he owned for approximately ten years. Mr Green accepted that the capacity being proposed in the current application was slightly less than was permitted in respect of the existing wine bar licence. Mr Rankin explained that his client had wished to bring to the Sub-Committee's attention that he did not feel that he had been adequately consulted by the Applicant in the weeks prior to the hearing and that his occupancy of the flats to the rear of Manky House had not been acknowledged. The communications had initially been limited to two mobile phone texts. There had however, Mr Rankin advised Members, been a useful discussion just before the hearing between the two parties and it had been agreed that there would be a line of communication going forward.

Mr Rankin set out Mr Green's specific concerns in respect of the application. This was in order, he stated, that the Applicant should not be surprised if they resulted in a review of the premises licence should they not be resolved. Firstly, Cole Jarman, acoustic consultants, had been appointed by Mr Green to look at the findings of the acoustic reports by Waterloo Acoustics in respect of a planning application at the premises and they had reached the conclusion that there had been a significant under assessment of the plant noise levels. Mr Rankin added that the plant noise was causing a nuisance to Mr Green. Mr Rankin welcomed that the Applicant had taken forward noise attenuation measures and stated that it would have been useful had Mr Mulholland communicated with Mr Green and potentially accessed his flat prior to undertaking them. Mr Green wished to be involved in discussions with Mr

Mulholland to ensure that the plant noise did not inconvenience him.

Mr Rankin also made the point that his client welcomed at least two door supervisors being employed at the premises. Mr Green was of the view that on occasions there would potentially be a need to look at further staffing. He believed it was clear from the cost of the renovation works that there would be a significant increase in numbers visiting the premises as the number of patrons who frequented the wine bar never approached the capacity permitted. In response to a question from the Sub-Committee Mr Rankin clarified that it was accepted that the nature of the application largely mirrored that of the wine bar licence although it was expected that the premises would be significantly busier, including the basement.

Ms Tricker responded to Mr Rankin's comments. She confirmed that Mr Mulholland was willing to work with Mr Green to prevent him being adversely affected by plant machinery noise. They would be swapping mobile telephone numbers after the hearing. She apologised for the lack of direct communication with Mr Green previously. Mr Mulholland's team of consultants had been in discussions with an individual that they had believed had been communicating with Mr Green. Ms Tricker added that Mr Mulholland had instructed the acousticians for the noise reports to take measurements from the first floor flats which she stated was much closer in terms of noise sensitivity. The Applicant was offering to show Mr Green the Mnk House premises and would ensure that the acoustician was in attendance should he request it.

Mr Wroe referred those present to a more appropriate version of the Council's model condition (MC12) designed to avoid noise nuisance. The wording of the condition is that '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'. Ms Tricker responded that she had no objection to this condition being attached to the premises licence in the event the application was granted. The Legal Advisor stated that where plant machinery noise was considered a statutory nuisance by the Council in its capacity as "Environment Authority" for the purposes of section 79 of the Environmental Protection Act 1990 ("The 1990 Act"), this could potentially give rise to service of a noise abatement notice under the 1990 Act

The Sub-Committee granted the hours sought by the Applicant for licensable activities Monday to Saturday that were the same as those on the existing wine bar licence. Members also granted the proposed hours for licensable activities on Sundays (including the commencement time of 10:00 for alcohol on Sundays to accompany brunch) except for the terminal hour for the sale of alcohol which would end at midnight rather than the 00:30 sought. Members considered that the effect of the condition on the existing licence was that alcohol was required to cease at midnight on Sundays. The closing time would be 00:30 on Sundays. The Sub-Committee attached the model condition, MC12, suggested by Mr Wroe and agreed by Ms Tricker.

2. Recorded Music (Indoors)

	Monday to Saturday 09:00 to 03:30 Sunday 09:00 to 00:30.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).
3.	Performances of dance (Indoors)
	Monday to Saturday 09:00 to 03:30 Sunday 09:00 to 00:00.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).
4.	Anything of a similar description to live music, recorded music or performances of dance (Indoors)
	Monday to Saturday 09:00 to 03:30 Sunday 09:00 to 00:00.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).
5.	Late Night Refreshment (Indoors)
	Monday to Saturday 23:00 to 03:30 Sunday 23:00 to 00:30.

	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
6.	Sale by retail of alcohol (On and Off)
	<p>Monday to Saturday 10:00 to 03:00 Sunday 10:00 to 00:30.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted Monday to Saturday 10:00 to 03:00 and Sunday 10:00 to 00:00 (see reasons for decision in Section 1).</p>
7.	Opening Hours
	<p>Monday to Saturday 09:00 to 04:00 Sunday 09:00 to 01:00.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted Monday to Saturday 09:00 to 04:00 and Sunday 09:00 to 00:30 (see reasons for decision in Section 1).</p>
8.	Non-Standard Timings
	<p><u>Live Music (Indoors), Recorded Music (Indoors), Performances of dance (Indoors), Anything of a similar description to live music, recorded music or performances of dance (Indoors), Sale by retail of alcohol (On and Off) and Opening Hours</u></p>

	<ul style="list-style-type: none"> • From the end of trade on New Year’s Eve to the start of trade on New Year’s Day. • On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01:00. <p><u>Late Night Refreshment (Indoors)</u></p> <ul style="list-style-type: none"> • From 23:00 hours on New Year’s Eve to 05:00 hours on New Year’s Day. • On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01:00.
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below.</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.	(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. After 00.00 hours (midnight) the supply of alcohol shall be ancillary to the provision of substantial food and/or music and dancing.

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. The number of persons permitted on the premises at any one time (excluding staff) shall not exceed:

Ground Floor 100 persons

Basement 480 persons

With no more than 480 persons on the premises at any one time.

12. 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.
13. 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.
14. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
15. 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.
16. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
17. All external windows and entrances shall be kept closed after 23:00 hours, except for the immediate access and egress of persons.
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. 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.
20. 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.
21. All exit doors on designated escape routes shall be available at all material times without the use of a key, code, card or similar means.
22. All self-closing doors shall be effectively maintained and not held open other than by an approved device.

23. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
24. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
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. 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.
27. Patrons permitted to temporary 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. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours.
30. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
31. 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.
32. There shall be no sales of hot food or hot drink for consumption 'off' the premises after 23.00 hours.
33. No deliveries to the premises shall take place between 23.00 and 07.00 hours.
34. There shall be no payment made by or on behalf of the licence holder to any

person for bringing customers to the premises.

35. 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.
36. The premises may remain open for the sale of alcohol, regulated entertainment 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.
37. On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00.
38. The Licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
39. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority by way of variation.
40. No licensable activities shall take place at the premises until premises licence 14/10693/LIPT (or such other number subsequently issued for the premises) has been surrendered.
41. 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.
42. There shall be no admittance or re-admittance to the premises after 02:00, except for those patrons temporarily leaving the premises to smoke, save for a maximum number of 25 guests per night who may be admitted at the manager's discretion provided a legible record of these people's names shall be retained on the premises for inspection by the licensing authority and police for a period of 31 days. The name of the manager authorising the entrance will

also be recorded.

43. At least 2 SIA licensed door supervisors shall be on duty at the entrance of the premises from 20:00 whilst it is open for business.
44. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
45. There shall be no sales of alcohol for consumption off the premises after 23:00.

4 CAFE ROYAL HOTEL, 8 AIR STREET, W1

LICENSING SUB-COMMITTEE No. 4

Thursday 31st March 2016

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Nick Evans and Councillor Murad Gassanly

Legal Adviser: Horatio Chance
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Nick Nelson

Relevant Representations: Environmental Health, Metropolitan Police and the Soho Society.

Present: Mr Alun Thomas (Solicitor, representing the Applicant), Mr Anil Drayan (Environmental Health) and PC Bryan Lewis (Metropolitan Police)

Café Royal Hotel, 8 Air Street, W1 16/01324/LIPV

1. To vary the existing premises licence so as to remove and amend the following conditions in relation to the second floor Pompadour Suite:

Remove

- Condition 42 – There shall be no loudspeakers provided to the External Balcony area.
- Condition 43 – All doors to the external balcony area shall be kept closed after 24:00 hours except for immediate access and egress.

Amend

From

Condition 44 – No drinks shall be permitted in the external balcony area after 24:00 hours.

	<p><u>To</u></p> <p>No drinks shall be permitted in the external balcony area after 03:00 hours.</p>
	<p>Amendments to application advised at hearing:</p> <p>Mr Thomas, representing the Applicant, informed the Sub-Committee that in respect of condition 43 on the existing licence, an alternative had been proposed by the Council's Environmental Health Department ("Environmental Health") that 'where there is regulated entertainment in the Pompadour Suite, all doors to the external balcony shall be kept closed after midnight except for immediate access and egress'. This had been agreed by the Applicant.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee noted that licensable activities had first been permitted at Café Royal Hotel, Air Street in September 2012. Mr Thomas referred to conditions being attached to the premises licence at that time which limited the use of the external balcony area. Conditions had been discussed between the Applicant and Environmental Health prior to the September 2012 hearing and subsequently attached to the licence which prevented regulated entertainment and loudspeakers in the external balcony area. They also required the doors to this area to be kept closed after 11pm. The Sub-Committee considered it appropriate and reasonable at that time to attach the condition to the licence on the basis that the consumption of alcohol would not be permitted in the external balcony area after midnight.</p> <p>Mr Thomas stated that the Hotel had operated six Temporary Event Notices with use of the external balcony area to 03:00 hours. These events had all taken place without any issues being raised and his clients were now seeking to regularise the position. Typical pre-booked events that the Applicant wished to hold in the Pompadour Suite and allow customers who were not residents of the Hotel to use the terrace where functions such as weddings and birthday parties are held.</p> <p>Mr Thomas addressed the Sub-Committee specifically on the three conditions which the Applicant had proposed to remove or amend. He commented that Environmental Health was not believed to be objecting to the proposed removal of condition 42 on the existing premises licence. In response to a question from the Sub-Committee as to why the Applicant would want to have loudspeakers on the external balcony area, Mr Thomas replied that conditions elsewhere on the licence ensured that what was played must constitute background music and not regulated entertainment. There are hotel bedrooms close to the terrace and Mr Thomas looked to assure Members that whilst the bedroom windows are double glazed, the Applicant did not want any noise emanating from the terrace area which might disturb hotel residents potentially giving rise to public nuisance. In respect of condition 43 on the existing licence, an alternative had been proposed by Environmental Health that 'where there is regulated entertainment in the</p>

Pompadour Suite, all doors to the external balcony shall be kept closed after midnight except for immediate access and egress' and this had been agreed by the Applicant. This was one of seven additional conditions proposed by Environmental Health in response to the application. Many of these conditions related to the period after midnight should the Applicant be permitted to use the area until 03:00. The amendment to condition 44 proposed that customers who were not residents of the hotel should be permitted to take their drinks into this area until 03:00 rather than midnight which was currently permitted.

Mr Thomas informed Members that he had agreed six of the seven additional conditions proposed by Environmental Health. These included that the external balcony would be supervised by a SIA door supervisor when open after midnight, that the area would be covered by CCTV, that the supply of alcohol would be by waiter or waitress only and that the use after midnight would only be available to customers who were taking a table meal, persons attending pre-booked or ticketed events or residents and their bona fide guests. Mr Thomas stated that the Police had requested polycarbonate vessels but that he and his clients were resistant to this idea due to the nature of the premises. In order to justify that there was not a need for polycarbonate vessels to be used in the terrace area, the Applicant was offering to undertake a risk assessment. He was content with Environmental Health's proposal that the risk assessment would be kept for a period of 31 days for inspection by the Responsible Authorities.

The Sub-Committee heard from PC Lewis on behalf of the Metropolitan Police that he was satisfied with Environmental Health's proposed condition regarding the need for the Applicant to carry out a risk assessment and keep this for a period of 31 days. As far as he was aware there had not been any incidents as a result of previous use of the terrace.

Mr Drayan, on behalf of Environmental Health, confirmed that he was content for condition 42 on the existing premises licence to be removed as the Applicant was not permitted to play anything above the level of background music. He added that he accepted the point that it was not in the Applicant's interest to play music to a level which would upset hotel residents potentially giving rise to public nuisance. He believed the nearest local residents were at least 50 metres away. Mr Drayan explained to Members that the terrace could not be easily accessed from the street. The Pompadour Suite is a very controlled area (Mr Thomas stated that there are three levels of security to reach the Pompadour Suite). In response to a question from the Sub-Committee, Mr Drayan advised that he was not aware of any noise complaints as a result of use of the external balcony.

The Sub-Committee expressed grave concerns regarding the potential for bottles or glasses falling accidentally or being thrown deliberately at such a high level from the external balcony on the grounds of public safety. Mr Thomas requested that the use of the area was not micro-managed in terms of the conditions being applied by the Sub-Committee. This would form part of the risk assessment. There would be waiter or waitress service and Mr Thomas stated his client would be prepared not to leave bottles on the tables of the terrace. Notices would be provided so that glasses, bottles or wine buckets are not left on the ledges. Mr Thomas advised the Sub-Committee that the waiter staff would be on hand to clear empty glasses and bottles within the area so this

would not create a problem. Mr Drayan made the point that discussions had taken place regarding the potential for higher barriers prior to the hearing but it was noted that the Hotel is a listed building. Environmental Health and the Police were seeking that the risk assessments addressed the prevention of items falling or being thrown from the balcony in order that the public safety licensing objective is promoted. This could include trellises or fixtures when events took place. Mr Thomas brought to Members' attention that there would be a door supervisor on the terrace at all times after midnight. He would draft a risk assessment for all likely scenarios and forward this to Environmental Health and the Metropolitan Police for their approval.

The Sub-Committee granted the application. Members considered that it was reasonable, proportionate and appropriate to remove condition 42 on the existing premises licence given that the Applicant was not permitted to have regulated entertainment on the external balcony, that it was in the Applicant's interest to keep the noise level down in order not to impact on hotel residents and that there were no local residents in close proximity to Café Royal Hotel. Should there be noise emanating from the terrace which caused a public nuisance, there was the potential to submit a review of the premises licence.

In respect of condition 43, the Sub-Committee took the view that it was reasonable, proportionate and appropriate to replace this with Environmental Health's alternative condition that 'where there is regulated entertainment in the Pompadour Suite, all doors to the external balcony shall be kept closed after midnight except for immediate access and egress'. This had been agreed by the Applicant. There had been a number of conditions proposed by Environmental Health and agreed by the Applicant which the Sub-Committee considered would assist in addressing any issues that might arise as a result of the use of the external balcony after midnight. These included a door supervisor being employed in this area after this time.

The Sub-Committee was prepared to permit the amendment to condition 44 so that drinks would be allowed on the terrace until 03:00. This was however only on the basis that the condition proposed by Environmental Health and that was acceptable to the Police was strengthened and attached to the premises licence as 'the use of the external balcony shall only be permitted after a risk assessment has been carried out with regard to the danger of glasses, bottles or other items accidentally or deliberately falling or being thrown from the balcony. Such risk assessment shall be kept for a period of 31 days for inspection by the Responsible Authorities'.

Conditions attached to the Licence

<u>Mandatory Conditions</u>

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

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

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

9. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

10. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

Additional Conditions

First Floor Private Bar/ Members Lounge, private dining/reading room

11. The provision of licensable activities shall be restricted to:
- a) persons taking a table meal; or
 - b) persons attending pre-booked private events; a list of such events shall be kept for 31 days for inspection by the responsible authorities; or
 - c) residents and their guests or
 - d) members of the private members club (as defined in the document headed 'Café Royal Rules of Membership 2012' or such amended Rules as submitted to the Licensing Authority from time to time) operating at the premises and their guests. No member to be allowed to bring more than four guests at any one time. There shall be a annual membership fee of at least £500 and a minimum period of 24 hours between nomination and acceptance to membership. Details of the membership register to be disclosed to the responsible authorities when requested or
 - e) bona fide guests of the management or proprietor, restricted to no more than 35 persons at any time; a legible record including the full names of all guests and the person inviting the bona fide guests will be recorded at the time and retained for a minimum of 28 days for inspection by the responsible authorities.

Ten Room

12. The sale of alcohol within the Ground Floor Grill Room shall only be to persons
- (a) taking a table meal, or
 - (b) persons attending a pre- booked or ticketed event, a list of such events shall be kept for 31 days for inspection by the responsible authorities, or
 - (c) residents and their bona fide guests, or
 - (d) persons served by waiter/waitress service whilst seated (with the exception of the hatched area as shown on the plan limited to a capacity of 10 persons) up to the hours of 01:00.

Ground Floor Retail / Cafe

13. Save for the area hatched black on the plan, the sale of alcohol for consumption on the premises shall be by waiter / waitress service only and to persons seated.
14. Substantial food and non-intoxicating beverages, including drinking water, shall be available at all times in the bar where alcohol is sold or supplied.

15. Any sale of alcohol for consumption off the premises shall only be permitted in sealed containers and only until 23:00.
16. The sale, exposure for sale, or display of alcohol shall be limited to the sales area cross hatched on the plans to be submitted.
17. The number of persons permitted in the retail/cafe shall be 70 persons (excluding staff).
18. No regulated entertainment shall be provided.

Ground Floor Hotel Bar

19. The sale of alcohol shall be by waiter/waitress or bar service only.
20. Substantial food and non-intoxicating beverages, including drinking water, shall be available at all times in the bar where alcohol is sold or supplied.
21. There shall be no access to the hotel bar from the corner of Glasshouse Street/ Air Street after 24:00 hours.
22. Regulated entertainment shall be restricted to recorded music only.
23. The number of persons permitted in the Hotel Bar shall be 90 persons (excluding staff).

Oscar Wilde Bar (Grill Room) / First Floor Domino Room

24. The sale of alcohol shall be by waiter/waitress service only and to persons seated (with the exception of the hatched area as shown on the plan limited to a capacity of 10 persons).
25. Substantial food and non-intoxicating beverages, including drinking water, shall be available at all times where alcohol is sold or supplied for consumption on the premises.
26. The number of persons permitted in the Oscar Wilde Bar shall be no more than 100 persons.
27. After 01:00 admission to the Oscar Wilde Bar from Glasshouse Street shall only be to:
 - a) Persons on a Guest List, a copy of which shall be kept for 31 days for inspection by the responsible authorities; or
 - b) Guests of the management, limited to no more than 20 persons at any time, a record of the authorising manager's name and names of such guests shall be kept for 31 days for inspection by the responsible authorities.
28. After 23:00 a minimum of 1 SIA door supervisor shall be on duty at each entrance to the Oscar Wilde Bar.

29. The number of persons permitted in the Oscar Wilde Bar and or Domino room shall be: Oscar Wilde Bar 100 persons, Domino Room 70 persons.
30. The sale of alcohol within the First Floor Domino Room shall only be to persons
- a) taking a table meal, or
 - b) persons attending a pre-booked or ticketed event, a list of such events shall be kept for 31 days for inspection by the responsible authorities, or
 - c) residents and their bona fide guests.

First Floor Meeting Rooms 1, 2 & 3 and Board Room

31. The sale of alcohol shall only be to persons
- (a) taking a table meal, or
 - (b) persons attending a pre-booked private event, a list of such events shall be kept for 31 days for inspection by the responsible authorities, or
 - (c) residents and their bona fide guests.
32. The number of persons permitted in Meeting Room 1, 2, 3 and the Boardroom shall not exceed 430 persons.

First Floor Private Bar, Members Lounge, private dining/reading room

33. 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.
34. The sale of alcohol shall be by waiter/waitress service only.
35. The number of persons permitted shall be: Private Bar 80 persons, Private Lounge 80 persons, Private dining/reading room 15 persons.

First Floor Screening Room

36. The provision of licensable activities shall be restricted to:
- (a) Persons taking a table meal; or
 - (b) Persons attending pre-booked or ticketed events; a list of such events shall be kept for 31 days for inspection by the responsible authorities; or
 - (c) Residents and their guests.
37. Substantial food and non-intoxicating beverages, including drinking water, shall be available at all times in the bar where alcohol is sold or supplied.
38. The number of persons permitted in the Screening room shall be 150 persons.

Second Floor Pompadour Suite

39. The supply of alcohol within the Pompadour Suite shall only be to persons
- (a) taking a table meal, or
 - (b) persons attending pre- booked or ticketed events, a list of such events shall be kept for 31 days for inspection by the responsible authorities, or
 - (c) residents and their bona fide guests.
40. The number of persons permitted in the Pompadour Suite shall be 250 persons.
41. There shall be no Regulated Entertainment provided to the External Balcony area.
42. No drinks shall be permitted in the external balcony area after 03:00 hours.

Spa

43. The sale of alcohol shall be by waiter/waitress service only save for in the café as shown on the plan.
44. There shall be no glass vessels permitted within the Spa save for in the café as shown on the plan.
45. Regulated entertainment shall be restricted to recorded music only.

Whole Premises

46. The provision of licensable activities to members of the public shall be permitted from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
47. Patrons temporarily leaving the premises on the ground floor for the purposes of smoking shall not take any drinks of any kind with them outside the premises.
48. No goods including fuel delivered or collected by vehicles arriving at or departing from the premises shall be accepted or despatched if unloaded or loaded on the public highway. You may accept or dispatch such goods only if they are unloaded or loaded within the curtilage of the building of the Quadrant 3 complex.
49. All tables and chairs shall be removed from the outside area at 23:00 each day.
50. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be

made available immediately upon the request of Police or authorized officer throughout the preceding 31 day period.

52. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member must be able to show a Police or authorized council officer recent data or footage with the absolute minimum of delay when requested.
53. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to nuisance.
54. There shall be no sales of hot food or hot drink for consumption off the premises after 23:00 hours.
55. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
56. No waste or recyclable materials, including bottles, shall be moved, removed or placed on the public highway between the hours of 23:00 and 07:00.
57. There shall be at least one SIA licensed door supervisor at each of the entrances on Glasshouse Street/Air Street, Glasshouse Street, Air Street and Regent Street from 20:00 until the end of permitted hours.
58. Any special effects or mechanical installations shall be arranged and stored so as to minimize any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
 - o Dry ice and cryogenic fog
 - o Smoke machines and fog generators
 - o Pyrotechnics including fire works
 - o Firearms
 - o Lasers
 - o Explosives and highly flammable substances
 - o Real flame
 - o Strobe lighting.

59. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other persons any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.

60. 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.

61. 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.
62. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
63. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
64. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
65. Curtains and hangings shall be arranged so as not to obstruct emergency signs, fire extinguishers or other fire fighting equipment..
66. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing should be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes, other than foyers, entertainment areas or function rooms, should be non-combustible.
67. The certificates listed below shall be submitted to the Licensing Authority upon written request.
 - o Any emergency lighting battery or system
 - o Any electrical installation
 - o Any emergency warning system.
68. No entertainment, performance, service, or exhibition involving nudity or sexual stimulation which would come within the definition of a sex establishment in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Greater London Council (General Powers) Act 1986 (whether or not locally adopted), shall be provided.
69. The sale of alcohol shall be permitted between 0700 and 1000 Monday to Saturday and 0700 to 1200 Sundays to persons taking a table meal and as an ancillary to that meal.
70. 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.
71. 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 that relate to crime and disorder

- (d) any incidents of disorder
- (e) any faults in the CCTV system e.g. any refusal of the sale of alcohol
- (f) any visit by a relevant authority or emergency service.

72. Save for those areas already authorised in the licence to permit recorded music, all other areas on the ground floor, first floor and spa shall be permitted at all times to provide recorded music.

Attached at the Licensing Sub-Committee hearing 31 March 2016

73. Where there is regulated entertainment in the Pompadour Suite, all doors to the external balcony shall be kept closed after midnight except for immediate access and egress.

74. The external balcony shall be supervised by a SIA door supervisor when open after midnight.

75. The external balcony will be covered by CCTV.

76. The supply of alcohol after midnight on the external balcony shall be by waiter/waitress service only.

77. The use of the external balcony after midnight shall only be open to:

- a) persons taking a table meal, or
- b) persons attending pre-booked or ticketed events, a list of such events shall be kept for 31 days for inspection by the responsible authorities, or
- c) residents and their bona fide guests.

78. The number of persons on the external balcony after midnight shall not exceed 50 at any one time, excluding staff.

79. The use of the external balcony shall only be permitted after a risk assessment has been carried out with regard to the danger of glasses, bottles or other items accidentally or deliberately falling or being thrown from the balcony. Such risk assessment shall be kept for a period of 31 days for inspection by the Responsible Authorities.