



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** Committee held on **Thursday 14th April, 2016**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

**Members Present:** Councillors Melvyn Caplan (Chairman), Susie Burbridge and Nick Evans

#### 1 MEMBERSHIP

There were no changes to the Membership.

#### 2 DECLARATIONS OF INTEREST

Councillors Caplan, Burbridge and Evans advised that in respect of Item 3 they had visited the premises on a personal basis but this would not influence their views on the matter.

### **CROCKER'S FOLLY, 24 ABERDEEN PLACE, NW8**

#### **LICENSING SUB-COMMITTEE No. 3**

*Thursday 14th April 2016*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Susie Burbridge and Councillor Nick Evans

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Nick Nelson

Relevant Representations: Environmental Health and 16 local residents (2 in support of the application).

Present: Mr John Lisle (Solicitor, Representing the Applicant), Mr James Lang (Applicant), Mr Anil Drayan (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing

Mrs Anna Sinclair, Dr Alan Roth, Mrs Stephanie Roth and Ms Jen Whitten),  
 Dr Alan Roth and Ms Jen Whitten (local residents).

<b>Crocker's Folly, 24 Aberdeen Place, NW8 16/00715/LIPV</b>	
<b>1.</b>	<b>Conditions proposed to be varied so as to enable patrons to sit outside the premises for an additional hour from 21.00 to 22.00</b>
<b>Condition</b>	<b>Proposed Variation</b>
<b>Condition 24:</b> After 21:00 hours 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.	<b>Amend to:</b> After 22:00 hours 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.
<b>Condition 26:</b> After 21:00 hours patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 10 persons at any one time.	<b>Amend to:</b> After 22:00 hours patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 10 persons at any one time.
<b>Condition 27:</b> All outside tables and chairs shall be rendered unusable by 21:00 hours and the external area to the left of the entrance door as you face the premise shall be rendered unusable by 19:00 hours each day.	<b>Amend to:</b> All outside tables and chairs shall be rendered unusable by 22:00 hours and the external area to the left of the entrance door as you face the premise shall be rendered unusable by 19:00 hours each day.
<b>Condition 29:</b> No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 21.00 hours and 08.00 hours.	<b>Amend to:</b> No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 22:00 hours and 08.00 hours.
Amendments to application advised at hearing:	
None	

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

The Sub-Committee considered an application by Firestone Management Limited for a variation of a premises licence in respect of Crocker's Folly.

The Licensing Officer provided an outline of the application to the Sub-Committee.

All parties were invited to make representations to the Sub-Committee in relation to the application. The parties responded to members' questions and were given an opportunity to ask questions of each other.

In response to a request from Dr Alan Roth to call a witness, the Sub-Committee's Legal Adviser confirmed that the witness was not present and the representation made by that witness had not been submitted within the legal timeframe. It could not be submitted as supporting evidence for Dr Roth because the evidence in the late representation was about the potential impact that the application might have on the witness and his family. The Sub-Committee viewed the representation and decided not to have regard to it in accordance with the legal advice provided. It was, however, noted that other residents who had objected within time had raised similar issues.

Mr Lisle, representing the applicant, provided clarification on the geography of the area and explained that the premises had been open for a year and a half. When the applicant had opened the premises it was recognised that there had been strong initial public opinion against it. The applicant had accepted very stringent conditions attached to the license to show a willingness to work with the local community. Subsequently there had not been any formal complaints submitted about the premises since January 2015. Due to commercial necessity the applicant now wanted to extend to 22:00 hours the time permitted for patrons to use the external area. The external area seated up to 25 to 30 people.

It was explained that during the 2015 cricket season the premises had received no complaints and this was due to the procedures imposed by the applicant. An SIA licensed door supervisor was on duty every day and the premises primarily attracted families rather than rowdy cricket supporters. It was also confirmed that on match days a barrier was erected to prevent patrons from standing on the pavements outside the premises.

Environmental Health advised that when the initial application was submitted by the applicant in 2014 a condition was attached only allowing patrons to use the external area up to 21:00 due to concern over the potential noise impact on local residents. It was explained that the condition would allow the applicant to demonstrate it could operate the premises without having a negative impact on the residential area. It was confirmed that no formal complaints had been submitted but it was recognised that there was strong public opinion against extending the permitted hours of the external area.

Mr Brown of the Citizens Advice Bureau advised that before the applicant had taken over the premises it had been empty for approximately ten years. Previously it had been a problem premises so the granting of a new licence had

been a great source of concern for residents. The area was highly residential and therefore very sensitive to noise issues. Whilst there had not been any formal noise complaints submitted to Environmental Health this did not mean that there were not any problems. The residents recognised that the applicant was a good operator, however due to the close proximity of the external area to households, consisting of families with young children, the extra hour proposed would likely attract more drinkers. An additional hour of noise disruption would then be generated. It was remarked that violations of the existing conditions had taken place and these had been documented by Westminster City Council's Enforcement Team. Mr Brown specifically referred to paragraph 2.2.13 of the Council's Statement of Licensing Policy in support of his submissions.

Dr Roth, a local resident, explained that he supported the restaurant and had frequented it on numerous occasions. It was highlighted however that the premises was very close to a sporting venue which had led to a series of violations of the condition relating to using the external area after 21:00 hours. Extending the permitted hours would encourage further violations. Permitting the variation would also be in contravention of two licensing objectives:

- Prevention of Public Nuisance – The area was highly residential and residents were already subjected to noise from the external area. Increasing the permitted hours would subject residents to additional noise and would lead to an increase in anti-social behaviour.
- Protection of Children from Harm – An increase in the consumption of alcohol in an area populated by many young children would put their wellbeing and safety in danger.

Environmental Health confirmed that when a new licence was granted in 2014 a works condition had been attached and during a routine inspection it was noted that several of the conditions had not been complied with. The works condition had been fully cleared to be removed from the licence in January 2015 after which no recorded complaints had been made to the Licensing Inspectors or Westminster City Council's Noise Team.

The Sub-Committee's Legal Advisor asked Dr Roth if he was able to expand on the evidence already submitted so as to describe in more detail the nuisance that was being caused by the existing operation to 21.00.

Dr Roth stated that residents did not always have the time to contact the Council to make a complaint but there had been violations of the current conditions and this would increase if the permitted hours for the external area were extended.

Ms Whitten, a local resident, addressed the Sub-Committee and explained that the area was highly residential. An extension of one hour would attract a different clientele to the premises and whilst currently the end time was 21:00 hours in reality the noise disruption was much longer. This was due to customers remaining in the external area and also the associated cleaning noises after they had departed. Extending the permitted hours would extend the noise nuisance for local residents. The current situation in the area was finely balanced and by altering the hours it would generate unacceptable noise levels.

Mr Lisle brought to the Sub-Committee's attention that some residents had written to the Council to support the application. The premises had been renovated to a high standard and enhanced the local area. No recorded complaints had been made since January 2015 and it was planned to manage the external area for the additional hour in exactly the same way in order to ensure there was limited noise disturbance to residents. No alcohol was allowed off the premises and receptacles such as cans were not sold on the premises during cricket games or at any other time.

The Sub-Committee was mindful that the area was highly residential and extending the permitted hours for the external area would potentially have a significant impact on the local residents. The members had read all the objections that had been submitted and noted that a number of residents had indicated that they were already experiencing noise problems from the current operation. It was felt that the addition of an extra hour would attract a different customer base which would exacerbate the current noise issues and undermine the licensing objective of prevention of public nuisance. It was recognised that the current permitted hours had been determined at a previous hearing of the Licensing Sub-Committee in July 2014 and had struck a fine balance in the area between the applicant and the residents. The Sub-Committee felt that residents had tolerated the current situation until 21.00 but were justified in their concerns about any further extension of hours for the use of the external area. In the interests of ensuring the licensing objectives were upheld the application should be refused.

#### **4 CIRCA, BASEMENT AND GROUND FLOOR, 62 FRITH STREET, W1**

##### **LICENSING SUB-COMMITTEE No. 3**

*Thursday 14th April 2016*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Susie Burbridge and Councillor Nick Evans

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Nick Nelson

Relevant Representations: Environmental Health and 8 persons in support of the application.

Present: Mr Jack Spiegler (Solicitor, Representing the Applicant), Mr Alan Winter and Ms Rafaela Borges (representing the applicant company), Mr Anil Drayan (Environmental Health), PC Bryan Lewis (Metropolitan Police) and Mr Jonathan Neill (local resident).

**Circa, Basement and Ground Floor, 62 Frith Street, London  
16/01596/LIPV**

<b>1.</b>	<b>Layout Alteration</b>	
	Variation to the layout in accordance with the plans appended to the application. The proposed changes relate to improved toilet accommodation in the basement area.	
<b>2.</b>	<b>Increase in Capacity</b>	
	Increase the authorised capacity from 100 to 130 (excluding staff) on Thursdays to Saturdays only. The capacity on all other days would remain at 100 but would exclude staff, which would actually give rise to an actual increase in capacity on those days as well.	
<b>3.</b>	<b>Conditions Being Varied, Added or Removed</b>	
	<b>Condition</b>	<b>Proposed Variation</b>
	<p><b>Condition 10:</b> 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 authorised officer throughout the preceding 31 day period.</p>	<p><b>Amend to:</b> 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.</p>
	<p><b>Condition 13:</b> After 21:00 hours on Thursday, Friday and Saturday, SIA registered door staff must staff the door until the last customer leaves.</p>	<p><b>Amend to:</b> After 21:00 hours on Thursday, Friday and Saturday, SIA registered door staff must staff the door until the last customer leaves. On Friday and Saturday a minimum of 2 SIA</p>

	registered door staff shall be on duty at the premises from 21:00 until the last customer leaves.
<b>Condition 21:</b> After 23:00 hours the supply of alcohol must be ancillary to the use of the premises for music and dancing and/or substantial refreshment.	<b>Remove from the premises licence</b>
<b>Condition 22:</b> The number of persons permitted on the ground floor at any one time (including staff) shall not exceed 100 persons.	<b>Amend to:</b> On Sundays to Wednesdays the number of persons permitted on the ground floor at any one time (excluding staff) shall not exceed 100 persons. On Thursdays to Saturdays the number of persons permitted on the ground floor at any one time (excluding staff) shall not exceed 130 persons.
<b>Condition 25:</b> 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.	<b>Remove from the premises licence</b>
<b>Condition 32:</b> The outside bench shall be rendered unusable by 23:00 hours each day.	<b>Amend to:</b> All outside tables and chairs shall be rendered unusable by 23:00 hours each day.
<b>Condition 35:</b> 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.	<b>Remove from the premises licence</b>
<b>Condition 37:</b> No striptease, no nudity and all persons on the premises to be decently attired at all times.	<b>Remove from the premises licence</b>
<b>Condition 38:</b> Any entertainment, performance, service, or exhibition involving nudity or sexual stimulation which would come within the definition of a sex	<b>Amend to:</b> 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

<p>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 not be provided.</p>	<p>authority of a Sexual Entertainment Venue licence.</p>
<p><b>Condition 54:</b> No rubbish, including bottles, shall be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours.</p>	<p><b>Amend to:</b> No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours on the following day.</p>
<p><b>To be added to the premise licence:</b></p>	<p>No deliveries to the premises shall take place between 23:00 and 08:00 on the following day.</p>
<p><b>To be added to the premise licence:</b></p>	<p>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 sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.</p>
<p><b>To be added to the premise licence:</b></p>	<p>Notices shall be prominently displayed at any area for smoking requesting patrons to respect the needs of local residents and use the area quietly.</p>
<p><b>To be added to the premise licence:</b></p>	<p>As soon as possible, and in any event within 1 month from the grant of the variation, the premises shall join the local Pubwatch or other local crime reduction scheme approved by the Police and local radio scheme if available.</p>
<p><b>To be added to the premise licence:</b></p>	<p>The variation application (16/01596/LIPV) shall have no effect until the works detailed on the</p>



		<p>proposed plans have been assessed as satisfactory by the Environmental Health Consultation Team, and this condition has been removed from the licence.</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 considered an application by Baby Bull Limited for a variation of a premises licence in respect of Circa , Basement and Ground Floor, 62 Frith Street, London W1D 3JN .</p> <p>The Licensing Officer provided an outline of the application to the Sub-Committee.</p> <p>All parties were invited to make representations to the Sub-Committee in relation to the application. The parties responded to members' questions and were given an opportunity to ask questions of each other.</p> <p>The Sub-Committee noted in respect of the application that the applicant was proposing an increase in capacity for the premises in the West End Cumulative Impact Area on Thursday, Friday and Saturday. The applicant was therefore required to make the case that there were genuinely exceptional circumstances in respect of the application for the Sub-Committee to consider granting it as an exception to policy. The applicant was requesting the additional capacity in order to accommodate 130 people excluding staff. Mr Spiegler, representing the applicant, advised that the current capacity of the premises, 100 people, resulted in queuing outside which the larger capacity would address. There would be the benefit of patrons being able to enter the premises rather than queue outside. This had been proven when a capacity of 130 had been tested for numerous temporary events where there had been no issues, including no queuing. In addition to resolving any issues relating to queuing, the Sub-Committee noted that the applicant was offering a number of conditions including that a minimum of two SIA licensed door supervisors be on duty after 21:00 hours on Friday's and Saturday's until the last customer had left. It was not proposed that the hours were increased.</p> <p>Mr Spiegler highlighted that the current capacity had been implemented on public safety grounds relating to means of escape and toilet facilities available. These areas had since been addressed and the venue was in a position to comfortably hold 130 people. The application had also received substantial support from local residents who recognised the positive impact the premises had had on the surrounding area.</p> <p>The premises was highlighted as a popular venue for the lesbian, gay, bisexual and transgender (LGBT) community, an area which had seen a rapid decline in such venues in recent years. The applicant advised that a capacity increase of</p>		

30 people represented less than 1% of the total capacity lost in closed LGBT venues. This demonstrated that there would be no net addition to the cumulative impact in the West End area.

Mr Drayan confirmed that Environmental Health's representation was maintained on policy grounds as increasing the capacity of drink-led premises in a cumulative impact area was contrary to the Council's policy. It was confirmed that no complaints had been received about the premises but an increase in capacity could exacerbate issues related to cumulative impact areas.

Mr Jonathan Neil, a local resident, expressed his support for the application as it was a professionally run premises which had dramatically improved the local area. Queues did form outside the venue and these were well managed by the security provided by the venue. By increasing the capacity there would be less people on the street which would reduce the impact in the area.

The Sub-Committee heard from PC Lewis of the Metropolitan Police. PC Lewis confirmed that it was not a problem premises and the Police's representation was based on the fact that the application was contrary to Council policy.

Mr Spiegler addressed the Sub-Committee and submitted that the application should be granted on the basis that no new customers would be attracted to the premises. He stated that the customers were already in the queue outside the premises and the proposed increase in capacity would enable them to be brought in to the safe and supervised environment of the premises.

The Sub-Committee was of the opinion that the premises was very well operated and had had a positive impact on the surrounding area. However, that was expected of all licensed premises. A recent licensing policy review had confirmed the Council's position regarding cumulative impact areas, which was to refuse applications if they could not prove that they were an exception to policy. For an application to be regarded as an exception to policy it had to provide evidence that it would not have a detrimental impact in the cumulative impact area. The applicant's proposals to increase the number of door supervisors was welcomed but it was felt this was not sufficient to prove that this made it an exception to policy.

The Sub-Committee was not satisfied that the reasons provided addressed why the premises should be exempt from Council policy. The suggested loss of capacity in respect of LGBT premises that had closed did not equate with a reduction in cumulative impact in the area. The policy was not about the LGBT community but about the existing over-capacity for all drink led premises. The applicant had to justify an assertion that an increase in capacity of 30 customers at these drink-led premises would not add to cumulative impact. The only justification provided was that it would reduce queuing outside the premises. The fallacy in that argument was that persons queuing outside the premises should not have any access to alcohol and should not be causing any kind of nuisance in any event. If persons queuing were undermining the licensing objectives, a review might be the appropriate remedy. An increase in capacity was not the solution. For these reasons the Sub-Committee refused the application to increase the capacity of the venue.

The Sub-Committee did agree to vary the licence plans to allow the proposed changes related to the toilet accommodation in the basement area. The following conditions were also amended or removed to update the licence or avoid duplication on the licence:

- Variation to Condition 10;
- Removal of Condition 21 from the premises licence;
- Removal of Condition 25 from the premises licence;
- Condition 32 be amended to read “All outside seating shall be rendered unusable by 23:00 hours each day.”;
- Removal of Condition 37 and 38 from the premises licence to be replaced with Model Condition 44;
- Condition 54 be replaced with Model Condition 35; and
- The addition of Works Condition 52.

The other proposed conditions were not included in view of the fact that the substantive application to increase the capacity of the premises had not been agreed.

### **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 subparagraph 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.

**Conditions Attached After a Hearing by the Licensing Authority**

10. 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. Viewings of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.

12. All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility jackets or vests.

13. After 21:00 hours on Thursday, Friday and Saturday, SIA registered door staff must staff the door until the last customer leaves.

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

15. There shall be no promotional sales of alcohol at the premises where alcohol is sold at a price lower than that at which the same or similar alcoholic drinks are sold, or usually sold, on the premises.

16. 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.

17. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.

18. A proof of age scheme, such as Challenge 21, shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.

19. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:

- all crimes reported to the venue
- all ejections of patrons
- any complaints received
- any incidents of disorder

- seizures of drugs or offensive weapons
- any faults in the CCTV system or searching equipment or scanning equipment
- any refusal of the sale of alcohol
- any visit by a relevant authority or emergency service.

20. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises. There shall be no off sales after 23:00 hours.

21. The number of persons permitted on the ground floor at any one time (including staff) shall not exceed 100 persons.

22. After 23:00 hours the duty manager shall conduct an hourly count of the ground floor. This count shall commence at 23:00 hours until 01:00 hours and shall be recorded in a log book and made available for immediate inspection by an authorised officer.

23. Details of pre-booked, private and/or ticketed events, including the host, and the number of guests shall be held at least 24 hours before the function and a minimum of 14 working days after the function. Details shall be made available to all relevant authorities when requested.

24. After 23:00 hours the supply of alcohol must be ancillary to the use of the premises for music and dancing and/or substantial refreshment and/or as part of private and/or ticketed functions.

25. There shall be no loud speakers, amplification or live entertainment to take place within the front lobby area of the premises.

26. All windows, external doors and internal lobby doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

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

28. A sound limiting device located in a separate and remote lockable cabinet from the volume control shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service's Community Protection Department to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of officer from the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement with the Environmental Health Service.

29. Any additional sound generating equipment shall not be used on the premises without being routed through the sound limiter device.

30. All outside seating shall be rendered unusable by 23:00 hours each day.

31. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
32. Patrons permitted to temporarily leave and then re-enter the premises shall be limited to 10 persons at any one time.
33. 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.
34. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents in the vicinity.
35. 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.
36. 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.
37. 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.
38. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
39. Doors at such exits will be regularly checked to ensure that they function satisfactorily and a record of the check kept.
40. Any removable security fastenings will be removed whenever the premises are open to the public.
41. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
42. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
43. Only hangings, curtains, upholstery and temporary decorations, complying with the relevant British (or where appropriate European) Standard shall be used. Where necessary these shall be periodically tested for flame resistance and retreated as necessary.
44. Curtains and hangings shall be arranged so as not to obstruct fire safety signs, fire extinguishers or other fire fighting equipment.
45. All scenery should be maintained flame retarded to the satisfaction of the



Environmental Health Consultation Team.

46. The certificates listed below shall be submitted to the Licensing Authority upon written request.

- Any emergency lighting battery or system
- Any electrical installation
- Any emergency warning system

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

- dry ice and cryogenic fog
- smoke machines and fog generators
- pyrotechnics including fire works
- firearms
- lasers
- explosives and highly flammable substances
- real flame
- strobe lighting.

48. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties (save insofar as they are necessary for the prevention of crime).

49. 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 person 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.

50. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

51. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours on the following day.

52. The variation application (16/01596/LIPV) shall have no effect until the works detailed on the proposed plans have been assessed as satisfactory by the Environmental Health Consultation Team, and this condition has been removed from the licence.

**5 ESSENTIALS, UNIT 1, LEICESTER SQUARE STATION, CHARING CROSS ROAD**

**LICENSING SUB-COMMITTEE No. 3**

Thursday 14th April 2016

Membership: Councillor Melvyn Caplan (Chairman), Councillor Susie Burbridge and Councillor Nick Evans

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Tristan Fieldsend  
Presenting Officer: Sumeet Anand-Patel

Relevant Representations: Metropolitan Police.

Present: Mr Alec Dolby (Agent, Representing the Applicant), Mr Hadi Ahmad (Applicant), Mr Suresh Kanapathi (Licensing Consultant), Ms Sumeet Anand-Patel (Environmental Health) and PC Sandy Russell (Metropolitan Police).

<b>Essentials, Unit 1, Leicester Square Station 16/01043/LIPN</b>	
<b>1.</b>	<b>Off Sale by Retail of Alcohol</b>  Monday to Sunday: 11:00 – 22:00
<b>2.</b>	<b>Hours Premises are Open to the Public</b>  Monday to Sunday: 07:00 – 22:00
	Amendments to application advised at hearing:  None
	Decision (including reasons if different from those set out in report):  The Sub-Committee considered an application by Global VIPs Limited for a new premises licence in respect of Essentials.  The Licensing Officer provided an outline of the application to the Sub-Committee. She explained that the premises operated as a newsagent / convenience store within Leicester Square Underground Station. The applicant was seeking to sell alcohol for consumption off the premises until 22.00 hours every day.  All parties were invited to make representations to the Sub-Committee in relation to the application. The parties responded to members' questions and were given an opportunity to ask questions of each other.  Mr Ahmad, the Director of the applicant company, advised the Sub-Committee that he had been working at the premises for twenty-seven years during which he had built up a good working relationship with Transport for London (TfL). He was now the owner of the business. The premises had previously operated as a

coffee shop but he found it difficult to compete with another similar operator within the station. TfL had suggested that he might want to think about changing his business to that of a convenience store. It was confirmed that draft conditions had been agreed with Environmental Health and Transport for London no longer had any objection to him selling alcohol subject to Mr Ahmad abiding by their alcohol selling policy. A copy of the letter (dated 25<sup>th</sup> November 2015) confirming the granting of TFL's permission to sell alcohol at the premises was circulated to the Sub-Committee.

In respect of the British Transport Police's evidence at page 80 of the Licensing Sub-Committee report, the Sub-Committee's Legal Adviser clarified that the Transport for London Byelaws did not prevent customers from being in possession of alcohol either within the station itself or on the underground trains. It was legal to be on the tube network with alcohol as long as it was in a sealed container.

Mr Dolby, the applicant's agent, explained that alongside the draft conditions agreed with Environmental Health, TFL's alcohol selling policy was so stringent that if there was one single reported incident Mr Ahmad would have to immediately cease selling alcohol. This would ensure that there would be no alcohol related issues relating to the premises.

In response to a question Mr Dolby confirmed that no more than 15% of the premises shelf space would be allocated to alcohol. Environmental Health would inspect the premises to ensure this was the case immediately prior to the selling of alcohol.

Mr Dolby brought to the Sub-Committee's attention that the hours applied for were less than core hours. It was expected that the customers purchasing alcohol would be mainly commuters and office workers who would consume it at home. It was confirmed that outside of the permitted hours for the sale of alcohol the display units would be locked to prevent access to the contents.

PC Russell of the Metropolitan Police referred to the statement from the British Transport Police in which they objected to the application due to the potential of increased anti-social behaviour. PC Russell had spoken to the applicant and was satisfied with the letter confirming TFL's decision to sell alcohol from the premises.

Mr Ahmad advised the Sub-Committee that he worked closely with the station staff at Leicester Square Tube Station and had built up a close working relationship with them. This had helped prevent any incidents or issues arising from the premises.

Mr Kanapathi, the applicants licensing consultant, explained that the conditions, and agreement with TFL, promoted the licensing objectives.

The Sub-Committee was of the opinion that the terms of the consent granted by TfL would prevent any issues arising at the premises from the sale of alcohol. It was noted that the consent was subject to compliance with TfL's strict policy relating to the sale of alcohol within its premises. If there was only a single

unacceptable incident relating to the sale of the alcohol, it was more than likely that permission would be withdrawn immediately. It was recognised that the premises was a very well-run business and that Mr Ahmad understood the legal requirements. The Sub-Committee was satisfied that that the security measures in place restricting the area that could be used for the sale of alcohol to no more than 15% of the total sales area, along with the implementation of locked grilles/screens to secure the alcohol outside the hours when it was authorised to be sold, would uphold the licensing objectives.

The Sub-Committee therefore agreed to grant the application, subject to the modification of the following conditions:

- i) Condition 8 be amended to read “Outside of the hours authorised for the sale of alcohol, all alcohol within the trading area is to be secured behind locked grilles/screens or secured behind locked cabinet doors so as to prevent access to the alcohol by both customers and staff save for restocking.”
- ii) Condition 11 be amended so as to include the abbreviated form of ABV before the words “(alcohol by volume)” so as to be consistent with the wording for condition 9;
- iii) The last sentence of Condition 15 be amended to read: “Viewings of recordings shall be made available immediately upon the request of the Police or an authorised officer throughout the preceding 31 day period”.
- iv) Condition 18 be replaced with Model Condition 81.

### **Conditions attached to the Licence**

#### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
  
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –

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

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

5(ii) For the purposes of the condition set out in paragraph 5(i) above –

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

(b) "permitted price" is the price found by applying the formula -  $P = D + (D \times V)$

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

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

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

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

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

5(iii). Where the permitted price given by Paragraph 5(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that subparagraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 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.

**Conditions Attached After a Hearing by the Licensing Authority**

6. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
7. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
8. Outside of the hours authorised for the sale of alcohol, all alcohol within the trading area is to be secured behind locked grilles/screens or secured behind locked cabinet doors so as to prevent access to the alcohol by both customers and staff save for restocking.
9. No super strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises except for premium beers and ciders sold in glass bottles.
10. No more than 15% of the sales area to be used at any one time for the sale, exposure for sale, or display of alcohol.
11. There shall be no self-service of spirits on the premises except for spirit mixtures below 5.5% ABV (alcohol by volume).
12. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
13. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
14. A challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
15. The premise 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 the Police or an authorised officer throughout the preceding 31 day period.
16. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
17. A diary log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff

who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises are open.

18. 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.

The Meeting ended at 1.43 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_