



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** Committee held on **Thursday 26th January, 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

1 MEMBERSHIP

It was noted that there were no changes to the membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 THE WELLINGTON CLUB, 116A KNIGHTSBRIDGE, SW1

LICENSING SUB-COMMITTEE No. 1

Thursday 26th January 2017

Membership: Councillor Tim Mitchell (Chairman), Councillor Heather Acton and Councillor Jan Prendergast

Legal Adviser: Horatio Chance

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Nick Nelson

Relevant Representations: Wellington Court RTM Company Ltd, Knightsbridge Residents Management Company, 10LP and eight local residents.

Present: Ms Lana Tricker (Solicitor, Representing the Applicant), Mr Brijesh Patel (for the applicant company), Mr Anil Drayan (Environmental Health ("EH")), Mr Richard Roberts (Wellington Court RTM Company Ltd), Mr Robert Botkai (representing Kensington Gardens Management Company) and Mr Chris Barras (representing Mr Hays)

**The Wellington Club, 116A Knightsbridge, London, SW1X 7PL
16/11875/LIPN**

1.	<p>Live Music - Indoors</p> <p>Monday to Sunday: 09:00 – 01:00</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>From the end of trade on New Year’s Eve to the start of trade on New Year’s Day.</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 Quaver Limited for a new premises licence in respect of The Wellington Club, 116A Knightsbridge, London, SW1X 7PL.</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>Ms Tricker, representing the applicant, confirmed that the application was for a shadow licence on behalf of the owner of the premises. The application was simply to re-establish the licence in the owner’s name and provide safeguards for the landlord. Paragraph 3.2.11 of the City Council’s Statement of Licensing Policy (“SLP”) highlighted that this was a recognised method and the application before the Sub-Committee was a prime example of a shadow licence. The application duplicated the current premises licence with no material changes. The Sub-Committee was reminded that this was not a <i>review</i> of the existing licence and following the withdrawal of the Police’s representation no objections had been received from the Responsible Authorities.</p> <p>The residents objections received related to issues with the previous operator of which the landlord had been unaware. No complaints had been made to the landlord and the Council had also not received any large number of complaints. To help address any previous problems experienced and help reassure residents the landlord would circulate his contact details to them. Paragraph 3.2.14 of the SLP ensures that the issuing of a shadow licence to the landlord would also provide further protection to residents. Paragraph 3.2.14 states “The Council recognises that landlords have powers over their tenants outside of the licensing regime and would expect responsible landlords to exert that control to promote the licensing objectives. Where the landlord is also a licence holder of an premises licence in effect at the premises the Council considers that the landlord has further responsibilities in respect of the operation of the premises to promote the licensing objectives”</p> <p>Ms Tricker explained that despite issues with the previous operator no licensing</p>

reviews had ever been brought against the premises. The importance of understanding that the owner of the premises had not been involved in previous issues experienced with residents was stressed. The application was simply to duplicate the existing licence in similar terms.

Mr Botkai, representing the Kensington Residents Management Company, queried the following aspects of the application:

- Was the application simply duplicating the existing licence as there appeared to be differences?;
- Who was the proposed new operator for the premises?;
- Why was no DPS stated on the application?;
- Was there a copy of the current club and membership rules?;

In response Ms Tricker confirmed that there were some, non-material, changes to the conditions in order to update them and bring them in line with the Council's model conditions. An agreement was in place for a high end Lebanese style restaurant to become the new operator of the premises. Also, no Designated Premises Supervisor "DPS" had been listed as the licence was not operational. A copy of the current club and membership rules in place was not available but the Sub-Committee was assured that the premises would be fully compliant with the conditions imposed.

Mr Botkai expressed concern that the application was requesting the Sub-Committee to grant a licence retaining the current club and membership rules but it was unknown what these rules were. Concern was also raised that the hours for the sale of consumption of alcohol were outside core hours. It was questioned why the landlord felt a shadow licence was required to afford him protection. The Sub-Committee was advised that there was a covenant within the terms of the lease to ensure that the Tenant would comply and in turn the landlord was protected if any issues arose with the licence holder and it could therefore be transferred if necessary. Mr Botkai suggested to the Sub-Committee that if this was a new application it would not be granted as many of the model conditions were missing, it was outside core hours and there was a lack of information concerning what the club rules entailed. The existing licence had created various issues for residents but if this fell away a licence with exactly the same out-dated conditions would remain, not necessarily addressing any of the concerns raised.

The Chairman confirmed that if a review of the licence was brought this would be for both licences in place in accordance with the usual practice of the City Council.

Mr Botkai also stressed that the area where the premises was located had recently become significantly more residential in nature, which increased the sensitiveness of the granting of a late night licence. There would not be the same level of concern if the licence applied for was modern, complied with the SLP and was within core hours. It was submitted that the application however was none of these things. It was recognised that the Police had withdrawn their representation however, the premises had been closed for many months which

may have influenced any data on the premises.

The Council's Policy Adviser clarified the Council's position on shadow licences. The Licensing Policy only referred to shadow licences as a term an applicant may use when putting an application before the Licensing Sub-Committee. The Policy did no more than recognise that the law permits an application for a second licence and recognised that applicants were able to make these applications. The Council however did not encourage these type of applications and dealt with them on their individual merits.

Mr Barras, representing Mr Hays of 10 Lancelot Place, supported the arguments put forward by Mr Botkai. The area had become much more residential recently and it had become a great relief for residents when the club had closed down. The fact that the premises may operate again was of a worry as the hours requested had the potential to generate anti-social behaviour.

Mr Richard Roberts, representing Wellington Court RTM Company Ltd, advised the Sub-Committee that the previous problems experienced were relevant to the application before the Sub-Committee. The landlord had a responsibility to ensure that their premises was operating in a responsible manner, something which had not happened previously. No steps had been taken in the past to address issues raised by residents and there was concern this would be the case once more. The application lacked various important key conditions and as such the Sub-Committee was requested to refuse the application.

Ms Tricker, informed the Sub-Committee that the landlord had only owned the premises for the past two years and should not be tarnished with the conduct of the owner previously. He had not been informed of previous issues with the premises and requested that residents inform EH and the landlord of any problems experienced. With regards to the hours requested these would be exactly the same as currently allowed and no extension had been proposed. If the licence was granted the premises would be fully compliant with all the conditions imposed on the licence. In response to a question it was confirmed that the previous tenant had vacated the property in September 2016 but no notice of the surrender of the licence had actually been received.

Mr Botkai requested that the Sub-Committee refuse the application. It was stated that no Designated Premises Supervisor ("DPS") had been stated on the application, the club/membership rules were unknown, it was outside Policy and core hours and the conditions were very dated. The application was not appropriate and did not promote the licensing objectives. Concern was expressed that if the existing licence was surrendered a licence with the same conditions would remain in place.

The Sub-Committee carefully considered the application and confirmed that as the premises was not in a cumulative impact area it would be considered on its own merits. As such it was the opinion of the Sub-Committee that applying for a second licence which was identical to the existing licence, albeit with minor alterations, did not automatically follow that it should be granted on the same terms by the Sub-Committee. The conditions proposed were considered inappropriate and out of date and it was felt that granting a licence without

	<p>knowing what the club and membership rules entailed would be a cause for concern. It was also recognised that the hours requested were beyond core hours and as the premises was located in a residential area this was not considered appropriate. Based on all the evidence the Sub-Committee had before it, it was felt that the application would not promote the licensing objectives and therefore the application was refused.</p>
2.	<p>Recorded Music - Indoors</p> <p>Monday to Sunday: 00:00 – 00:00</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>From the end of trade on New Year’s Eve to the start of trade on New Year’s Day.</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 refused the application, see reasons for decision in Section 1.</p>
3.	<p>Performance of Dance – Indoors</p> <p>Monday to Sunday: 09:00 – 01:00</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>From the end of trade on New Year’s Eve to the start of trade on New Year’s Day.</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 refused the application, see reasons for decision in Section 1.</p>
4.	<p>Anything of a Similar Description to Live music, Recorded Music and Dance – Indoors</p> <p>Monday to Sunday: 09:00 – 01:00</p> <p>Seasonal Variations/Non-Standard Timings:</p>

	From the end of trade on New Year's Eve to the start of trade on New Year's Day.
	Amendments to application advised at hearing: None
	Decision (including reasons if different from those set out in report): The Sub-Committee refused the application, see reasons for decision in Section 1.
5.	Late Night Refreshment – Indoors Monday to Saturday: 23:00 – 01:30 Sunday: 23:00 – 01:00 Seasonal Variations/Non-Standard Timings: New Year's Eve from 23:00hrs to 05:00hrs on New Year's Day.
	Amendments to application advised at hearing: None
	Decision (including reasons if different from those set out in report): The Sub-Committee refused the application, see reasons for decision in Section 1.
6.	Sales By retail of Alcohol Monday: 10:00 – 01:00 Tuesday to Saturday: 10:00 – 02:00 Sunday: 12:00 – 00:30 Seasonal Variations/Non-Standard Timings: From the end of trade on New Year's Eve to the start of trade on New Year's Day.
	Amendments to application advised at hearing: None
	Decision (including reasons if different from those set out in report): The Sub-Committee refused the application, see reasons for decision in Section 1.

7.	<p>Hours Premises are Open to the Public</p> <p>Monday: 09:00 – 01:30 Tuesday to Saturday: 10:00 – 02:00 Sunday: 09:00 – 01:00</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>From the end of trade on New Year’s Eve to the start of trade on New Year’s Day.</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 refused the application, see reasons for decision in Section 1.</p>

4 PREMIER INN, 90-104 BERWICK STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 26th January 2017

Membership: Councillor Tim Mitchell (Chairman), Councillor Heather Acton and Councillor Jan Prendergast

Legal Adviser: Horatio Chance
Policy Adviser: Chris Wroe
Committee Officer: Tristan Fieldsend
Presenting Officer: Nick Nelson

Relevant Representations: Environmental Health, the Metropolitan Police, Ingestre Court Residents’ Association and The Soho Society.

Present: Mr John Gaunt (Solicitor, Representing the Applicant), Mr James Rider and Mr Jonathan Langham (for the applicant company), Mr Anil Drayan (Environmental Health (“EH”), Mr Andrew Murray (The Soho Society) Mr Simon Osbourne-Smith (Ingestre Court Residents Voice) and Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing The Soho Society and Mr Osbourne-Smith)

<p>Premier Inn, 90-104 Berwick Street, London, W1F 0QB 16/11235/LIPN</p>

<p>1.</p>	<p>Late Night Refreshment – Indoors</p> <p>Monday to Thursday: 23:00 – 23:30 Friday to Saturday: 23:00 – 00:00 Sunday: N/A</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>To extend the proposed hours as identified on New Year’s Eve: 23:00 until New Year’s Day: 05:00.</p> <p>The premises shall remain open to permit Late Night Refreshment to hotel residents 24 hours a day.</p> <p>Please note that under Schedule 2 Para 3 of the Licensing Act 2003, the premises is exempt from requiring Late Night Refreshment for any person staying at the hotel for the night in question.</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 Whitbread Group PLC for a new premises licence in respect of Premier Inn, 90-104 Berwick Street, London, W1F 0QB.</p> <p>The Licensing Officer provided an outline of the application to the Sub-Committee.</p> <p>Mr Gaunt representing the applicant advised that the application had been amended so the sale of alcohol would now only be permitted to 23:00 hours Monday to Thursday, 23:30 on Friday and Saturday. The application was for a 110 bed hotel which was part of a wider development and would be the fourth ‘Hub’ to be located in the City of Westminster. It was confirmed that the food and beverage offer would be located in the basement area of the Premises. This aspect was highlighted as it would make this area invisible to any members of the public passing by which was important as the premises was located in a cumulative impact area (“CIA”). There would be no external signage to the bar with access only allowed through the reception area which was manned 24 hours a day. A food offer would be available throughout the opening hours. The sale of alcohol would be through waiter/waitress service only with no off sales allowed except to hotel residents taking drinks to their room.</p> <p>The Sub-Committee noted that the applicant had invested £30 million into the development which would create forty new jobs and it would be attempted to source these locally. Under the Licensing Act 2003 there was a provision for non-residents of a hotel to use the bar facility. It was envisaged that there would not be a significant number of non-residents using the facilities, so the application therefore required a common sense and flexible approach to this.</p>

The Sub-Committee was advised that conditions had been agreed with the Police following a meeting. Constructive talks had also been held with EH following which a schedule of conditions had been agreed. The representations received from the residents' associations centred on the perceived detrimental effect the bar would have on their local amenity. The Sub-Committee had to consider the evidence before it and there was no evidence to support the claims that the Premises would create problems. The Sub-Committee was advised that the other 'Hubs' located in the City of Westminster had not created any issues that would undermine the licensing objectives. In any event, if such problems did arise the residents would have the right to call a review of the premises licence. The hours requested were within core hours, it was located in a CIA however there were a number of exceptions in the City Council's Statement of Licensing Policy ("SLP") of which it was suggested this was one. It was therefore submitted that the applicant was a very responsible operator which managed over 700 hotels nationwide. Most hotel residents vacated after breakfast and checked-in later which diminished any potential disturbance for residents. The applicant had worked with the responsible authorities to ensure the application would have a positive impact on the local community.

In response to a question regarding where smokers would be located Mr Gaunt confirmed that this would be in the immediate vicinity of the hotel and staff would monitor the area to ensure there was no public nuisance. EH advised that due to the nature of the operation it was not necessary to have door staff in place however a condition had been agreed to undertake a risk assessment of this on an on-going basis. In response to a query over the level of engagement undertaken with local residents Mr Gaunt stressed that the application had been advertised, letters had been sent to all the parties making representations and a mediation meeting had been offered.

Mr Anil Drayan, representing EH, confirmed that EH was satisfied with the application even though it was located in a CIA. The bar would be ancillary to the hotel use and there would be no direct access to it from the street. EH had also noted that there would be no external advertising of the bar. Conditions had been agreed with the applicant and the representation would have been withdrawn however unresolved representations with local residents still remained.

Mr Brown, from Westminster Citizens Advice Bureau, advised the Sub-Committee that the planning application for the premises stated that any food or beverage offer would not be available to members of the public. It was accepted by the Sub-Committee that the planning and licensing regimes were separate but it was thought unsatisfactory that they seemed to contradict each other in this instance. The main area of concern though centred on the fact that the application would allow hotel residents, guests of hotel residents and members of the public to all access the bar. This would mean it could function as a new bar in a CIA which was contrary to Licensing Policy. Allowing the sale of alcohol to hotel guests and members of the public would result in an intensification of use. Due to the near vicinity of local residents a question was raised over the effect of noise from the hotel's plant and extract equipment. Noise testing usually occurred from the ground floor so clarification was sought on how noise from the plant located on the fifth floor would be measured? A concern was raised over

the hours stated for the collection of waste and recycling materials, in response Mr Gaunt confirmed that this could be altered to ensure no collections took place between 22:00 and 08:00. Mr Brown explained how the proposed capacity was for ninety people excluding staff however the floor plan only displayed fifty-three seats, this was considered a large difference and had the potential to encourage vertical drinking. It was also highlighted that currently there was no condition requiring the sale of alcohol to be by waiter/waitress service. This application was likely to increase numbers of people drinking in a CIA and policy stated that incremental increases of people drinking in CIAs was likely to raise issues. Concern was also expressed over the lack of security people at the entrance of the bar which would be easy for members of the public to access.

Mr Osbourne-Smith, representing the Ingenstre Court Residents Voice, explained the impact the opening of the hotel would have on residents of Ingestre Court. The narrowness of the roads in the immediate vicinity of the hotel was stressed. It was currently a quiet area in a busy location and the opening of the hotel would cause serious noise disturbance for residents. The bar would be open to members of the public and further noise would be created by people entering and exiting the hotel and associated traffic noise. Noise levels would be exacerbated for some residents as their windows would be located directly opposite some of the plant and extract equipment. It was disappointing that the application was different to the plans originally submitted which could result in a different clientele base using the bar facilities. A question was raised over how the outside area used by smokers would be monitored so as to prevent public nuisance. In response Mr Gaunt confirmed that the area would be covered by CCTV and a sufficient number of staff would be available to monitor the area. Mr Osbourne-Smith advised that the application would result in an increased number of people drinking in a CIA with a subsequent increase in noise disturbance in a quiet location.

Mr Andrew Murray, representing the Soho Society, remarked how the application did not recognise the uniqueness of the location. The area was very residential and the proposal would increase pressure in the area. Any loss of residential amenity would have a big impact on the residents in a CIA and the application could be expected to increase noise disturbance. No case had been provided to state why hotel residents should be allowed access to alcohol twenty-four hours a day. Concern was expressed that the bar area would be drink led with potential vertical drinking and only a minimal food offer available. Mr Murray suggested that the application was basically for a new bar situated within a CIA that could provide alcohol to members of the public.

Mr Gaunt confirmed that the food offer would consist of cold platters and pre-prepared food heated in a microwave.

In response to the representations received from the residents' associations Mr Drayan confirmed that EH was satisfied that the plant and extract equipment of the hotel would not cause noise disturbance if it was built in accordance with the planning permission. An explanation over the acoustic measuring to be utilised was detailed and waste collection times for the area were also provided.

Councillor Acton requested that to minimise noise disturbance and reduce the

environmental impact of the application the hotel encouraged hotel guests to use electric vehicles when accessing or leaving the premises. Mr Rider, representing the applicant, suggested this could be investigated. He also explained how the licenced area would primarily be used for the service of breakfast. It was designed to provide a comfortable area for guests to consume their breakfast and this was a more important factor for them rather than the sale of alcohol.

Mr Gaunt advised the Sub-Committee that the planning and licensing regimes were separate and the two should not be confused. Planning determined the use of the premises under the provisions of the Town and Country Planning Act 1990, whilst licensing determined how the premises operated for the purposes of the Licensing Act 2003. Noise had been highlighted as a key issue and EH was satisfied that the impact of the premises would not create a noise disturbance. It was recognised that there was no condition in place to ensure all sales of alcohol were by waiter/waitress service only but the applicant was willing to accept that a condition requiring this be added to the licence.

The Sub-Committee carefully considered the application and noted the high quality nature of the operation. It was felt that the objectors should have taken up the applicant's offer of a mediation meeting as this could have allayed some of the concerns they raised. The Sub-Committee recognised that the premises was located in a CIA though and in particular a very quiet street in a noisy location. As such the Sub-Committee acknowledged that the local residents required a degree of protection from potential public nuisance. The Sub-Committee was of the opinion that limiting access to the bar to hotel residents and up to five bona fide guests each would limit disturbance to residents. Therefore it was felt that due to the nature of the operation, the location of the bar in the basement of the premises, no external signage and a limit on up to five bona fide guests being able to access the bar with hotel residents made the application an exception to policy. In determining the matter, the Sub-Committee was satisfied that the application would uphold and promote the licensing objectives and as such granted the application accordingly. The Sub-Committee also added an informative to the licence requesting that the applicant use its best endeavours to encourage hotel residents to use electric vehicles when arriving or departing from the hotel.

The Sub-Committee agreed to amend the following conditions on the licence in order to update the licence:

- Condition 10 be deleted from the premises licence;
- An additional condition be added to the licence to read "Alcohol may only be supplied to and consumed by a) hotel residents and b) bona fide guests of hotel residents up to a maximum of 5 guests per hotel resident";
- An additional condition be added to the licence to read "Guests of hotel residents shall vacate the premises by 23:30 Monday to Thursday, 00:00 Friday to Saturday and 22:30 on Sunday";
- An additional condition be added to the licence to read "The supply of alcohol on the premises shall be by waiter/waitress service only";
- An additional condition be added to the licence to read "There shall be no sales of alcohol for consumption off the premises other than for

	<p>consumption by hotel residents and their bona fide guests in their hotel bedroom”;</p> <ul style="list-style-type: none"> • An additional condition be added to the licence to read “ 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”; • Condition 32 be amended to read “No collection of waste or recycling materials (including bottle) from the premises shall take place between 22:00 and 08:00 on the following day”; and • Condition 33 be amended to read “No deliveries to the premises shall take place between 22:00 and 08:00 on the following day”.
<p>2.</p>	<p>Sales By retail of Alcohol – On and Off Sales</p> <p>Monday to Thursday: 10:00 – 23:30 Friday to Saturday: 10:00 – 00:00 Sunday: 10:00 – 22:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>To extend the proposed hours as identified on New Year’s Eve: 10:00 until New Year’s Day: terminal hour as proposed being 00.30 on 2 January.</p> <p>The premises shall remain open to permit the sale of alcohol to hotel residents 24 hours a day.</p>
	<p>Amendments to application advised at hearing:</p> <p>The applicant advised that the hours for the sale of alcohol had been amended to Monday to Thursday: 10:00 – 23:00 and Friday to Saturday: 10:00 – 23:30.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application, see reasons for decision in Section 1.</p>
<p>3.</p>	<p>Hours Premises are Open to the Public</p> <p>Monday to Saturday: 07:00 – 00:00 Sunday: 07:00 – 23:00</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>The premises shall remain open 24 hours a day for hotel residents.</p> <p>For non-residents, the premises will close 30 minutes after the end of the non-standard timings for licensable activities.</p>
	<p>Amendments to application advised at hearing:</p>

	None
	Decision (including reasons if different from those set out in report): The Sub-Committee granted the application, see reasons for decision in Section 1.

Conditions attached to the Licence
<p><u>Mandatory Conditions</u></p> <ol style="list-style-type: none"> 1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence. 2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended. 3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence. 4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises- <ol style="list-style-type: none"> (a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to; <ol style="list-style-type: none"> (i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or (ii) Drink as much alcohol as possible (whether within a time limit or otherwise); (b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective; (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

- (d) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) Dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

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

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

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

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

Where –

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Conditions Consistent with the Operating Schedule

9. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a Hotel.
10. Alcohol may only be supplied to and consumed by a) hotel residents and b) bona fide guests of hotel residents up to a maximum of 5 guests per hotel resident.
11. Guests of hotel residents shall vacate the premises by 23:30 Monday to Thursday, 00:00 Friday to Saturday and 22:30 on Sunday.
12. There shall be no sales of alcohol for consumption off the premises other than for consumption by hotel residents and their bona fide guests in their hotel bedroom.
13. The supply of alcohol on the premises shall be by waiter/waitress service only.
14. There shall be no external advertising of the basement bar that is visible from the street.
15. The entrance lobby will be supervised by staff 24 hours a day.
16. There shall be no drinks promotions at the premises which are inconsistent with the need to promote responsible drinking.
17. A Challenge 21 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport or proof of age card with the PASS Hologram.
18. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record 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.
19. Children under the age of 16 shall not be permitted to enter the premises after 21:00 unless dining with an adult or attending a pre booked function or resident in the hotel.
20. Staff will receive training on matters concerning underage sales, drugs policies and operating procedures.
21. The use of door staff will be risk assessed on an ongoing basis by the licence holder. Where engaged, door staff shall be licenced by the Security Industry

Authority.

22. 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 proper request of Police or authorised officer throughout the preceding 31 day period.
23. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when properly requested.
24. 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.
25. The management of the premises will liaise with police on issues of local concern or disorder. The management will join the local Pubwatch / Safer West End Radio scheme where available.
26. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
27. 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 regarding crime disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any visit by a relevant authority or emergency service.
28. 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 inside any noise sensitive premises.
29. 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.

30. Patrons will be encouraged by staff to leave quietly and respect the interests of the occupiers of any nearby noise sensitive premises; where appropriate the licensee or a suitable staff member will monitor patrons leaving at the closing time.
31. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of the local residents and businesses and leave the area quietly.
32. The premises licence holder shall ensure that any patrons smoking immediately outside the premises do so in an orderly manner and so as to ensure that there is no public nuisance or obstruction of the public highway.
33. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity upon request.
34. There shall be no striptease or nudity, in the public licensed area 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.
35. 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.
36. No collection of waste or recycling materials (including bottle) from the premises shall take place between 22:00 and 08:00 on the following day.
37. No deliveries to the premises shall take place between 22:00 and 08:00 on the following day.
38. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
39. Contact numbers for local taxi firm(s) shall be kept at the premises and made available to patrons requiring a taxi.
40. The number of persons permitted in the basement at any one time (excluding staff) shall not exceed 90 persons.
41. No licensable activities shall take place at the premises until the premises have 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 - if there are minor layout changes during the course of construction new plans shall be submitted.

5 THE LEXINGTON, 34 LEXINGTON STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 26th January 2017

Membership: Councillor Tim Mitchell (Chairman), Councillor Heather Acton and Councillor Jan Prendergast

Legal Adviser: Horatio Chance
Policy Adviser: Chris Wroe
Committee Officer: Tristan Fieldsend
Presenting Officer: Nick Nelson

Relevant Representations: The Metropolitan Police, Licensing Authority, Environmental Health and The Soho Society

Present: Ms Lana Tricker (Solicitor, Representing the Applicant), Mr Piers Adam and Adam Torrance (for the applicant company), Ms Nicola Curtis (Environmental Health ("EH")), Mr Steven Rowe (Licensing Authority) and PC Bryan Lewis (Metropolitan Police ("The Police")).

The Lexington, 34 Lexington Street, London, W1F 0LH 16/12033/LIPN	
1.	Sales by Retail of Alcohol – On and Off Sales Monday to Saturday: 08:00 – 23:00 Sunday: 10:00 – 22:30 Seasonal Variations/Non-Standard Timings: New Year's Eve from the end of permitted hours to the start of the permitted hours on New Year's Day.
	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 Lexington Street Ltd for a new premises licence in respect of 34 Lexington Street, London, W1F 0LH. The Licensing Officer provided an outline of the application to the Sub-Committee. A short video introducing the concept of the project was played for the benefit of the Sub-Committee. Ms Tricker, representing the applicant, advised the Sub-Committee that Mr Adam had purchased a hotel in Speyside, Scotland, in 2012 which sold the best

produce in the local area. It was stated that this vision had inspired the concept to introduce and bring a unique premises to Westminster which only served the best Scottish whisky and produce. It was confirmed that food would be provided throughout the ground floor and basement in the premises. The current building was derelict with a planned investment of £1.8 million of which the landlord was supportive. The terminal hour for selling alcohol was 23:00 hours Monday to Saturday and 22:30 on Sundays; this reflected the food led nature of the operation.

Ms Tricker informed the Sub-Committee that the entrance to the premises was set back from Lexington Street and would have a noise lobby to ensure there was no disturbance to residents. On the ground floor all patrons would be seated with a holding bar for up to fifteen people waiting to dine. The supply of alcohol would only be to a person seated at a table and ancillary to a meal. It was recognised that the basement required some flexibility with regards to the City Council's Statement of Licensing Policy ("SLP") as it would be used for whisky tasting events. Ms Tricker informed the Sub-Committee that there would be no external advertising of the basement bar with food available at all times. Vertical drinking would not be encouraged and all bar tenders would be experts in whisky.

Mr Adams provided the Sub-Committee with an overview of the concept of the project and explained how the aim was to open a flagship premises in London.

Mr Torrance advised that the basement would primarily be used to host educational classes on whisky. This was a key aspect of the application where tasting events on various types of whisky would be held. It was confirmed that the educational classes would involve vertical drinking to some extent but this had to be considered in the context of holding the class itself **and its main purpose**.

Ms Tricker highlighted how the premises was a unique concept which was not offered elsewhere in Westminster. The application had not received any residential representations and those representations that had been submitted were based on policy grounds. The premises was located in a cumulative impact area ("CIA") but it would be set back from the street with the basement bar focussed on providing an educational experience. The uniqueness and the prices of the whisky would ensure it was not a drink led premises and instead would provide a relaxed dining experience with a strong focus on Scottish food and produce. Conditions had been proposed which would ensure the premises was controlled and well regulated at all times, and the times applied for were all within core hours.

Ms Tricker advised the Sub-Committee that the applicant was willing to accept a condition to restrict the licence to being a whisky and Scottish produce led establishment. This would provide reassurances that the applicant had a long term interest and commitment in the project.

Mr Rowe, representing the Licensing Authority, explained that the premises was located in the CIA. On the ground floor the sale of alcohol would be ancillary to food but in the basement area alcohol could be served without food. Licensing

Policy dictates that the licence could only be granted in a CIA in exceptional circumstances. The onus is on the applicant to demonstrate that the premises would not add to the cumulative impact in the area and the Sub-Committee had to decide if this was the case.

PC Bryan Lewis advised that The Police maintained its representation on the basis the application was contrary to policy. Concern was also expressed that the proposed conditions would allow the consumption of alcohol outside the premises. In response Ms Tricker confirmed that there would be no drinking outside and the applicant would be willing to accept a condition attached to the licence preventing any external consumption of alcohol. The Sub-Committee took the view that the proposal of this condition would cover any potential crime and disorder issue.

Ms Curtis, representing EH, explained that the application had the potential to create public nuisance in a CIA. The application would essentially allow 120 people to consume alcohol at the premises without restaurant conditions attached. It was noted that the hours requested were within core hours however residents did live in the vicinity of the premises. Ms Tricker confirmed that one resident lived above the premises but the landlord had expressed confidence that the operation would not create any public nuisance. The Sub-Committee also noted the 120 capacity would be split with a maximum of 60 people allowed on the ground floor and 60 in the basement area.

In response to a question the applicant confirmed that craft beers and other types of alcohol would also be available at the premises aside from whisky. The Sub-Committee noted that the concept of the venue had not been reflected in the proposed conditions.

Ms Tricker highlighted to the Sub-Committee the restaurant conditions in place, the food led nature of the operation, the proposed hours being within core hours and the unique style of operation which was a first for the City Council. It was stressed that together this would ensure that the application was an exception to policy. To provide a guarantee of the nature of the operation to the Sub-Committee the applicant was willing to accept an additional condition ensuring the premises primarily specialised in Scottish produce and was restricted as such.

The Sub-Committee carefully considered the application and was of the opinion that the nature and style of the operation was unique. It was recognised that the premises was situated in a discreet location set back away from Lexington Street which would mitigate any potential disturbance issues with residents. The conditions proposed, and those added by the Sub-Committee, were very restrictive in nature and did ensure that the premises would be a food led establishment. It was recognised that some vertical drinking would be allowed in the basement but as this would be for educational purposes the Sub-Committee was confident it would not add to the cumulative impact in the area. To provide further guarantees of the nature of the operation the Sub-Committee agreed to add a further condition to the licence requiring the premises to sell whisky and other Scottish produce. The Sub-Committee considered that this would make the premises an exception to policy and ensure the licensing objectives were

	<p>promoted. As such the Sub-Committee granted the application accordingly.</p> <p>The Sub-Committee agreed to amend or delete the following conditions on the licence in order to update the licence:</p> <ul style="list-style-type: none"> • Condition 19 be replaced with Model Condition 39; • Condition 21 be amended to read “The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 120 persons (Ground Floor 60 and Basement 60)”; • Condition 26 be amended to read “There shall be no consumption of alcohol immediately outside the premises”; • Condition 36 be amended to read “On the ground floor, between 20:00 hours and 23:00 hours Mon-Sat, and between 20:00 hours and 22:30 hours Sunday the supply and consumption of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal”; • Condition 38 be amended to read “On the ground floor, notwithstanding conditions (36 and 37) alcohol may be supplied and consumed in the bar area by up to a maximum at any one time, of 15 persons at the premises who are waiting to be seated and to dine at the premises”; • An additional condition be added to the licence to read “The licensable activities authorised by this licence can only be carried on by Lexington Street Limited”; • An additional condition be added to the licence to read “Licensable activities at the premises shall only be provided ancillary to the operation of a business at the premises which is primarily selling whisky and other Scottish products, which stocks at least 200 varieties of whisky at the premises”; • An additional condition be added to the licence to read “In the Basement after 20:00 hours alcohol shall only be consumed by persons seated except for prearranged whisky tasting events”.
<p>2.</p>	<p>Hours Premises Are Open to the Public</p> <p>Monday to Saturday: 08:00 – 23:00 Sunday: 10:00 – 22:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>New Year’s Eve from the end of permitted hours to the start of the permitted hours on New Year’s Day.</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 the application, see reasons for decision in Section 1.</p>

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Conditions attached to the Licence

Mandatory Conditions

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

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-
 - (a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) Drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

- (e) Dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

permitted price.

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

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

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

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

Where –

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Conditions Consistent with the Operating Schedule

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. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 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. 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.
12. 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.
13. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
14. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
15. 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.
16. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
17. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between **(23:00)** hours and **(08:00)** hours on the following day.
18. No deliveries to the premises shall take place between **(23.00)** and **(08.00)** on the following day.
19. The supply of alcohol shall be by waiter or waitress service only.
20. 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.
21. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 120 persons (Ground Floor – 6-, Basement – 60)”;

22. 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.
23. 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.
24. 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.
25. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system, searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
26. There shall be no consumption of alcohol immediately outside the premises.
27. 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.
28. 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.
29. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
30. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
31. 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.
32. 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.

33. Prior to the Licence taking effect, 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 LFEPA, Environmental Health Consultation Team, the Police and the Licensing Authority.
34. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
35. Between 8am and 11am the supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
36. On the ground floor, between 20:00 hours and 23:00 hours Mon-Sat, and between 20:00 hours and 22:30 hours Sunday the supply and consumption of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
37. Alcohol consumed on the ground floor shall only be consumed by patrons seated at tables.
38. On the ground floor, notwithstanding conditions (36 and 37) alcohol may be supplied and consumed in the bar area by up to a maximum at any one time, of 15 persons at the premises who are waiting to be seated and to dine at the premises.
39. With the exception of bona fide private pre-booked events, the basement will contain seating for a minimum of 40 patrons at all times.
40. There shall be a minimum of one SIA security person on duty Thursday, Friday and Saturday from 6pm until 15 minutes after the premises closes.
41. The licensable activities authorised by this licence can only be carried on by Lexington Street Limited.
42. Licensable activities at the premises shall only be provided ancillary to the operation of a business at the premises which is primarily selling whisky and other Scottish products, which stocks at least 200 varieties of whisky at the premises.
43. In the Basement after 20:00 hours alcohol shall only be consumed by persons seated except for prearranged whisky tasting events.

Thursday 26th January 2017

Membership: Councillor Tim Mitchell (Chairman) and Councillor Jan Prendergast

Legal Adviser: Horatio Chance
Policy Adviser: Chris Wroe
Committee Officer: Tristan Fieldsend
Presenting Officer: Heidi Lawrence

Relevant Representations: Environmental Health and two local residents.

Present: Ms Lana Tricker (Solicitor, Representing the Applicant), Mr Hussein Aziz (for the applicant company), Mr Anil Drayan (Environmental Health ("EH")), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing a local resident)

38 St John's Wood Terrace, London, NW8 6LS 16/11417/LIPN	
1.	Sales by Retail of Alcohol – On and Off Sales Monday to Saturday: 10:00 – 23:00 Sunday: 10:00 – 22:30 Seasonal Variations/Non-Standard Timings: From the end of trade on New Year's Eve until the start of trade on New Year's Day.
	Amendments to application advised at hearing: Ms Tricker stated that the applicant was seeking to remove off sales of alcohol from the licence.
	Decision (including reasons if different from those set out in report): The Sub-Committee considered an application by DrunchSW3 Ltd for a new premises licence in respect of 38 St John's Wood Terrace, London, NW8 6LS. The Licensing Officer provided an outline of the application to the Sub-Committee. Ms Tricker, representing the applicant, confirmed that the application was for a new premises licence after the previous licence for the premises had been surrendered by the former owners. The applicant was proposing significantly reduced hours for the sale of alcohol compared to the previous licence. The Sub-committee was advised that discussions had taken place with EH and proposed conditions had been agreed. The building was freestanding and the outside area was fully enclosed by a fixed structure which would enable staff to easily monitor this area. Additional floors above the premises would not be

licenced and would act as accommodation for staff purposes. The operation would be food led and constructive discussions with EH had taken place regarding the installation of plant equipment to minimise any noise/odour impacts on the local area. The premises would be aimed at catering for local families and despite two representations received local residents were generally in support of the application. No other resident representations had been received. The Sub-Committee noted that the Police were satisfied with the application.

Ms Tricker informed the Sub-Committee how the applicant was an experienced operator who would take proactive steps to engage with the local community. No music would be played in the outside area and any alcohol served in this area after 18:00 hours would be ancillary to food. All windows would be double glazed, all music played internally would be background music and an acoustic report was due to be published. The Sub-Committee noted that the twenty year proposed leasing arrangement for the premises would be determined on the requested hours being granted. The new conditions proposed were very restrictive and it was felt that the representations received were speculative. The application was not in a Cumulative Impact Area, there had been a lack of objections from local residents and the practical conditions proposed ensured the licensing objectives would be promoted.

In response to a question Mr Hussein detailed how it was hoped to create a premises which catered for the local community and provided a venue that residents would visit on a Sunday afternoon or after work for drinks.

Mr Drayan, representing EH, confirmed that he had visited the premises and held discussions with the applicant concerning the preparation of food and the odour control measures required. The installation of double glazing at the premises and conditions requiring the consumption of alcohol in the outside area to be ancillary to food should generate less noise and therefore provide fewer disturbances to local residents. Mr Drayan confirmed that following constructive discussions with the applicant he normally would have withdrawn EH's representation. However, the representation was maintained on the basis that there were still two unresolved resident representations.

Mr Brown, from Westminster Citizens Advice Bureau, advised the Sub-Committee that one of the representations had been submitted by a local, disabled, resident. The noise disturbance he had experienced from the previous premises owner had made him fearful of the granting of a new licence. It was recognised that a number of conditions to limit any disturbance had been proposed, however the application still represented an intensification of use in an outside area. The resident was concerned that if the application was granted previous issues raised would be experienced again. Concern was also expressed regarding a lack of conditions relating to how staff would monitor the outside area and the utilisation of any outside noise abatement methods. Previous problems had been caused through patrons congregating on the public highway to consume alcohol purchased from the premises. It was also noted that at other premises operated by DrunschSW3 Ltd the smoking of shisha pipes was a significant element of the operation. The applicant had not indicated if this was part of the proposal as it would be a potential source of concern for

residents due to odour issues. Mr Brown advised the Sub-Committee that the local area was highly residential and noise disturbance had been experienced in the past by previous operators. The Sub-Committee had to be satisfied that the application promoted the licensing objectives due to the highly residential nature of the area and the previous experiences of residents, but nevertheless had to consider the application on its individual merits.

Ms Tricker, brought to the Sub-Committee's attention that numerous enforceable conditions had been proposed to be placed on the licence which would ensure the outside area was controlled and monitored at all times. The representations received were purely speculative and the fact the outside area was completely enclosed, plus the restrictive conditions in place, would help ensure there would be no disturbance.

Mr Hussein highlighted that it was planned to have a canopy over the outside area which would reduce any noise impact, however installing it was dependent on the award of the licence. Mr Hussein was very experienced in operating premises in Westminster and acknowledged the importance of working with residents and addressing any concerns they may have.

Following a question from the Council's Policy Adviser requesting clarity over the proposal for off sales Ms Tricker confirmed that this aspect of the licence could be removed.

In response to a question Mr Hussein confirmed that the smoking of shisha pipes would be part of the offer at the premises. Vapour shisha pipes had increased in popularity and would be offered to customers however a certain demographic preferred the more traditional style which would also be offered.

Mr Brown explained that the shisha aspect of the application was of real concern to residents due to potential odour issues. If this part of the application had been made clearer this could have resulted in more representations being received.

The Sub-Committee carefully considered the application, was satisfied that the application would promote the licensing objectives and as such granted the application accordingly. It was recognised that the proposal was for a different style and nature of operation for which there was no evidence the operator would cause disturbance to local residents. The Sub-Committee was of the opinion that the removal of off sales of alcohol from the licence was significant and would prevent the previous issues experienced of patrons drinking in the street. The Sub-Committee felt the restrictive conditions in place for the use of the outside area provided reassurance that the applicant had taken note of previous problems experienced by residents. Concern was expressed however over the use of shisha pipes at the premises and the Sub-Committee requested that the applicant use their best endeavours to mitigate any issues this could potentially cause in respect of public nuisance.

The Sub-Committee agreed to amend the following conditions on the licence in order to update the licence:

- Condition 23 be amended to read "The premises licence holder shall

	<p>ensure that any patrons drinking and/or smoking outside the premises building 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.”</p> <ul style="list-style-type: none"> • Condition 29 be amended to read “The premises may remain open for the sale of alcohol 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.” • Condition 31 be amended to read “All windows and external doors shall be kept closed after 21:00 hours except for the immediate access and egress of persons. • 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. For the avoidance of doubt this number does not include the patrons seated in the enclosed external area shown in the licence plan (within the red line).
2.	<p>Hours Premises Are Open to the Public</p> <p>Monday to Saturday: 10:00 – 23:00 Sunday: 10:00 – 22:30</p> <p>Seasonal Variations/Non-Standard Timings:</p> <p>From the end of trade on New Year’s Eve until the start of trade on New Year’s Day.</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>

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.

Conditions Consistent with the Operating Schedule

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

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

11. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

12. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
13. 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.
14. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
15. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed (100) persons, with a maximum of 35 in the enclosed external area shown on the plans (within the red line).
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. No deliveries to the premises shall take place between **(23.00)** and **(08.00)** on the following day.
18. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
19. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
20. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CTV system, searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
21. Any special effects or mechanical installations shall be arranged, operated 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 fireworks • firearms • lasers • explosives and highly flammable substances. • real flame. • strobe lighting.
22. 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.

23. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises building 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.
24. 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.
25. 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.
26. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
27. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
28. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall 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, shall be non-combustible.
29. The premises may remain open for the sale of alcohol 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.
30. All outside tables and chairs shall be rendered unusable by 23:00 hours Mon-Sat and by 22.30 Sun.
31. All windows and external doors shall be kept closed after 21:00 hours except for the immediate access and egress of persons.
32. Alcohol shall only be consumed outside the premises building in the enclosed external area shown on the plans (within the red line) and shall only be consumed by patrons seated at tables.
33. From 18.00 until 23.00 Mon Sat and until 22.30 Sun alcohol consumed outside the premises building (in the enclosed external area shown on the plans (within the red line) shall only be consumed by patrons as an ancillary to taking a table meal.
34. 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. For the avoidance of doubt this number does not include the patrons seated in the

enclosed external area shown in the licence plan (within the red line).

35. 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.

36. Loudspeakers shall not be located outside the premises building.

37. No fumes, steam or odours from cooking shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

38. 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.

39. Prior to the Licence taking effect, 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 LFEPA, Environmental Health Consultation Team, the Police and the Licensing Authority.

The Meeting ended at Time Not Specified

CHAIRMAN: _____

DATE _____