



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** Committee held on **Thursday 12th January, 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Angela Harvey (Chairman), Susie Burbridge and Rita Begum

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 BOK BAR, 56 BLANDFORD STREET, W1

LICENSING SUB-COMMITTEE No. 5

Thursday 12th January 2017

Membership: Councillor Angela Harvey (Chairman), Councillor Susie Burbridge and Councillor Rita Begum.

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

Relevant Representations: Environmental Health, 8 representations in support of review, 12 representations in support of premises.

Present: Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – representing the Applicants), Mr David Cook, Mr David Haynes, Ms Janet Lee and Ms Gloria May (Applicants), Ms Vanessa Turquand-Young (local resident in support of review), Ms Ayesha Bolton (Environmental Health), Mr Glyn Franks (Senior City Inspector), Mr

Gareth Hughes (Solicitor, representing the Licence Holder), Ms Olivia Hunt (Director, Business Development, Brilite Developments UK Ltd (Premises Licence Holder Company)), Mr Boleslaw Lewicki (General Manager of the premises), Mr Xialun Tan and Mr Scott Sheldon (local residents/witnesses in support of premises).

**Bok Bar 56 Blandford Street, W1 – Review of Premises Licence
15/04320/LIREVX**

Ms Lawrance referred in her presentation to the written submission of Mr Hughes, representing the Licence Holder that the review had been issued incorrectly ‘in that it seeks to review a premises licence namely 13/02784/LIPT which has expired’. Mr Hughes had asserted that a premises licence which has expired clearly cannot be the subject of a review application and further submitted that the applicants should issue a correct review before this matter can proceed any further. Ms Lawrance responded that the Licensing Authority deemed the review application to be valid. The internal processes of the City Council’s Licensing Authority had led to the change of the number on the licence following a minor variation application. There was only one premises licence for Bok Bar and the Licensing Authority believed it was clear that the review was in relation to this licence. The full licensing history was set out in the report. Mr Hughes was given the opportunity by the Sub-Committee to comment as to whether he wished to maintain his objection to the review proceeding. Mr Hughes advised that he did not wish to pursue that point any further.

The Sub-Committee heard from Mr Brown, representing the Applicants. He stated that the purpose of the review was set out in the report (it had been submitted on the grounds of public safety and the prevention of public nuisance). The Applicants were all long term residents of Chiltern Street and Blandford Street who lived in close proximity to Bok Bar. It was the position of the Applicants that large numbers of customers gathered outside Bok Bar at the frontages on to Blandford Street and Chiltern Street. Mr Brown commented that it was typical to have 50 patrons outside Bok Bar with the maximum being approximately 100. There was a significant amount of noise nuisance caused to local residents. Customers were sometimes located behind the barriers but the Applicants also had experience of them not doing so. There was use of the public highway and the pavement was often blocked. Mr Brown explained that there was a condition on the existing premises licence requiring tables and chairs outside to be rendered unusable after 22:30. However, there had been instances of people sitting there after this time and the Applicants were keen that this condition was enforced. Residents were also inconvenienced by noise as patrons were dispersing.

Mr Brown emphasised that there had been a number of meetings between residents and the representatives of the premises. They had spent a considerable amount of time phoning the premises on a number of occasions and also the Noise Team. The Applicants had been close to applying for a review of the premises licence many times. Mr Brown described the problems that local residents experienced being ‘in remission’ only for them to return later. Residents now wanted a permanent resolution.

Mr Brown stated that all the Applicants had lived in the area many years before Bok Bar had been established (it had used to be called The Wallace Head and then became O’Neill’s). The premises became the Bok Bar in 2005 and that is when the problems started. This was not a case of the residents coming to the nuisance. The nuisance came to them and it was their experience that noise nuisance had increased at the premises over time. Meetings had taken place with representatives involved with Bok Bar and Chiltern Firehouse, located at 1 Chiltern Street. The residents had a good relationship with Ms Hunt but in 2016 she

indicated that she did not have the power to do anything more to help them. It was the Applicants' view that the many meetings between them and the representatives of the premises had failed to resolve the issues and that it was therefore necessary to submit an application for a review of the premises licence. There were eight representations in support of the review from residents who Mr Brown referred to as being in close proximity of the premises.

Mr Brown drew Members' attention to Mr Cook's written representation that the residents had experienced nuisance prior to 2014 but the problems had been compounded by a build out of the pavement on the corner of Chiltern Street had led to this area being used as an extension of the premises. There was more noise as the 'Firehouse group' became increasingly popular. Mr Brown also made the point that some residents were unable to enjoy peaceful use of their homes with their ability to watch television being adversely affected and earphones being used. Residents did not take the view that the pub's clientele were unusually rowdy but their behaviour did impact of the residents' ability to sleep and watch television. The problems were particularly caused by the large numbers of patrons outside Bok Bar.

Mr Brown referred to the list of complaints received by the Council's Noise Team and the visits made by officers in the last two years which were set out in Environmental Health's written representation. He believed that these complaints showed the context of the issues that arose and that there were conditions on the existing licence that the Licence Holder found it difficult to comply with. These included that outside tables and chairs to be rendered unusable by 22:30 each day and the Licence Holder shall use his best endeavours to ensure that customers do not congregate or cause a nuisance on the public highway in the vicinity of the premises.

Mr Brown drew Members' attention to examples of the noise complaints. These included two from 6 June 2014. A noise officer had visited at 19:00 and found 'about 100 people blocking the pavement to the road edge on the Chiltern Street side. Talking, laughing, smoking – normal noise levels'. Mr Brown commented that what was normal in terms of noise levels for a crowd of 100 people had a significant impact on local residents. Mr Brown addressed the Sub-Committee on a second complaint from 6 June 2014 which at 20:55 had 'approximately 50 people outside of the Bok Bar on the pavement, 2 door supervisors, doesn't appear to be any designated area for people outside, general noise from people talking shouting laughing in the area'. Mr Brown also referred to the entry for 19 April 2016 which whilst being 'conversational noise only' from a group of 30 people outside, it was 'audible from the customer's address'. Mr Brown informed the Sub-Committee that there had been a lack of entries in 2015 because residents were seeking to try and resolve their problems directly with those responsible for Chiltern Firehouse and Bok Bar rather than via the Council.

The Sub-Committee then viewed two videos taken by the Applicants to support the points they had made in the review application. Mr Brown referred to noise that was clearly audible from Mr Cook's flat in a video dated 21 July 2016. A video from Ms Lee's flat on 15 July 2016 was shown to demonstrate the audible noise, the numbers outside and the extent of the area used. The Applicants made the point that they were of the view that the stanchions were not located in the correct position. Two photos of 21 July 2016 and 23 September 2016 were shown to the Sub-Committee in order to demonstrate that external tables had been covered but not rendered unusable after 22:30 and people were sitting there.

Mr Brown stated that ample examples had been provided of residents being adversely affected by noise nuisance. He addressed the Sub-Committee on the Applicants' proposed conditions. These were to bring the terminal hour for outside drinking back to 21:00 with a limit on the numbers outside prior to that time. He advised the Sub-Committee that Il Baretto

at 43 Blandford Street was required to make its tables and chairs unusable after 21:00 and did not have outside drinking. Purl in Blandford Street didn't permit outside drinking and neither did a premises licence at 51 Blandford Street which was not currently in operation. He stated that there was also a premises licence in Crawford Place (the Larrick) which had notices requiring people to go inside at 21:00.

Mr Brown explained that the Applicants' proposed conditions looked to ensure that outside drinking took place in a more measured and controlled manner. There was no criticism of how the inside of the premises was managed. The Applicants were proposing to reduce the numbers drinking outside to 35 patrons either sitting or standing as this was the point at which residents appeared to be inconvenienced by noise as set out in the list of complaints to the Noise Team.

As part of a discussion as to whether the area on the plan indicating tables and chairs was private forecourt or public highway, Mr Panto made the point that it might have been the case that in 2005 the area had been identified as an area where there could be external tables and chairs. That was not to say that they were necessarily entitled to be there. However, if the tables and chairs had been on the public highway the Council would have expected the Licence Holder to apply for a 'tables and chairs' licence. He was not aware of any such licence existing.

The Sub-Committee heard directly from the Applicants. Mr Cook (whose statement was at page 27 of the Licensing Sub-Committee report) stated that he had lived in Westminster all his adult life. He had resided in Soho prior to living in Chiltern Street for the last 17 years. He lived directly opposite the premises on the top floor. He made the point that he was perfectly aware of what to expect from West End bars. He informed the Sub-Committee that when he had first moved to Chiltern Street the premises at 56 Blandford Street had been a friendly neighbourhood pub. It was his view that there had been an exponential change in the last few years. For the first ten years he had had no issues with the pub. The premises had become an issue for residents, he believed, in part because the growth in numbers of patrons in the street. It was not a wide street so accommodating all the extra people was a problem. The extra build out of the pavement as a result of the streetscape works in 2012/13 on the corner of Chiltern Street had acted as a free terrace for the Licence Holder. Mr Cook expressed the view that the outside area used for the stanchions was increased as necessary to accommodate the number of drinkers. The noise created by the patrons became more concentrated for local residents. Mr Cook referred to an experiment when a seating policy only had been in operation for patrons. He did not believe that it was the case that residents had not supported this concept. He commented that approximately four months of the six month trial period when it had been in operation had been during the coldest time of the year when patrons would not have wished to drink outside and he felt that it had not been given enough opportunity to succeed. He added that he could not expect a business to voluntarily restrict its commercial activities. He stated that he was seeking relatively small adjustments, such as the 21:00 terminal hour for outside drinking so that the business and residents could live together more harmoniously.

Ms Lee (whose statement was at page 25 of the Licensing Sub-Committee report) stated that she lives two floors above Ms May in Wendover Court. The noise was worse on the top floor of the building as is the case for Mr Cook who also lives on the top floor at Wendover Court. She had lived at the flat for approximately twenty years. Her main concern was noise and nuisance from the numbers of patrons outside Bok Bar. She brought to the Sub-Committee's attention that she had complained to the Council when the streetscape works had been proposed which had ultimately led to the build out of the pavement on the corner of Chiltern Street. She believed she had been given assurances that this area would not be used by drinkers outside and now wanted the assurances to be enforced. Ms Lee added that local residents could not recall having been consulted on the introduction of tables and

chairs outside 56 Blandford Street. She questioned whether the Licence Holder owned the part of the pavement where tables and chairs had been placed. She was seeking a 21:00 terminal hour for outside use, that tables and chairs were rendered unusable at this time and that there was a significant reduction in numbers from 100 permitted outside the premises in order that local residents had peaceful use of their flats.

Mr Haynes (whose statement was at page 29 of the Licensing Sub-Committee report) stated that he had lived on the first and second floors in 53 Blandford Street which is almost directly opposite Bok Bar since 1999. The bar had been known as the O'Neill bar in 1999 and had been quite busy at lunchtimes and in the early evenings. By 21:00 most people had left the premises. He made the point that he had then been privy to the issues which his fellow Applicants had alluded to. Mr Hayes informed Members that his concern was that there was noise from people being outside which continued until 23:00 during the week and midnight during weekends. There were a number of taxis coming and going and people using their horns. It was disturbing to be woken up at midnight. He welcomed a successful business in the area but he was requesting that Bok Bar were good neighbours.

Ms May (whose statement was at page 19 of the Licensing Sub-Committee report) brought to the Sub-Committee's attention that the only resident in the immediate vicinity of the bar who had written in support of the premises lived on the first floor at Wendover Court. She concurred with Ms Lee's view that the noise was not as bad on the first floor as the top floor as it was possible to hear her television if the window was closed. She also made the point that the shopkeepers who had written in support of the premises had gone home by the time the residents were experiencing noise issues in the evening. She had lived in her flat since 1984 and had felt that the living environment at the flats had improved mainly because of the improvements the residents had made there. However, the quality of life had deteriorated because of the issues raised by the use of the external area outside 56 Blandford Street. Ms May had concerns that the external seating being used was made of concrete and could not therefore be made unusable. She expressed the view that the seating needed to be changed and that a terminal hour of 21:00 for outside drinking was reasonable.

The Sub-Committee also heard from Ms Turquand-Young who had written in support of the review. She advised that she is married to Mr Cook. She agreed with the views of the Applicants that the premises had begun to impact on local residents after 2005. In 2016 her son had been revising for his A-Levels and had found it necessary to shut his windows during the summer. She added that residents had expressed their concerns on a number of occasions to management and had not made any progress so had found it necessary to seek a review of the premises licence.

The Sub-Committee was addressed by Ms Bolton on behalf of Environmental Health. She had looked at the evidence submitted by the residents and also the history of complaints received by the Council's Noise Team and was in support of the review application and the proposed conditions. She had proposed an additional condition that 'all staff engaged outside the entrance to the premises, or supervising or controlling patrons shall be easily identifiable e.g. by wearing hi-visibility jackets or such other clothing as agreed in writing with the Council.

Ms Bolton was accompanied by Mr Franks, Senior City Inspector. He advised the Sub-Committee that he had been visiting Bok Bar since 2007, including six times in 2016. He had seen a situation where the Chiltern Street pavement area had not been supervised correctly on 22 July 2016. He had contacted the DPS and advised him that there was insufficient space to pass on the pavement and patrons needed to be informed of this fact. Mr Franks had not seen a situation where he needed to write to those who represented the premises or a breach of the conditions which might have led to him recommending a review of the premises licence. He had not seen an incident similar to video footage taken by the

Applicants on 1 September where patrons of the pub were standing in the road in Blandford Street which was unsafe. It was Mr Franks' view that the seating area on the plan of 2005 did reflect the pavement Bok Bar actually used in Blandford Street and Chiltern Street. The Sub-Committee could make use of the plan in any decision Members chose to take.

In response to questions from the Sub-Committee, Mr Franks commented that he had seen the area covered by the stanchions widen. It was his view that customers were moving them for their own comfort. He had not seen them located in an unsafe position. In terms of whether the area on the plan indicating tables and chairs was private forecourt or public highway, he had investigated this. He had found that the Land Registry was indicating that the seating area, including on the Chiltern Street side, was private forecourt and that a 'tables and chairs' licence was not required. Mr Franks confirmed that the Council received more complaints and he had made more visits to the premises than was typical for premises in Marylebone. Mr Franks was asked to estimate the maximum number who could be seated outside. He estimated that on reflection the maximum number of seated people was approximately 40. Ms Bolton added that there was no set capacity for the premises.

The Sub-Committee then heard from Mr Hughes, representing the Licence Holder. He stated that he had a copy of the Land Registry plan for the premises with a letter from Jeff Perkins in Highways Planning Department at the Council which he believed indicated that the seating area was private forecourt. He wished to stress that there had been a pub at 56 Blandford Street for many years. It was the Licence Holder's position and that of the people who had written in support of the premises (including potential witnesses at the hearing) that there is good management at Bok Bar. Mr Hughes commented that the General Manager, Mr Lewicki, had been in position since 2008 and was widely liked and respected. Mr Hughes confirmed that the company which owns Bok Bar and the company which owns Chiltern Firehouse have the same directors, including Ms Hunt, who is the Director for Business Development.

Mr Hughes emphasised that there had been a significant degree of dialogue between the management of the premises and residents in respect of Bok Bar and Chiltern Firehouse. Fourteen meetings had taken place over a two year period and he believed that the report and additional papers showed there had been an attempt to build a consensus, including in the representations of Ms May which set out her account of the meetings (at pages 51 to 54 of the Licensing Sub-Committee report). Mr Hughes advised Members that his client had adopted a 22:00 terminal hour for the outside area on a voluntary basis for the last couple of years and it was now being offered as a condition to attach to the premises licence. Customers were advised from 21:15 to 21:30 onwards that the outside area would not be used after 22:00.

Other measures which management had undertaken, according to Mr Hughes, included CCTV being installed, smokers being encouraged to go to Blandford Street and not loiter in Chiltern Street, table service being provided and air conditioning inside the premises to encourage people to remain there. Mr Hughes commented that it was not the case that the Licence Holder had been unresponsive and he believed that the need for a review of the premises licence might have been avoided. His client would have been content to agree to apply for a minor variation setting out conditions referred to in Mr Hughes' written submission.

In respect of the Applicants' proposed conditions, Mr Hughes confirmed that his client was requesting a 22:00 terminal hour for the outside area. No drink or glass container would be permitted outside after this time and the outside tables and chairs would be rendered unusable at this time. The Licence Holder was content with four of the Applicant's proposed conditions. Firstly, the Licence Holder would ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as

to ensure that there is no public nuisance or obstruction of the public highway. Secondly, notices would be clearly and prominently displayed both outside and inside the premises informing customers that this is a residential area and requesting customers to leave the premises quietly and not to loiter outside the premises. Thirdly, an SIA licensed door supervisor would be on duty at the premises from 5pm until 30 minutes after the terminal hour for sale alcohol on Wednesday, Thursday and Friday evenings. The door supervisor's duties would include monitoring the behaviour of customers outside the premises and ensuring that the pavement remains clear. Fourthly, a direct telephone number for the manager at the premises would be publicly available at all times the premises is open to the public. This telephone number is to be made available to residents in the vicinity of the premises.

Mr Hughes was asked how the Licence Holder proposed to render the tables and chairs unusable when a condition on the existing premises licence requiring this was not currently being complied with. Mr Hughes replied that he did not believe this was a regularly recurring issue. He accepted that the Applicants had provided a photograph appearing to show people sitting there after the premises had closed. Ms Hunt added that management would look at a solution to prevent the tables and chairs being used after the time permitted, including replacing concrete seats and tables with tables that were collapsible.

The Licence Holder was content that there was a limit placed on the number of customers who were permitted to leave and then re-enter the premises building including to smoke, provided the cut-off point was after 22:00. The Sub-Committee asked Mr Hughes what he felt this customer limit should be. He replied that based on an estimate of capacity of one hundred people (the parties at the hearing did not have access to the capacity in the fire risk assessment), the number of smokers outside should be in the region of five to ten at any one time on the Blandford Street side of the premises. Ms Hunt advised that the smoking area was a small area to the right next to the fire escape as one leaves the premises onto Blandford Street.

Mr Hughes explained that the reasons why his client was keen to retain a terminal hour of 22:00 for the external area related to the fact that Bok Bar is a community pub. In the summer and part of the autumn it is busy and customers like to sit outside. If the Applicants' proposal of 21:00 was implemented, management of the premises would be required to ask customers to leave at 20:15 to 20:30 and this was likely to put people off coming to Bok Bar. He believed that it was disproportionate. Mr Hughes commented that with respect to the residents, this was on the less concerning side of the spectrum in terms of reviews. He believed that what the Applicants' video showed was customers during the daytime enjoying themselves and that they were largely within the stanchions and not making excessive noise. He took the view that the photos were an accurate reflection of how residents and business people behaved outside and that the premises are on many occasions well policed. Mr Hughes stated that there were a couple of occasions when evidence showed customers were outside of the stanchions which did need to be prevented.

Bok Bar was not, in Mr Hughes' opinion, rowdy. There was no Police representation in relation to crime and disorder. His client had agreed Ms Bolton's condition regarding staff engaged outside the entrance being easily identifiable. It was the Licence Holder's submission that conditions could be attached to the premises licence and an assessment made of how management police it. A condition would require a door supervisor to be on duty at the premises from 17:00 onwards on Wednesday, Thursday and Friday evenings. There were door supervisors operating outside in the evenings on a regular basis already. Mr Hughes made the added point that because of the connections in the ownership of Chiltern Firehouse and Bok Bar, it was in the collective interest to keep the frontages clear.

In respect of the complaints to the Noise Team, Mr Hughes took the view that on a number

of occasions the matters had been investigated by officers and it had been found that the noise had quietened down. He was not disputing that local residents could have experienced a sudden increase in noise when they had made a complaint. He referred to a lot of the entries where there had been proactive visits by officers indicating that they had found the venue to be quiet on arrival. None of the visits had led to any formal action being taken by officers. Mr Hughes suggested that an independent acoustic expert could make a judgement on the complaints.

Mr Hughes referred to significant residential support for the premises, including a written representation from Barbara Brudenell-Bruce who he stated lived at 45 Blandford Street and did not have any issues with the sound of customers at Bok Bar. He added that all the representations in support of the premises referred to a well-run pub. They did not find it noisy or hostile, saw it as a community pub and did not want a cut back in the proposed terminal hour for the external area.

Ms Hunt advised that the Licence Holder was happy for the rope and stanchions to be placed in a permanent position. The feedback she had received was that there was a difference of opinion on this point. There were people who felt the stanchions were overbearing in the street if the pub did not have patrons outside. In response to the idea from the Sub-Committee that narrow planters delineated the external area, Ms Hunt commented that she would fully support this concept.

The Sub-Committee heard from two witnesses in support of the premises' position. Mr Tan stated that Bok Bar is a well-run pub. He lives at 126 Chiltern Street which he described as the north end of the street. He was unhappy that residents living near the premises were feeling distress. However, he believed it was necessary to take into account that London is growing and it was necessary for people to accept this fact. There were occasions when people behaved inappropriately as was the case when the tables and chairs were used after closing time. He was concerned that any measures to restrict the pub would impact on the area and people's jobs. Mr Tan took the view that the Licence Holder's representatives had worked hard to negotiate with residents. He did not believe that residents should be able to dictate the terminal hour for the external area of a business.

Mr Sheldon had been a resident in Chiltern Street for 13 years. He believed that the characters of those responsible for Bok Bar and the fact that they also had responsibility for the Chiltern Firehouse would mean that problems that arose would be resolved.

The Sub-Committee asked Mr Hughes that 'if the tables and chairs took up the private forecourt, what was the Licence Holder's approach. Would the Licence Holder be minded to remove some of the tables and chairs?' Mr Hughes responded that it was possible for patrons to be on the public highway. It was only a problem if they were obstructing it.

Ms Claire Hayes, Senior Practitioner – Licensing, came to the hearing to assist the Sub-Committee regarding whether the area on the plan indicating tables and chairs was private forecourt or public highway. She confirmed that the plans for the premises had not changed since 2005. She advised that the Licensing Service looked to the premises to show that they owned the external area. The plan in 2005 would have been accepted as the licensed premises by the Licensing Service on conversion as officers would not have seen the plans at the Magistrates' Court.

It was agreed that it would not be possible to resolve exactly what constituted a private forecourt and what constituted public highway outside the premises. Mr Panto believed the Land Registry plan was likely to be a record of the freehold ownership and not the highway plan. It was not likely to be an indication of what the highway use is and was more likely to reflect ownership of the basement, especially as the red lines extended into the middle of the

carriageway which was clearly part of the highway. Land Registry plans for premises were not necessarily definitive because the Land Registry had to react to the evidence submitted to it and people could argue historically about what was included and what was not. Mr Brown commented that he agreed with Mr Panto's position.

Mr Panto advised that the Members of the Sub-Committee could come to a view as to how the external area was used, whether it was private forecourt or highway, if they thought that measures were appropriate for the purpose of promoting the licensing objectives. Members could restrict it or the hours if that was what they chose to do. Mr Hughes and Mr Brown were asked to comment on this point and responded that they agreed with this approach.

Mr Hughes was asked for his view on limiting the numbers outside before the terminal hour for the use of the external area which had been suggested on behalf of the Applicants (their figure was 35). Mr Hughes replied that it was the position of the Licence Holder that the area was properly managed and he did not believe any reduction was necessary. He was of the view that approximately 50 could safely be seated in the external area.

The Sub-Committee considered in reaching a decision that the majority of those who had written in support of the premises were located further away from the premises than the Applicants. The review application had been brought by the local residents who were most affected by public nuisance. The Sub-Committee considered that the Applicants had been particularly diligent in providing evidence of the impact of the pub on their lives. It accepted that nuisance was being caused to them by the customers congregating outside the premises after 21.30 hours and that nuisance was also caused prior to 21.30 by customers who did not remain within the stanchions or who encroached on to the footway. The Sub-Committee thought that the residents had acted very patiently and reasonably in trying to negotiate some kind of compromise with the Licence Holder but this had not brought about an outcome which was acceptable to all parties and it appeared that the Licence Holder was not prepared to make any further concessions regarding the use of the external area, primarily for commercial reasons.

The Sub-Committee considered all the representations that had been received, including those that were included in the report from persons who had not attended the hearing. The representations from those supporting the review were consistent with the views expressed by the residents who brought the review application. Most of the representations in support of the premises were expressing a view that the premises is family friendly, provides excellent service and good food and is generally well managed. The Sub-Committee doesn't dispute most of these points. However, it does not accept the suggestions from some of those persons supporting the premises that those bringing the review are dictating how the business is run, that they are exhibiting signs of "nimbyism" or that they are moaning residents that just want to complain for the sake of it.

In deciding how to respond to the issues that had arisen, the Licensing Sub-Committee sought to establish the cause or causes of the concerns that the representations identified. In accordance with the statutory guidance, the remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review. The guidance further provides that it is important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives.

Having listened to all the evidence and seen video and photographs, the Sub-Committee considered it was necessary (and certainly appropriate) and proportionate not to allow drinking outside after 21:30. The Sub-Committee was keen to find a balance between the interests of residents in close proximity to the premises and ensuring that the business

continued to be successful. It was clear from the Applicants' submissions that the Licence Holder's approach of continuing to use the outside area until 22:00 over the last two years was still causing nuisance to them. The Sub-Committee considered that the residents who were most affected had a right to some peaceful enjoyment of their homes. In terms of the interests of the business, Mr Hughes had made a submission that if the external area was not used after 21:00, it would result in people not coming to the pub. The Sub-Committee considered that the extra half hour would make a difference and make it worth the while for customers to come to the premises.

The Sub-Committee had read, heard and seen evidence, including video taken from Ms Lee's flat that patrons were not remaining within the stanchions. The larger crowds resulted in the noise escalating for local residents. The Sub-Committee considered that there did not have to be disorder or rowdiness at the premises for the local residents to experience public nuisance. Supervising of the outside area did need to be tightened. The Sub-Committee decided that external drinking would be restricted to the area where the tables and chairs currently are. A plan was required from the Licence Holder which clearly delineated this area. It would be for the Licence Holder to decide whether customers in this area were seated or standing. However, the maximum number which the Sub-Committee considered could safely be in this area at any one time was 70 people.

It had been the case that the Licence Holder had not fully complied with the condition that the tables and chairs were rendered unusable. It was now necessary that the Licence Holder took steps to ensure that this occurred no later than 21:30. The Licence Holder would be required to give thought to whether the concrete seats and tables could be made unusable and whether it was necessary to replace them in order to comply with the condition. The measures that had been taken so far were clearly not effective. The Sub-Committee did think about imposing a condition requiring the tables and chairs to be removed but decided that it was appropriate to give the Licence Holder the choice of deciding how best to meet the requirement that was being imposed.

The Sub-Committee attached the conditions proposed by the Applicants and agreed by the Licence Holder in respect of patrons being supervised to drink and/or smoke in an orderly manner, notices being displayed informing customers to leave the premises quietly, an SIA supervisor being on duty from 5pm on Wednesday, Thursday and Friday evenings and a direct telephone number for the manager at the premises being publicly available at all times the premises is open to the public. The Sub-Committee decided that the maximum number of smokers outside after 21:30 would be 10. The smoking area would continue to be located in Blandford Street to the right of the fire exit.

The Sub-Committee also attached the condition proposed by Environmental Health and agreed by the Licence Holder that all staff engaged outside the entrance to the premises, or supervising or controlling patrons shall be easily identifiable.

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: % pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the

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

Where-

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

- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

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

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

Additional Conditions

9. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10.00 to 23.00.
- (b) On Sundays, other than Christmas Day or New Year's Eve, 12.00 noon to 22.30.
- (c) On Good Friday, 12.00 to 22.30.
- (d) On Christmas Day, 12.00 to 15.00 and 19.00 to 22.30.
- (e) On New Year's Eve, except on a Sunday, 10.00 to 23.00.
- (f) On New Year's Eve on a Sunday, 12.00 to 22.30.
- (g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there

are no permitted hours on the following day, 00.00 midnight on 31st December).

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (f) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (h) the taking of alcohol from the premises by a person residing there;
- (i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

- 10. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
- 11. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
- 12. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the

public. This staff member shall be able to show Police recent data or footage with the absolute minimum delay when requested.

13. 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. The log must be completed within 24 hours of the time of the incident. It 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. Any faults in the CCTV system
 - f. Any refusal of the sale of alcohol.
14. Under 18s will not be permitted on the premises after 21:00. Children will only be allowed on the premises before 21:00 if accompanied by an adult over 21.
15. Off sales to finish at 22:00.
16. Outside tables and chairs are to be rendered unusable by 21:30 each day.
17. Before 21:30, customers permitted to drink outside the premises building shall be restricted to the area hatched on the licence plan only and be restricted to 70 persons.
18. After 21:30, no customers shall be permitted to consume drinks outside the premises building and patrons permitted to temporarily leave and then re-enter the premises building, e.g. to smoke, shall be limited to 10 persons at any one time, shall not take drinks with them and shall be restricted to an area marked on the licence plan in Blandford Street to the right of the entrance.
19. The premises Licence Holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
20. Notices shall be clearly and prominently displayed both outside and inside the premises informing customers that this is a residential area and requesting customers to leave the premises quietly and not to loiter outside the premises.
21. An SIA licensed door supervisor shall be on duty at the premises from 5pm until 30 minutes after the terminal hour for sale alcohol on Wednesday, Thursday and Friday evenings. The door supervisor's duties shall include monitoring the behaviour of customers outside the premises and ensuring that the pavement remains clear.
22. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open to the public. This telephone number is to be made available to residents in the vicinity of the premises.
23. All staff engaged outside the entrance to the premises, or supervising or controlling patrons shall be easily identifiable e.g. by wearing hi-visibility jackets or such other clothing as agreed in writing with the Westminster City Council.

4 DUKE OF YORK, 45 HARROWBY STREET, W1

LICENSING SUB-COMMITTEE No. 5

Thursday 12th January 2017

Membership: Councillor Angela Harvey (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

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

Relevant Representations: 1 local resident.

Present: Mr Andrew Grimsey (Solicitor, representing the Applicant), Mr Paul Milner (Director, Applicant Company) and Mr James Grimes (Chartered Surveyor and agent letting property).

Duke of York, 45 Harrowby Street, W1 16/11644/LIPN	
1.	Recorded Music (Indoors)
	Monday to Saturday: 10:00 to 23:00 Sunday: 12:00 to 22:30
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Mr Grimsey, representing the Applicant, addressed the Sub-Committee. He confirmed that the application was for a secondary or 'shadow' licence. The primary licence, which had been granted by the Sub-Committee on 13 October 2016, would be the one operated by the future tenant at the Duke of York. Mr Grimsey referred to there being two representations by residents at the 13 October hearing. One representation had been withdrawn prior to the hearing as a result of the Applicant agreeing that the outside area would not be used after 22:00. The application of 13 October had been granted with the requirement that outside tables and chairs would be rendered unusable by 22.00 each day. Mr Grimsey stated that his client was applying for the secondary licence in order to be protected if the operating licence was surrendered or revoked. He made the point that the local resident who had made a representation was objecting to an application for a premises licence that would almost certainly never be traded. He expressed the view that it would be odd if as requested by the local resident the tables and chairs outside were no longer used after 21:00 when there was a primary premises licence in place which permitted external use until

22:00.

Mr Grimsey advised the Sub-Committee that the tables and chairs were very heavy and could not practically be rendered unusable. Mr Grimes added that the tables were collapsible and would be taken indoors. They would be stored in the lobby area after 22:00 (operating under the primary licence).

Mr Grimsey explained that the private parties, which the local resident had expressed concerns about in his written representation, had taken place when the premises had not been trading. The landlords, Mr Grimsey's clients, had permitted small businesses to act as caretakers at the Duke of York. They accepted that the caretakers had overstepped the mark when the parties had been held. They had warned the caretakers when the Licensing Authority had informed them of the complaint. The Applicant believed that it was in the interests of all parties that the tenant now took possession of the premises.

The Sub-Committee heard that there had been meetings between Mr Milner, the director of the Applicant Company, the prospective tenant, Environmental Health and the Fire officer during the previous week. It was hoped Environmental Health would approve the works shortly which would lead to the landlord's company which had been granted the primary licence transferring this to the tenant.

The Sub-Committee asked whether the directors of the company which had been granted the primary licence were the same as the company which were applying for the secondary licence. Mr Milner replied that he is a director of the company which had been granted the primary licence and of the company which was applying for the secondary licence. Mr Grimsey added that his clients had purchased the freehold in 2015. The landlord had been given a possession order which was appealed by the tenant and the landlord had won the appeal. Mr Grimsey clarified that his clients had not understood licensing law and certain companies had been put into voluntary liquidation which had the technical effect of making the licence lapse. This had been the reason why a primary premises licence had been applied for.

The Sub-Committee asked where the lobby area is. Members initially were informed that the tables would be stacked along a corridor through a side entrance which was not used by customers (there were two customer entrances). The Sub-Committee stressed the importance of the tables not blocking any entrances. It was agreed that this entrance was not included on the plans and that a new set of plans showing the exit and doors would need to be submitted by the Applicant.

Members were aware that this area appeared on the plan to be an entrance to an upstairs restaurant. Mr Grimsey replied that when the primary licence had been applied for there had been the possibility that food would be provided upstairs which it was believed would no longer be the case. Mr Grimsey and Mr Grimes after consultation with a representative of the tenant company who was in attendance at the hearing advised that the tables would actually be stored in the basement. Mr Grimes added that the basement was included to some degree in the plans but not in its entirety. Mr Grimsey stated that the best

	<p>solution was for updated plans to be submitted for both the primary operating licence and the secondary licence at the same time. The Sub-Committee were also given assurances that the tables would not block access or egress in the basement.</p> <p>The Sub-Committee considered that it was appropriate to grant the application for the secondary licence at the premises on the same terms and with the same conditions as the primary licence. The Applicant was advised to submit new plans by way of a minor variation.</p>
2.	Late Night Refreshment (Indoors)
	<p>Monday to Saturday: 23:00 to 23:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
3.	Sale by retail of alcohol (On and Off sales)
	<p>Monday to Saturday: 10:00 to 23:00 Sunday: 12:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
4.	Hours premises are open to the public
	<p>Monday to Saturday: 10:00 to 23:30 Sunday: 12:00 to 23:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>

	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
5.	Seasonal variations / non-standard timings:
	<p><u>Recorded Music (Indoors), Late Night Refreshment (Indoors), Sale by retail of alcohol (On and Off sales) and Hours premises are open to the public</u></p> <p>From the end of permitted hours on New Year's Eve to the start of 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>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</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.	<p>(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for</p>

the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

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

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

7. The responsible person must ensure that—

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

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

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

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

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

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

Where -

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

sale or supply of the alcohol;

- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Additional Conditions

- 9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
- 10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
- 11. Alcohol consumed outside the premises building shall only be consumed by

patrons seated at tables.

12. All outside tables and chairs shall be rendered unusable by 22.00 each day.
13. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
14. A risk assessment will be carried out to determine the maximum occupancy figure for the first floor in agreement with the Council's Environmental Health Officer. This risk assessment will be updated upon the granting of any works to this floor.
15. No licensable activities shall take place at the premises until the premises has been assessed satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority
16. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system or searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
17. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
18. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours.
19. No deliveries to the premises shall take place between 23.00 hours and 08.00 hours.
20. 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.
21. 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.

22. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.

5 CHURRERIA ESPANOLA, 177-179 QUEENSWAY, W2

LICENSING SUB-COMMITTEE No. 5

Thursday 12th January 2017

Membership: Councillor Angela Harvey (Chairman), Councillor Susie Burbridge and Councillor Rita Begum

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

Relevant Representations: 1 local resident.

Present: Mr Faton Mexhuani (Applicant).

**Churreria Espanola, 177-179 Queensway, W2
 16/12377/LIPN**

1. Sale by Retail of Alcohol (On and Off)

Monday to Sunday: 11:30 to 20:30

Amendments to application advised at hearing:

None.

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

This is an application for the sale of alcohol from 11:30 to 20:30 every day of the week with the premises closing to the public at 21:00. There had been representations from Environmental Health, Metropolitan Police and the Licensing Authority which had been withdrawn. The Responsible Authorities had proposed conditions which had been agreed by the Applicant.

There was one remaining representation from a local resident, Ms McAskie. She had expressed concerns that the licence would result in more noise late at night from the premises. Ms McAskie was not in attendance at the hearing on 12 January.

	<p>Members of the Sub-Committee, in deciding to grant the application, were satisfied that the application would not add to cumulative impact in the Queensway and Bayswater Cumulative Impact Area. The terminal hour for the sale of alcohol and the closing time would not have an adverse impact on the area. Members did not consider that there would be noise late at night at the premises, which was the concern of the local resident, on the basis of the granted hours and the conditions attached to the licence. Members also took the view that the proposed conditions promoted the licensing objectives. These included the Council's model restaurant condition and that no noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance. All tables and chairs would be required to be removed from the outside area by 21:00 each day.</p>
<p>2.</p>	<p>Hours premises are open to the public</p>
	<p>Monday to Sunday: 07:00 to 21:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application, subject to conditions as set out below (see reasons for decision in Section 1).</p>

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

the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

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

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

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

7. The responsible person must ensure that—

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

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

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

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

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

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

Where -

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

alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Additional Conditions

9. Front of house staff shall be trained in First Aid, Age Verification and Underage sales prevention.
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. All exit routes shall be kept unobstructed, with non-slippery and even surfaces, free of trip hazards and clearly signed.
13. Public areas will be maintained free from obstruction and trip hazards.
14. Adequate and appropriate first aid equipment and materials will be kept on site, regularly checked and kept in an easily accessible place by staff.
15. Appropriate fire escape route signs will be displayed.
16. Refuse such as bottles will be placed into receptacles outside the premises at times that will minimise the disturbance to nearby properties.
17. No deliveries to or collections from the premises will take place between 18:00 and 06:00 hours.
18. Notices shall be prominently displayed at all exits requesting patrons to leave the premises quietly.
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. 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 is open.
21. The refusal to serve log shall be signed by the DPS of the premises on a monthly basis.
22. Staff shall be trained in Licensing Law with regards to age verification, children and alcohol, and the procedures that shall be adopted if it is considered that an individual may be under the age of 18.
23. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
24. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
25. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
26. The premises (including the outside seating area) shall only operate as a restaurant:

- (i) in which customers are shown to their table,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
- (iv) which do not provide any take away service of food or drink for immediate consumption,
- (v) which do not provide any take away service of food or drink after 23.00, and
- (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

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

- 27. All tables and chairs shall be removed from the outside area by 21.00 each day.
- 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.
- 29. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 30 persons.
- 30. 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.
- 31. 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.
- 32. 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;
 - (g) any refusal of the sale of alcohol;
 - (h) any visit by a relevant authority or emergency service.

6 RAH RAH ROOMS, 215-217 PICCADILLY, W1

LICENSING SUB-COMMITTEE No. 5

Thursday 12th January 2017

Membership: Councillor Angela Harvey (Chairman) and Councillor Susie Burbridge.

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

Present: Mr Andrew Woods (Solicitor, representing the Licensee), Mr Tony Flynn (Licensee and Designated Premises Supervisor), Mr Alan Dugard (Chairman of company which owns premises), Mr Arron Curtis (Operations Director), Ms Joanne Ronan (Events Manager), Mr Mark Halton (Licensing Consultant), Mr Dougie Thompson (Operations Director, TSS Security), PC Reaz Guerra and PC Toby Janes (Metropolitan Police).

Additional information: Councillor Rita Begum had also been a Member of the Sub-Committee until 17:00 but was required elsewhere on Council business.

To consider the representation received against the interim step determined at the Licensing Sub-Committee on 6th January 2017 pending the full review of the premises licence for Rah Rah Rooms, 215-217 Piccadilly, W1 15/04320/LIREVX

In the early hours of the morning on New Year's Day, serious crime and disorder took place at the premises. Three males sustained serious injuries, which the Police believe to be stab wounds. An application was made by the Metropolitan Police on 4 January 2017 for a summary review of the premises licence pursuant to section 53A of the Licensing Act 2003. A hearing of the Licensing Sub-Committee took place on 6 January 2017 within 48 hours of the Police submitting the application. The Sub-Committee was required to consider whether it was necessary to take interim steps pending the determination of the review applied for. Members decided to suspend the premises licence pending the full hearing which will take place within 28 days of the Police submitting the summary review application. On 10 January 2017 the Licence Holder submitted representations against the interim step. A hearing was therefore scheduled for the Sub-Committee to consider those representations on 12 January 2017.

At the beginning of the hearing the Metropolitan Police requested that the public and press were excluded as the Police investigation into the events of the early hours of 1 January was on-going and they were keen that any disclosure of information did not prejudice the investigation. The Sub-Committee decided to approve this request and

the public and press were therefore excluded from the hearing.

The Sub-Committee initially heard from Mr Woods, representing the Premises Licence Holder. He had set out his reasons for his clients making the representations against the Sub-Committee's decision to suspend the premises licence pending the full hearing which had been taken on 6 January 2017. He confirmed that his clients wished to show different CCTV evidence to that shown by the Police at the interim steps hearing. The Premises Licence Holder had not shown CCTV evidence at that meeting. He wished to demonstrate that those running the premises on the night of New Year's Eve / New Year's Day were promoting the licensing objectives and that Rah Rah Rooms should remain open until the full review hearing. Mr Woods referred to the supporting evidence from Mr Halton, the Licensing Consultant, which had been submitted prior to the hearing and had concluded that the venue 'could not have dealt with the incident any better than they did on the night'. Mr Thompson was available at the hearing to provide an assessment of how security had behaved.

Mr Woods wished to emphasise that following the incident the venue had handed over all the relevant CCTV footage and had been commended by the Police for doing so. It was the Premises Licence Holder's hope that management would be able to work in partnership with the Police. Mr Woods explained that there were matters that could be seen on the CCTV which management had said they were not aware of at the time. This included a young man holding a bottle for the duration of the footage being shown. Mr Woods confirmed to Members that the champagne flutes and drinking vessels used on the night of 31 December / 1 January were polycarbonate whilst the bottles used were made of glass.

Mr Woods stated that the premises had been trading since July 2015 and until September 2016 there had not been any incidents of note. On 3 September 2016, a male had been taken to hospital and had required a stitch to an injury in the thigh. He added that following e-mail correspondence between Mr Dugard, on behalf of the company which owns the premises and Sergeant Hoppe of the Metropolitan Police, nine out of thirteen of the Police's proposed conditions had been agreed. However, it was Mr Dugard's position that a safety wand was more effective as search arches tended to go off indiscriminately whereas the safety wand was more specific. Mr Dugard also had not believed that the search arches were appropriate for a cabaret premises. Mr Woods also made the point that the IDs of the patrons of the venue were checked. It was however the preference of the management not to use an ID scanner. Mr Woods wished to refute the Police's point that an ID scanner would have prevented one of the victims from entering the premises on the night of 31 December because he was seventeen years of age. This was because it was understood that he had produced ID on the night showing he was older than seventeen.

Mr Woods also wished to emphasise the numbers of door staff that were operating on the night of 31 December / 1 January, that there had been no drinks promotions or any promotional material used which might encourage anti-social behaviour and that the management were experienced with many of them having run this premises and 1 Leicester Square over eight or nine New Year's Eve evenings without incident.

Mr Curtis, who had been in charge of the premises on the night of 31 December / 1

January in Mr Flynn's absence, showed the CCTV footage and explained the events from his point of view. He began with CCTV footage of the front door area where Mr Curtis had spoken with the Police. During the evening PC Mike Day, as well as both a first group described as a celebrity group and a second group (other group) who were involved in the incidents all appeared to be searched with the safety wand before entering the premises.

Next Mr Curtis showed footage of the first incident from camera 15 at 00:36.27 onwards where two men from the second group attempted to dance with a woman from the celebrity group. Mr Curtis believed that a door supervisor who was close to the first incident (when a male from the celebrity group punched one of the two men), had not seen the punch although he had recognised something had happened. Mr Curtis had then spoken with the male who had been punched (Mr Curtis and the male were shown on camera 7). This male had said that he had not known who had thrown the punch. Mr Curtis had then told a security officer and manager of the incident. A second incident occurred a few minutes after a scuffle had then ensued on the dance floor with one male pushing another male backwards. It was believed that one of the males from the celebrity group went to hit a male from the other group with a plastic champagne flute.

Mr Curtis advised that the second incident had been contained within seconds. Thirty seconds after the incident he had put the house lights on and turned off the music (the house lights being turned on were also shown on camera 8). A number of managers, security and other staff had arrived at the scene and the two groups were separated and kept at either end of the venue. Members of the Sub-Committee were informed that the other group were calmed down and by 00:39 the other group were being moved towards the exit of the venue whilst the celebrity group were kept at the table they had booked. Mr Curtis added that there had been no sign of injuries at this stage.

The Sub-Committee then saw footage from camera 8 of what was described as the third incident when two men from a third group, known as the Mac group, approached the celebrity group. There were at least three members of this group seen on CCTV. One threw a champagne bottle at the celebrity group. Mr Curtis explained that the men were not detained because they fled the venue via the fire escape within approximately 40 seconds of the incident. Their departure could be seen on camera 7.

A man from the celebrity group (victim A) had received an injury and he could be seen on the CCTV footage being brought to the seated area.

The Sub-Committee gave the Police and those responsible for the premises the opportunity to comment whilst the other party was showing CCTV footage. The Police commented at this stage that management should have called the Police after the initial punch was known about as this was an assault. It was the premises management's position as set out by Mr Woods that the first incident would have merited an entry in the incident book but was not sufficiently serious to warrant a call to the Police. Mr Curtis also made the point that the incidents had occurred instantaneously. He believed the two assailants responsible for the third incident had been through the search wand.

There was a difference in opinion between those responsible for the premises and the Police as to whether a man who threw a mop bucket who had sought to chase the Mac group had struck another male on the stairwell. The Police believed that it had whilst those responsible for the premises believed it had struck the wall.

Mr Curtis was of the view that there was a three minute delay on the camera footage and that a manager had phoned the Police at approximately 00:45.39. Mr Curtis also referred to members of the celebrity group being detained and brought back inside the venue.

On camera 4, a man could be seen in the stairwell with a stab wound to the abdomen. Another man who was injured from the celebrity group was escorted to the back of the venue. Mr Curtis advised that Jermyn Street was the best place for those who were injured to receive paramedic help.

During the showing of the CCTV, the Sub-Committee asked Mr Curtis whether there were any members of the staff viewing the CCTV footage live. He replied that there were not but that the CCTV was reviewed afterwards.

The Sub-Committee were then addressed by the Police. PC Janes stated that Police investigations had found that a sharp implement had been used at least in two of the injuries, and they did not believe they were caused by broken glass. The Police indicated that the LAS reports characterised the two injuries as stab wounds.

He emphasised that during the incidents fighting had taken place and objects had been used as weapons.

PC Guerra provided a commentary to the Sub-Committee whilst he showed CCTV footage. It was the Police's view that the security man had been seen the initial punch as he had intervened quickly to try and stop the fighting. He made a further point that the footage demonstrated that a man had been able to hold a bottle throughout the period of the incidents and no one had challenged him. There were people drinking from bottles generally without being challenged.

PC Guerra stated that the Police believed that four people had been injured on the night of 31 December / 1 January. Victim A had a wound in his back and his abdomen. Victim B had an injury to the front of his abdomen. Victim C had a cut to his hip and Victim D was believed to have had a cut to his head which the Police described as a minor injury.

PC Guerra referred to the scene where the blood of victim A had been left unattended. People had been able to walk through this area which had resulted in the scene being contaminated.

On footage from an outside camera he showed an aggressive male being violent over a period of time, including picking up a barrier. The Police did not believe anyone had been injured but they were of the view that security should have made an effort to detain him.

PC Guerra also showed footage of women who had re-entered the premises at around midnight and had appeared not to be searched with the wand. He added that

weapons could be brought into the premises on others' behalf.

One of the victims with an injury had also been able to go outside the venue and attempt to throw a punch at another male. Mr Curtis, in response to this point, stated that the outside area was being manned by security. This had taken place at 00:45 when the full seriousness of the incidents was not known. The man was taken back inside and detained with the celebrity group.

The Police showed footage from camera 12 which showed the route through the fire escape of the males from the Mac group involved in the third incident. PC Guerra showed footage of members of the public at approximately 00:43 being knocked to the floor as the males escaped. One of the assailants was still carrying a bottle.

Following the conclusion of the showing of the CCTV footage, Mr Woods was asked whether there were any further differing views on the part of those responsible for the premises to those expressed by the Police. Mr Woods replied that there were one or two of the Police's comments that he did not agree with, notably the suggestion that Mr Curtis and Ms Ronan had lost control of the venue.

PC Janes provided some further information as to why the Police had submitted an expedited review. There had been three incidents over a period of 16 minutes which the Police believed had escalated because they had not been dealt with swiftly. The Police were concerned in terms of how long those involved with the incidents had been detained and that they had not been held for the Police to arrest. Following Police investigations Police had identified that there was known gang involvement in the incidents and the Police were concerned about the potential for reprisals if the premises remained open. The contaminated scene had prevented evidence being available to the Police during their investigations. It was the Police's view, as had been recommended by the September incident that search wands were not sufficient. A search arch would have provided greater assurance that an object would be identified.

PC Janes referred to the incident of 3 September. He stated that the failings then had been that suspects had not been detained and that the area roped off believing crime scene had not been preserved as this was where the blood. He added that the blood on that occasion had been mopped up and the Police had been told it was cranberry juice. The Police had later been able to confirm it was blood. Following the incident, those responsible for the premises had not agreed conditions to introduce an ID scan or search arch. It was the Police's position that an ID scanner acted as a deterrent and the search wands should be used as a complement to the search arch and not instead of it. PC Janes added that if the safety measures had been introduced they may have prevented stabbings taking place. He expressed the view that lessons from 3 September had not been learnt. There had been no reported stabbings elsewhere in venues in Westminster over the last three years and there had been four in Rah Rah Rooms inside five months. He had no confidence that the venue would be run safely by the management.

The Sub-Committee asked the Police and those responsible for the premises what their thoughts were on whether appropriate conditions could be attached which would negate the need for the premises licence to be suspended pending the full review hearing. The Police were specifically asked whether the sale of alcohol concluding

after the cabaret show ended around midnight would address their concerns. PC Janes responded that such a condition would not absolutely prevent further incidents. He emphasised that the stabbings could have led to a fatality and that some previous conditions attached to the premises licence had not been adhered to. Mr Woods advised that Mr Dugard had now ordered an ID scanner. There would be three days refresher training for staff.

In response to questions from the Sub-Committee, Mr Dugard wished to refute the Police's comment that management of the venue had said that the blood which had been cleaned up on 3 September 2016 had been cranberry juice. He believed the Police had been informed that staff had thought it had been fluids from the tables. In response to the incident he had sent all the staff on a crime scene preservation training course.

Those responsible for the premises were asked about the carrying of bottles. Ms Ronan replied that staff had received specific training that bottles were kept on tables, including empty bottles and that customers should be told to go back to their table rather than carrying the bottles. It was agreed that the carrying of bottles was not acceptable. Mr Curtis replied in response to a question as to how management would prevent a situation happening where members of the public had run towards the fire exit and fallen over as they looked to avoid the Mac group that there were a lot of lessons to be learnt and it would be necessary to put further policies in place.

Mr Woods was given the opportunity to make some concluding comments. He stated that whilst the case did not hinge on the extent of the injuries, there had been minimal blood loss in respect of the three victims. The Licence Holder had been unaware until 6 January that there had been any involvement by a gang. Anyone who had caused crime or disorder on the night of 31 December / 1 January (and the Licence Holder had facial pictures) would not be allowed back in the venue. He emphasised that the Club did not attract incidents on a regular basis and the experienced management had not faced incidents in the past 9 to 10 years at the previous premises. These premises had operated for 12 months without any incidents at all. Management held their hands up that the crime scene had not been preserved on 3 September. Mr Woods disputed that management had lost control of the venue on the night of 31 December / 1 January. He summarised the timing of the events and said that the events had not lasted for 16 minutes because the management had retained initial control. He believed there had been strong management in separating the two groups and putting the house lights on and turning off the music. He was of the view that the second incident would have been the end of the problems until two people that were unknown to security had approached the celebrity group carrying bottles at approximately 00:43. Mr Curtis had decided to close the venue after the third incident and call the Police when he was aware there was at least one injury. Door staff had detained some of those involved with the disorder but none of the three victims wanted to make a complaint.

Mr Woods explained that it had been difficult to find who had committed the incidents and that management had done a good job in exceptional circumstances. The difficult decisions taken at 00:33, 00:36 and 00:43 had all been taken in order to promote the licensing objectives. They were confident that they had made the right calls. All the CCTV had then been forwarded to the Police. He made the point that had staff seen the bottles been carried they would have removed them. This was

taking place whilst staff was seeking to contain the incidents. He also clarified that no door staff had been with one of the victims (victim A) because the area had been cleared and there was no one there. Mr Woods believed that staff had taken the man to this area because it was quiet. He also commented that there were concerns that the revocation and even the suspension of the premises licence could lead to the venue closing.

Mr Woods updated the Sub-Committee on his clients' thoughts regarding possible conditions to attach to the premises licence in order to try and negate the need for the premises licence being suspended pending the full review hearing. The conditions offered were the introduction of an ID scanner linked to other clubs, a ratio of 1 door staff to 25 patrons being employed on club nights and a knife arch being introduced in addition to the use of the search wand. There would also be three complete days of refresher training for staff, including door staff, with Mr Halton before the premises was allowed to open.

Mr Woods was asked whether his clients would be willing, in the light of the seriousness of the issues that had arisen, to offer a reduction in hours, corporate or private events only or live CCTV coverage being actively monitored in the period up until the full review hearing was held. He replied that he did not believe there was a problem with having live CCTV coverage being actively monitored. Mr Dugard stated that if purely corporate or private events were held or the hours were reduced, it would mean that running the premises at its location in Piccadilly would not be economically viable.

The Police were given the opportunity to respond to Mr Woods' summing up. PC Janes had concerns that as suspects had not been formally identified it would be difficult to ensure that they did not enter the venue. He also had concerns that despite a high ratio of security staff to patrons as was being proposed as a condition by the Licence Holder and other measures and training being introduced, the assaults had still happened.

Ms Ronan wished to get across to Members how committed staff were to their roles and to ensuring that the patrons who had caused the incidents did not get into the premises in the future.

Members of the Sub-Committee listened carefully and at length to the representations and evidence given. They had been required to consider the position regarding the premises licence in the period until the full review hearing and whether the decision to suspend the premises licence was appropriate in order to promote the licensing objectives. The Sub-Committee were not of the view that the conditions offered by the Licence Holder were appropriate or sufficient to promote the licensing objectives given the issues which had arisen at the premises. Members regretted that these conditions had not been brought in after the stabbing incident on 3 September 2016. There was also a concern that these premises might be the subject of further incidents in view of the fact that those responsible for the potentially life-threatening stabbings had not been apprehended or even identified on the CCTV footage. In those circumstances the licensee and operators of the premises could not guarantee that they would not be admitted to the premises if they were allowed to reopen before the full review had taken place.

Whilst the Sub-Committee did accept that the operators had not lost total control of the premises, it was nevertheless of the view that for a period of time control of the premises had been lost on the night of 31 December / 1 January. This could be shown in the way that members of the public had run towards the fire exit and fallen over as they looked to avoid the Mac group. Whilst it was not known who the assailants were or what the exact causes of the injuries were, the Sub-Committee did take account of the fact that there had been a previous stabbing incident at the premises and those responsible for the premises had chosen to reject some of the Police advice given at the time which may have reduced the risk. Mr Dugard's explanation regarding the use of search wands was understood, but the Sub-Committee agreed with the Police that they still had to be used to complement the use of the search arch which would at least identify an issue that might otherwise be missed by the wands. The use of a search arch and the implementation of ID scanning would have potentially deterred the unknown assailants from entering the premises.

The Sub-Committee had also been shown on the CCTV footage instances of failings to uphold the licensing objectives including patrons carrying bottles and the search wands not being effectively used. Conditions on the licence did not prevent the premises from providing drink in glass bottles but that meant that it was essential to ensure that customers did not carry such bottles around the premises. Whilst it was not ascertained that any of the stabbings had actually been caused by broken glass it was clear from the detailed CCTV evidence that some people had either used or attempted to use glass bottles as weapons. There was also concern about customers in the external smoking area not being properly searched when they re-entered the premises on the basis that management regarded the external smoking area to be a part of the premises, although items could easily have been passed from the other side of the barriers.

The Sub-Committee recognised that the operators of the premises did engage in some good and responsible practices as would be expected from such experienced operators. It did think that Mr Curtis acted responsibly in turning on the lights, turning of the music and ultimately closing the premises. It also accepted that the operators might not have appreciated that gangs were involved at the time. The main concern was that they had not fully learned from the previous and relatively recent stabbing incident and, in view of the fact that other measures proposed by the Police had not been implemented they did not have as much control on New Year's Day as was required. That was even taking into account the number of registered door supervisors and experienced managers who were on duty that night. The operators made the point that they operated as a cabaret but it was also clear that the use did change as the night progressed such that the premises appeared to be operating primarily as a nightclub when the three incidents took place. Although the Sub-Committee gave the operator the opportunity to consider shutting the premise at an earlier hour or restricting entry to pre-paid corporate events, Mr Dugard said that such restrictions would not be commercially viable. In such circumstances the Sub-Committee decided that it was not appropriate to impose them as an interim step. The final decision regarding the review of the licence was still to take place but, having regard to the very detailed submissions that had been made by both parties, the Sub-Committee decided that it was appropriate for the interim step of suspension of the licence to remain in place.

The Sub-Committee thanked both the parties for the professional manner in which their representations had been made.

The hearing concluded at 20:10 hours.