



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** Committee held on **Thursday 20th April, 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Jean Paul Floru (Chairman), Julia Alexander and Murad Gassanly

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 THE QUAICH WHISKY SHOP, 34 LEXINGTON STREET, W1

LICENSING SUB-COMMITTEE No. 4

Thursday 20th April 2017

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Julia Alexander and Councillor Murad Gassanly

Legal Adviser: Horatio Chance
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Yolanda Wade

Relevant Representations: 1 ward councillor.

Present: Ms Lana Tricker (Solicitor, representing the Applicant) and Mr Andrew Torrence (Managing Director, Applicant Company)

The Quaich Whisky Shop, 34 Lexington Street, W1 ("The Premises") 17/00898/LIPN	
1.	Exhibition of Films (Indoors)

	<p>Monday to Saturday: 08:00 to 22:00 Sunday: 09:00 to 21:00</p>
	<p>Amendments to application advised at hearing:</p> <p>Prior to the hearing, the Applicant reduced the proposed hours for licensable activities in respect of the application from 08:00 to 22:00 Monday to Saturday to 10:00 to 20:00. On Sundays the proposed hours for licensable activities were reduced from 09:00 to 21:00 to 12:00 to 06:00.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Ms Wade confirmed at the beginning of the hearing that the concerns of local residents, Metropolitan Police, the Council’s Environmental Health department and the Licensing Authority had been addressed and they had withdrawn their representations. There were a number of proposed conditions which had been agreed between the parties and the Applicant had reduced the proposed hours for licensable activities. The one remaining representation was from Councillor Roberts, West End Ward Member, who was not in attendance at the hearing.</p> <p>Ms Tricker explained that the Premises would be a retail store on the ground floor only. There would be a single entrance/exit and a capacity of 40 people. Mr Torrence advised that the intention was to provide a high end Quaich retail store which would be a global showcase for the whisky industry and bring the great whisky collectors to London. It was submitted that most of the stores which provided a similar level of excellence in whisky were overseas. The Applicant would be listing whiskies ranging from £30 a bottle to £200k a bottle.</p> <p>Ms Tricker and Mr Torrence confirmed in response to questions from the Sub-Committee that on-sales were required only so that small samples of whisky could be provided at ticketed or pre-booked events for the purposes of “tasting”. The whisky industry would provide a master distiller or distillery manager at the event and he would produce the small samples for those who attended the events. Discerning buyers would ultimately spend in the region of £1k to £2k a bottle.</p> <p>The Sub-Committee considered that the proposed conditions and the manner in which the Premises would be operated would result in the licensing objectives being promoted. The Sub-Committee was also satisfied that taking into account the amended hours of operation the application would not add to cumulative impact in the West End Cumulative Impact Area. The amended application was therefore granted.</p>
<p>2.</p>	<p>Sale by Retail of Alcohol (On and Off)</p>
	<p>Monday to Saturday: 08:00 to 22:00 Sunday: 09:00 to 21:00</p>

	<p>Amendments to application advised at hearing:</p> <p>Prior to the hearing, the Applicant reduced the proposed hours for licensable activities in respect of the application from 08:00 to 22:00 Monday to Saturday to 10:00 to 20:00. On Sundays the proposed hours for licensable activities were reduced from 09:00 to 21:00 to 12:00 to 06:00.</p>				
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application with the amended proposed hours, subject to conditions as set out below (see reasons for decision in Section 1).</p>				
3.	Hours premises are open to the public				
	<table> <tr> <td>Monday to Saturday:</td> <td>08:00 to 22:00</td> </tr> <tr> <td>Sunday:</td> <td>09:00 to 21:00</td> </tr> </table>	Monday to Saturday:	08:00 to 22:00	Sunday:	09:00 to 21:00
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Sunday:	09:00 to 21:00				
	<p>Amendments to application advised at hearing:</p> <p>None.</p>				
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below.</p>				

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

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

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

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

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

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served

alcohol, identification bearing their photograph, date of birth and either—

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

7. The responsible person must ensure that—

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

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

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

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

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

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

Where -

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

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

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

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

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

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

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

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

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

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

Additional Conditions

10. The premises shall operate as a specialised whisky shop whereby its primary business shall be the sale of whiskies.

11. Individual servings of alcohol for consumption on the premises shall be limited to (a) samples of 15ml maximum per serving and (b) three samples per customer per visit to the premises.

12. The consumption of alcohol within the premises shall at all times be only by persons attending a ticketed or pre-booked event, and there shall be no self-service of alcohol for consumption on the premises.

13. The maximum number of persons permitted in the premises at any one time, excluding staff, shall not exceed 40.
14. Customers consuming alcohol within the premises, who temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
15. No beer, lagers, ciders or spirit mixtures shall be sold at the premises.
16. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
17. There shall be no cinema style seating for the showing of films.
18. 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.
19. 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 the Police recent data or footage with the absolute minimum of delay when requested.
20. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 23:00 hours and 08:00 hours.
21. No deliveries shall be made to the premises between 23:00 hours and 07:30 hours.
22. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
23. Signage of the proof of age scheme shall be displayed in prominent positions on the shop floor where alcohol is on public display, at the point of sale and upon entering the premises.
24. A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

25. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
26. Prior to the Licence taking effect, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the LFEPA, Environmental Health Consultation Team, the Police and the Licensing Authority.
27. 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.
28. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
29. 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.
30. The licensable activities authorised by this licence can only be carried on by Lexington Street Limited.
31. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.

4 CARAVAN, YALDING HOUSE, 152-156 GREAT PORTLAND STREET, W1

LICENSING SUB-COMMITTEE No. 4

Thursday 20th April 2017

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Julia Alexander and Councillor Murad Gassanly

Legal Adviser: Horatio Chance
 Policy Adviser: Chris Wroe
 Committee Officer: Jonathan Deacon
 Presenting Officer: Yolanda Wade

Relevant Representations: Environmental Health and 1 local resident.

Present: Mr Jack Spiegler (Solicitor, representing the Applicant), Mr Miles Kirby, Mr Toby Kidman and Ms Renee Williams (Applicant Company), Mr Maxwell Koduah (Environmental Health), Mr Alan Lynagh (Senior Licensing Surveyor), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr Linus Rees, Fitzrovia Neighbourhood Association) and Mr Linus Rees (Fitzrovia Neighbourhood Association)

Caravan, Yalding House, 152-156 Great Portland Street, W1 (“The Premises”) 17/01171/LIPN	
1.	Late Night Refreshment (Indoors)
	Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee asked Mr Spiegler, the Applicant’s Representative, when he addressed Members to focus in particular on the areas of contention between the parties. These included off-sales, the bar area and deliveries. Mr Spiegler asked Mr Kirby to briefly describe the concept behind Caravan Premises. Mr Kirby informed the Sub-Committee that the first Caravan Premises had been opened seven years ago. The Caravan Premises in Great Portland Street would provide all day dining. It would operate as a restaurant, a coffee shop and bar. There would be some takeaway aspect during the day, including coffee. Mr Spiegler explained that an amended condition was being offered, following concerns expressed by Mr Rees so that the Premises would operate as a restaurant except for the bar area. He believed that the bar was relatively small when taking into account the ground floor and basement space. The Applicant was seeking some flexibility for up to 30 customers to have a drink without a meal. The majority would be sitting down but the Applicant was keen that some would be allowed to stand. Mr Spiegler also drew the Sub-Committee’s attention to the fact that the bar was away from the frontage of the Premises. He expressed the view that the application should be considered under policy RNT1 in the Council’s Statement of Licensing Policy as it was for a restaurant outside the West End Cumulative Impact Area. He added that even if the Sub-Committee was persuaded that policy PB1 applied, it would be possible to grant the application given the conditions relating to the bar. Mr Spiegler referred to other conditions which had been offered in an e-mail to Mr Rees. In particular there was a proposed condition that patrons permitted to

temporarily leave and then re-enter the premises e.g. to smoke, shall be limited to 10 persons at any one time. Mr Spiegler requested that another condition offered that there shall be no take away service of food or drink for immediate consumption would not be imposed as he was of the view that Mr Rees had indicated that this was not a major issue for him.

In respect of Environmental Health's proposed conditions, Mr Spiegler informed the Sub-Committee that in discussions with Mr Lynagh, Senior Licensing Surveyor, they had reached agreement that a safe capacity for the ground and basement floors combined was 150, subject to some changes to the escape route. He was therefore keen to amend Environmental Health's proposed condition limiting the overall capacity to 80. In response to a question from the Sub-Committee Mr Spiegler stated that his client would like a capacity of 130 on the ground floor and 30 in the basement. Mr Lynagh had suggested 20 in the basement. The other amendment the Applicant was requesting to the Environmental Health proposed conditions was that outside tables and chairs were rendered unusable at 23:00 each day rather than being required to remove them and take them inside the premises due to a lack of storage space.

Mr Spiegler advised the Sub-Committee that the Applicant was offering a proposed condition in respect of off sales that 'with the exception of any external area licensed by Westminster City Council for the placing of tables and chairs where persons may only consume alcohol when taking a table meal and be seated, all sales of alcohol for consumption off the Premises shall be in sealed containers only, and shall not be consumed on the Premises'. One reason as to why off-sales were requested was in case of customers wanting to take a part consumed bottle of beer home with them. In respect of deliveries, Mr Spiegler said that his client was willing to agree a condition on the basis that there would be no deliveries between 08:00 and 23:00 except for those involving fresh produce. Deliveries of fresh produce would include dairy, bread, fresh fruit and vegetables and a commencement hour was sought for these deliveries of 06:00.

Mr Kirby clarified in response to questions from the Sub-Committee that the Caravan premises all encouraged dining at the bar. He would prefer people to dine at the bar. The bar would be set for dining and there would be stools most of the way along the bar. The bar was approximately 6 or 7 metres long. Mr Kirby also advised that he was content for alcohol or food to be served by waiter or waitress in the restaurant areas including in the outside area.

The Sub-Committee next heard from Mr Koduah, on behalf of the Council's Environmental Health department ('EH'). EH did not object to the application but Mr Koduah did wish to bring some points to the Sub-Committee's attention. Firstly, a final capacity figure for the Premises was yet to be agreed. To be taken into account was toilet provisions and safety arrangements in the event of an emergency. In terms of the toilet provisions, EH was content with a maximum capacity of 150. There had been discussions between Mr Lynagh and the architects employed by the Applicant regarding procedures in the event of an emergency. These involved the external doors being pinned open in the event of an emergency so that customers could easily exit the premises. This would potentially have implications in terms of preventing noise escape. This was why the proposed EH condition was a maximum capacity of 80.

Mr Koduah stated that he had requested the deliveries condition because Great Portland Street is a residential area and there had been two complaints in the area in 2015 due to noise from deliveries.

Mr Lynagh clarified that he was content with a capacity of 150 subject to the front external doors being locked open. He was also of the view that given the size of the bar a capacity of 20 to 30 customers was considered acceptable.

The Sub-Committee was also addressed by Mr Brown, representing Mr Rees. He stated that there were still two and a half matters that were in dispute with the Applicant. The 'half' matter related to takeaway service of food or drink for immediate consumption. Mr Rees made the point that drinking outside was a major concern for Fitzrovia Neighbourhood Association. Mr Brown advised that there was an objection to the proposed bar area. There were concerns that the Applicant was proposing that up to 30 out of a total capacity of 150 could drink at the bar without it being ancillary to food. It was felt that this would detract from the character of the Premises as a restaurant. Mr Brown referred to the planning permission that bar use should be limited in floor space to 15% but should only be used for customers before, during or after their meal. He appreciated that planning permission was not binding on the Licensing Sub-Committee as the two regimes are separate. Mr Rees did not object to the application providing that the full restaurant condition was applied at the premises.

The other matter that was of concern to Fitzrovia Neighbourhood Association was the use of tables and chairs outside. Mr Brown made the point that Great Portland Street was not busy during the late evening. There was concern about activity on the street including tables and chairs being used later in the evening. Mr Brown added that if the Sub-Committee was minded to permit tables and chairs it was requested that their use should be restricted to a terminal hour of 21:00.

Mr Spiegler was given the opportunity to respond to the points raised by Mr Brown and EH. He referred to the planning condition that Mr Brown had raised and commented that if the Sub-Committee imposed the full restaurant condition as requested by Mr Brown, it would require all customers to have alcohol ancillary to a table meal which went beyond what the planning permission required. The Applicant was requesting some flexibility. Some customers would go on to have a meal after having a drink.

The Sub-Committee asked a number of questions. Mr Kirby was asked whether he was willing to reduce the number of people who would be able to consume alcohol without it being ancillary to food in the bar area. Mr Kirby replied that he was willing to reduce it to a maximum of 20. In terms of the sales breakdown for Caravan premises, it was 65% food, 35% beverages including coffee. Mr Kidman informed Members that there were very few people who came to Caravan premises purely to drink alcohol. Mr Lynagh recommended that if there were 25 seats along the bar this would limit the number of people who could stand there and would be half of the 50 who could safely be at the bar.

Mr Spiegler stated in respect of the outside area that it was accepted there were residents in the locality but they were not located immediately above the Premises. He expressed the view that a terminal hour of 23:00 for tables and chairs was ordinarily permitted and that he believed this was appropriate. The tables and chairs licence would be scrutinised and would be permitted only on a temporary basis.

The Sub-Committee in granting the application took into account that the Premises is located outside of the West End Cumulative Impact Area. There was therefore no policy presumption against the application. The proposed hours for licensable activities were within Core Hours and the Applicant had agreed that the Premises would operate as a restaurant albeit that there would be a bar area where alcohol would not be ancillary to food. Members considered that with appropriate conditions attached to the Premises licence, the licensing objectives would be promoted. These included the condition that save for a maximum of 25 persons in the bar area (a figure recommended by Mr Lynagh), the consumption of alcohol on the Premises would only be to seated customers consuming alcohol on the Premises served by waiter or waitress including in any outside area. The Sub-Committee considered it was appropriate for any tables and chairs in the external area to be rendered unusable at 22:00 in order that residents would not be adversely affected. The Sub-Committee also considered it appropriate to attach a condition that there would be no take away service of food or drink for immediate consumption in order to prevent issues for residents and in order that the Premises was more in keeping with a restaurant. This condition had originally been offered by the Applicant. The Sub-Committee took the view that in order to balance the needs of residents and the business, deliveries would be restricted to 08:00 to 23:00 except for fresh produce which would be permitted from 07:00.

The Sub-Committee took into account Mr Lynagh's advice that the maximum capacity for the ground and basement floors would be extended from 80 to 150 when the external doors at the front were locked open.

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

Monday to Thursday:	10:00 to 23:30
Friday to Saturday:	10:00 to 00:00
Sunday:	10:00 to 22:30

Amendments to application advised at hearing:

None.

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

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

3.	Hours premises are open to the public
	Monday to Thursday: 08:00 to 00:00 Friday to Saturday: 08:00 to 00:30 Sunday: 08:00 to 23:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below.
4.	Seasonal variations / Non-standard timings:
	<u>Late Night Refreshment (Indoors), Sale by retail of alcohol (On and Off) and Hours premises are open to the public</u> From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. <u>Late Night Refreshment (Indoors)</u> 23:00 until 00:00 on Sundays preceding Bank Holiday Monday. <u>Sale by retail of alcohol (On and Off)</u> 10:00 until 00:00 on Sundays preceding Bank Holiday Monday. <u>Hours premises are open to the public</u> 08:00 until 00:30 on Sunday preceding Bank Holiday Monday.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below.

Conditions attached to the Licence

Mandatory Conditions

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

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

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

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

price.

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Additional Conditions

9. Save for up to a maximum of 25 persons in the area hatched on the licence plan, the consumption of alcohol on the premises shall only be to seated persons consuming a table meal at the premises served by waiter or waitress, including any outside area.
10. Substantial food and non-intoxicating beverages, including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
11. With the exception of any external area licensed by Westminster City Council for the placing of tables and chairs where persons may only consume alcohol when taking a table meal and be seated, all sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
12. No sales of alcohol for consumption off the premises after 23.00.
13. 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.
14. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
15. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
16. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 and 08:00 hours on the following day.
17. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises and that this area shall be swept and or washed and litter and sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.
18. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
19. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry 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.

20. 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.
21. 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 (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
22. The number of persons permitted inside the premises at any one time (excluding staff) shall not exceed
Ground floor - 60 persons
Basement floor – 20 persons
With no more than 80 persons at any one time

Those capacities are increased to 130 persons on the Ground floor and 30 persons on the Basement floor (maximum capacity of 150) whenever the external doors are locked open.
23. Before the premises opens to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the LFEP, Environmental Health Consultation Team, the Police and the Licensing Authority.
24. The Licence will have no effect until the works shown on the plans appended to the application have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
25. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
26. All windows and internal lobby doors shall be kept closed after 23:00 hours except for the immediate access and egress of persons.
27. All outside tables and chairs shall be rendered unusable in the outside area by 22:00 hours each day.
28. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to

smoke, shall not be permitted to take drinks or glass containers with them.

29. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
30. Patrons permitted to temporarily leave and then re-enter the premises e.g. to smoke, shall be limited to 10 persons at any one time.
31. There shall be no take away service of food or drink for immediate consumption.
32. No deliveries to the premises shall take place between 23:00 and 08:00 on the following day except for deliveries of fresh produce which are permitted from 07:00. Deliveries of fresh produce shall include dairy, bread, fresh fruit and vegetables.

5 WARNER STAND, LORDS CRICKET GROUND, ST JOHN'S WOOD ROAD, NW8

LICENSING SUB-COMMITTEE No. 4

Thursday 20th April 2017

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Julia Alexander and Councillor Murad Gassanly

Legal Adviser: Horatio Chance
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Yolanda Wade

Relevant Representations: Environmental Health and 1 local resident.

Present: Ms Sue Dowling (Solicitor, representing the Applicant), Mr Ian Watson (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr Sachin Khajuria, local resident) and Mr Sachin Khajuria (local resident)

Warner Stand, Lords Cricket Ground, St John's Wood Road, NW8 17/01651/LIPN	
1.	Late Night Refreshment (Indoors)
	Monday to Sunday: 23:00 to 23:30
	Amendments to application advised at hearing: None.

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

This was an application for a new premises licence for licensable activities at a new Warner Stand which will replace the recently demolished Warner Stand. Ms Dowling, representing the Applicant, stated at the hearing that the new stand would be built to state of the art specifications, including additional soundproofing and reduced seating, in order to provide excellent facilities for cricket matches.

Ms Dowling was asked by the Sub-Committee about the changes to the licensable activities and also the proposed hours for the licensable activities at the new Warner Stand compared with the old one. She replied that the Applicant was no longer seeking recorded music which was previously unrestricted. There was no change to what was sought in terms of the hours for late night refreshment (indoors). It was proposed that it would be available inside Pelham's Restaurant and the bars within the premises including on a non-match day. In the half an hour prior to closure at 23:30 it was feasible that a member or a guest would wish to order hot food / hot drink for consumption within the premises.

Ms Dowling explained that the provision of films / film exhibition was sought with the primary use being to show some recorded material on cricket match days, including when there was no play taking place. The provision of films was indoors in the Pelham Restaurant and the bars, including on non-match days and would not cause a public nuisance.

In terms of the hours for licensable activities, Ms Dowling made the point that the terminal hours were largely in keeping with the Council's Core Hours policy and there was not a significant extension of the hours for the new Warner Stand in comparison to the old one. In the Pelham Restaurant on major match days only, the Applicant was seeking to open at 09:00 in case a member wished to have a drink, such as a glass of champagne, with breakfast. The opening hours, commencing at 08:00 related to the whole Lords sports ground and not just the new Warner Stand. Ms Dowling added that advice from the Police had been that it was safer for the public to have access to the ground rather than waiting outside on pavements.

Ms Dowling expressed the view that the conditions for the new Warner Stand would give more comfort than those on the existing premises licence which was an old justices' licence. The conditions needed to be updated. She stated that Lords Cricket Ground has an exemplary record in terms of promoting the licensing objectives. It is also highly regulated and it has to comply with the safety certificate for large scale matches, including in relation to risk assessment and crowd management.

The Sub-Committee heard from Mr Watson, on behalf of the Council's Environmental Health department. He confirmed that Environmental Health had

provided pre-application advice to the Applicant. He informed Members that Alan Lynagh, Senior Licensing Surveyor at Westminster Council, sat on the Safety Advisory Group which oversees public safety at Lords. There are 13 to 14 premises licences for the individual stands at the ground.

Mr Watson advised that licensable activities and the proposed hours for the licensable activities for the new Warner Stand in comparison to the old stand were generally 'like for like'. There were updated proposed conditions. The plans reflected the Pelham Restaurant on the third floor of the Stand, two public bars and an area where more bar units could be located on the ground floor. Mr Watson stated that the films shown in the Restaurant were likely to be cricket matches or documentaries. This licensable activity could be exempt if the subject matter shown was considered educational.

Mr Watson commented that in respect of the representation from Mr Khajuria it was the case that there was some additional commercialisation of use. He believed that there were some planning restrictions in place to limit the degree of this. Mr Watson advised that he did not have any concerns about the application because the licensable activities and the proposed hours for the licensable activities for the new Warner Stand in comparison to the old stand were generally 'like for like'.

Mr Brown, representing Mr Khajuria, addressed the Sub-Committee. He informed the Sub-Committee that Mr Khajuria had considered withdrawing his representation. However, he had decided not to do so due to concerns about additional commercialisation of the venue. Mr Brown stated that Mr Khajuria had engaged with Mr Robert Eldon, Assistant Secretary (Estates) at Lords and he was grateful for the list of commitments that had been given to him on behalf of the Applicant.

Mr Brown explained that it was Mr Khajuria's view as a local resident that the commercialisation of the venue should not be extended further. The existing situation was, Mr Khajuria believed, adding to problems such as traffic congestion. In the event that the proposed hours for events were significantly increased this would be concerning. Mr Brown said that in discussions with Ms Dowling earlier that morning she had reassured him that there were no plans to change the manner in which the Warner Stand operates in any significant way. Mr Khajuria was not requesting that the application should be refused.

Ms Dowling was given the opportunity to respond to the points which had been made by Mr Brown on behalf of Mr Khajuria. She stated that the new Warner Stand was primarily to be used on match days by customers enjoying cricket matches and the facilities provided in the Stand. Clients would use the Stand on non-match days in accordance with planning conditions which were quite restrictive in terms of the hours and number of days the Stand could be used on non-match days. She reiterated that Lords has a tremendous record in terms of promoting the licensing objectives.

The Sub-Committee considered that there were no additional aspects proposed for the new Warner Stand in comparison with the old stand which would give rise to concerns. The application would promote the licensing objectives. The

	application was therefore granted, subject to conditions as set out below.
2.	Sale by Retail of Alcohol (On and Off)
	Monday to Sunday: 10:00 to 23:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).
3.	Provision of Films (Indoors)
	Monday to Sunday: 10:00 to 23:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).
4.	Hours premises are open to the public:
	Monday to Sunday: 08:00 to 23:30
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).
5.	Seasonal variations / Non-standard timings:
	Sale by retail of alcohol (On and Off) and Provision of films (indoors)

	09:00 until 23:00 on Major Match Days in relation to Pelham's Restaurant.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).

Conditions attached to the Licence

Mandatory Conditions

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

- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following

measures—

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

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

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

Where -

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of

alcohol under such a licence;

- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

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

Additional conditions

- 9. On Major Match Days, alcohol shall not be sold or supplied to the public after a period of one hour after close of play.
- 10. On all Match Days, when alcohol is sold or supplied in open drinking vessels containing half pint or multiples thereof for external consumption in Lord's Cricket Ground ("Ground"), the drinking vessels shall be made of plastic or polycarbonate.
- 11. A Challenge 21 'Proof of Age' scheme shall operate at the Premises and all staff shall be trained in its implementation. Only photographic ID such as a British driving licence, a current passport or a PASS ID shall be treated as acceptable forms of identification.
- 12. The Designated Premises Supervisor shall ensure that all existing staff, new staff, supervisors and managers responsible for selling alcohol receive an induction in the legality and responsible procedure of alcohol sales, prior to undertaking the sale of alcohol. This training shall cover the terms of this Licence, times of operation, licensable activities and all conditions. Training documents shall be signed and dated and training records be made available to the Police and authorised Council Officers on reasonable request. The records shall be retained for at least 12 months.
- 13. The Ground in which the Premises is situated shall install and maintain a comprehensive CCTV system (which includes the Premises) as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points to the Ground 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 the public 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 council officer throughout the entire 31 day period.

14. An employee at the Ground who is conversant with the operation of the CCTV system shall be at the Ground at all times when the Premises is open to the public. This employee must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
15. An Incident Log shall be kept at the Premises (or within the Ground), and shall be made available on request to an authorised council officer or the Police. It must be completed within 24 hours of the incident and will record the following:
 - a. all crimes reported to the Premises;
 - b. all ejections of patrons;
 - c. any complaints received concerning crime and disorder;
 - d. any incidents of disorder;
 - e. all seizures of drugs or offensive weapons;
 - f. any faults in the CCTV system, searching equipment or scanning equipment; and/or
 - g. any visit by a relevant authority or emergency service.
16. A Refusals 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 (or at the Ground) by the police or an authorised officer of the City Council at all times whilst the Premises is open.
17. The supply of alcohol from temporary mobile bars is restricted to the cross-hatched area on the plan on Ground level and shall only operate on Major Match Days.

For the purposes of the above conditions:

“Match Days” means all days on which cricket is played at the Ground.

“Major Match Day” is defined as a Test Match, a One Day International (ODI), the RL London One-Day Final (or that of any successor competition), an International T20, a domestic Cup T20, Finals of e.g. World Cups such as the final of the Women’s World Cup scheduled to be played at Lord’s, and any other match (including matches for charity) designated as a ‘Major Match’ by the MCC Committee.

Thursday 20th April 2017

Membership: Councillor Jean-Paul Floru (Chairman), Councillor Julia Alexander and Councillor Murad Gassanly

Legal Adviser: Horatio Chance
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon
Presenting Officer: Yolanda Wade

Relevant Representations: Licensing Authority.

Present: Mr Jack Spiegler (Solicitor, representing the Applicant), Mr Leslie Ng (Applicant) and Mr Steve Rowe (Licensing Authority).

Gourmet Kitchen, 34 Lisle Street, WC2 17/01541/LIPN	
1.	Late Night Refreshment (Indoors)
	Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): This was an application for a new premises licence. Late night refreshment (indoors) and on and off sales of alcohol were sought to Core Hours (Monday to Thursday until 23:30, Friday and Saturday until midnight and 22:30 on Sunday for the sale of alcohol). An additional half an hour was sought every night of the week in terms of the opening hours. The Applicant had agreed conditions proposed by the Environmental Health and Metropolitan Police and they had withdrawn their representations. These included the Council's model restaurant condition, MC66 and also a capacity of 40 for the premises. Mr Spiegler, representing the Applicant, drew Members' attention to the fact that not only had his client agreed MC66 but that there had been an established restaurant at 34 Lisle Street since approximately 2009 which had latterly been trading unlicensed. Having an established restaurant at the premises was a key factor as to why the premises would not add to cumulative impact in the West End Cumulative Impact Area. Mr Spiegler referred to paragraph 2.4.8 of the City Council's Statement of Licensing Policy ("SLP") in terms of applications potentially being granted when licences have lapsed. In this case the premises licence had been surrendered. Mr Rowe, representing the Licensing Authority clarified that the premises licence had been surrendered on 13 April 2015.

The Sub-Committee expressed concerns to the Applicant regarding a bona fide restaurant providing off-sales in what is a residential area. Mr Spiegler offered on behalf of his client to withdraw the off-sales.

Mr Rowe confirmed that the Licensing Authority had maintained their representation in order that the Sub-Committee was given the opportunity to consider whether the application would add to cumulative impact.

The Sub-Committee explored with Mr Wroe how much time was able to elapse before a surrendered or lapsed premises licence was no longer relevant as set out in paragraph 2.4.8 of the SLP Mr Wroe stated that the Statement did not set out a definitive answer on this point but that the Sub-Committee could be expected to give more weight to granting an application on the basis that a premises licence had recently been in operation at the premises than if it was a longer period of time such as a few years. Mr Wroe advised the Sub-Committee that it had been envisaged when the policy was being written that in order for a lapsed licence to be relevant as a ground for granting a new licence there should be a short period of time(possibly a few months) between this taking place and a new licence being applied for.

Mr Wroe was also asked by the Sub-Committee for advice on the proposed hours. He replied that the core terminal hours were intended to be when customers left the premises as well as when licensable activities ceased. The opening hours did extend for an additional thirty minutes beyond the terminal hours for licensable activities.

The Sub-Committee in granting the application considered that the Applicant had agreed proposed conditions with the Responsible Authorities which promoted the licensable objectives. These included that Gourmet Kitchen would operate as a bona fide restaurant. There would be no provision of off-sales. The Sub-Committee noted that the hours were in keeping with other premises within the vicinity. The application excluding off-sales was granted, subject to conditions.

The Sub-Committee noted that there was an established restaurant in place at the premises. The Sub-Committee during the decision making process applied the necessary weight to the fact that the licence had been surrendered two years ago as specific grounds as to why the application should be granted accordingly, taking into account that each application has to be considered on its merits.

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

Monday to Thursday:	10:00 to 23:30
Friday to Saturday:	10:00 to 00:00
Sunday:	12:00 to 22:30

Amendments to application advised at hearing:

	During the hearing, the Applicant offered to withdraw off-sales.
	Decision (including reasons if different from those set out in report): The Sub-Committee granted the hours applied for in respect of on-sales, taking into account that the Applicant had offered to withdraw off-sales.
3.	Hours premises are open to the public
	Monday to Thursday: 10:00 to 00:00 Friday to Saturday: 10:00 to 00:30
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below.
4.	Seasonal variations / Non-standard timings:
	<u>Late Night Refreshment (Indoors), Sale by retail of alcohol (On and Off) and Hours premises are open to the public</u> From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sundays before Bank Holidays until 00:00.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below.

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. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst

the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.

10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
12. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
13. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
14. 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.
15. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) any complaints received concerning crime and disorder
 - (c) any incidents of disorder
 - (d) any faults in the CCTV system
 - (e) any refusal of the sale of alcohol
 - (f) any visit by a relevant authority or emergency service.
16. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
17. The premises shall only operate as a restaurant;
 - (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - (iv) which do not provide any take away service of food or drink 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.

- 18. 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.
- 19. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 40.
- 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. No deliveries to the premises shall take place between (23.00) and (08.00) on the following day.