



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 25th May, 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Jean Paul Floru (Chairman), Jan Prendergast and Aziz Toki

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 DUCK & RICE, 90-91 BERWICK STREET, W1

LICENSING SUB-COMMITTEE No. 4

Thursday 25th May 2017

Membership: Councillor Jean Paul Floru (Chairman), Councillor Jan Prendergast and Councillor Aziz Toki

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

Relevant Representations: In support – 8 representations.
Objections – Environmental Health, Metropolitan Police, Licensing Authority, 1 Amenity Society

Present: Mr Gary Grant (Counsel, representing the Applicant), Mr Kevin McAnulty (Applicant Company), Mr Andrew Wong (Solicitor on behalf of the Applicant), Ms Shirley Sprosta (local resident), Mr Ian Watson (Environmental Health), PC Sandy Russell (Metropolitan Police), Mr Steve Rowe (Licensing Authority) and Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing the Soho Society).

**Duck & Rice, 90-91 Berwick Street, W1
17/03126/LIPV (Variation to premises licence 15/05416/LIPDPS)**

1. Conditions being varied, added or removed

Current Condition

Proposed condition

Condition 23:

Amend Condition 23 to read:

There shall be no sales of alcohol for consumption off the premises after 21:00 hours.

There shall be no sales of alcohol for consumption off the premises after 22:00 hours.

Condition 24:

Amend Condition 24 to read:

After 18:00 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them (except to persons dining outside).

After 22:00 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

Condition 27:

Amend Condition 27 to read:

All outside tables and chairs shall be rendered unusable by 21.00 each day.

All outside tables and chairs shall be gradually rendered unusable by 22:00 each day.

Condition 28:

Amend Condition 28 to read:

All outside areas shall cease to be used after 21:00 hours except by patrons permitted to temporarily leave and then re-enter the premises e.g. to smoke.

All outside areas shall cease to be used after 22:00 hours except by patrons permitted to temporarily leave and then re-enter the premises e.g. to smoke.

Condition 25

Condition 25 - Proposed to be removed

After 18:00 hours, the supply of alcohol at any outside seating area shall only be to patrons seated at tables and shall cease to be used after 21:00 hours except by patrons permitted to temporarily leave and then re-enter the premises e.g. to smoke.

	<p>Condition 26</p> <p>After 18:00 hours, the sale and supply of alcohol at any outside seating area shall be by waiter or waitress service only to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.</p> <p>Condition 26 - Proposed to be removed</p> <ul style="list-style-type: none"> • To add the following additional conditions on the licence: <ol style="list-style-type: none"> 1) The premises shall operate in accordance with an Outside Area Management Plan. The Outside Area Management Plan shall be reviewed regularly and at least once every quarter and a copy shall be made available for inspection by any responsible authority within a reasonable time of request. 2) The variation of this premises licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team (following request from the Premises Licence holder) at which time this condition shall be removed from this licence by the licensing authority.
	<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 heard from Mr Grant, representing the Applicant. He stated that his client was seeking to a limited and controlled extent some outdoor drinking for up to a maximum of 45 people until 22:00. He referred to the fact that the premises on the ground floor had previously been known as the Endurance which as a result of a review of the premises licence due to issues</p>

arising from the use of the outside area had been restricted in terms of outside drinking to a terminal hour of 18:00 hours. Mr Grant wished to explain the key differences between the operation of the Endurance pub and the operation of Duck & Rice and why he believed a later hour for outside drinking would not cause public nuisance and should be granted. He also sought to explain the reasons for the application and provide details of the Applicant's Outdoor Management Plan which he stated would control, to within reasonable limits, outdoor drinking.

Mr Grant made the point that given the previous history of the premises prior to the opening of Duck & Rice it was extraordinary that no individual local residents had objected to the application. It was the case that the Soho Society as a local amenity society had made a representation objecting to the application. He added that there were indeed two representations from local residents who lived in close proximity of the premises who had written in support of the application. One of those, Ms Sprosta was in attendance and he had spoken to the other resident, Mrs Trayte who was unfortunately unable to attend the hearing. Mr Grant believed that Mrs Trayte spoke for many residents when she had told him that anyone who lives in Soho (she had lived in Soho for 72 years) knows that they are moving into a lively, vibrant area which has both residential and commercial aspects. What residents were seeking was that after a reasonable time they would be able to sleep. Mr Grant explained that was why the application was being limited to 22:00. Mrs Trayte, Mr Grant added, wanted Duck & Rice as good operators to have some flexibility in terms of customers being able to drink outside until later.

Mr Grant commented that it had been demonstrated that Duck & Rice was able to promote the licensing objectives. It had opened in April 2015. It operated as a high end Chinese restaurant on the first floor and the ground floor as a gastro pub with a large number of tables. Mr Grant described the ground floor as a community hub with live jazz, bingo and quiz nights. It was used by people living in the locality and also office workers in the immediate area, a few of whom had written in support of the application. He made the point that the management was trusted by the local community.

Mr Grant stated that an application for a new premises licence for the ground floor and first floor had been granted by the Licensing Sub-Committee in 2013 and this had doubled the capacity as the Endurance had operated on the ground floor only. Since the premises had been operating in 2015 there had been no crime and disorder or noise complaints, including after when the Applicant had been given the flexibility to operate beyond Core Hours on the first floor by the Sub-Committee in October 2015.

Mr Grant made the case that in the event the current application was granted, the outside operation would be different from the Endurance for a number of reasons. These included having a set capacity. He referred to 177 patrons having previously been recorded as drinking outside at the Endurance as there had been no set capacity whereas the current application is for a maximum of 45 people. The overall capacity for the ground floor both inside and outside is 120. Mr Grant said that he believed that the average age of customers attending Duck & Rice was 35-45 and that this was an older, more mature demographic

than when the Endurance had been operating. Duck & Rice appealed to older people because it acted as a community pub. The clientele was well behaved. There was no regulated entertainment at Duck & Rice.

Mr Grant wished to bring to Members' attention that tables and chairs could be used outside for dining until 21:00. The Applicant was seeking as part of the application to extend dining outside until 22:00. It was Mr Grant's understanding, having consulted the other parties in attendance at the hearing, that there were no objections to outside dining where alcohol was ancillary to food. The only objections were to alcohol being consumed without food. Mr Grant added that planning permission had been granted by the Council in 2016 for dining outside until 23:00.

Mr Grant referred to several other premises in the area such as The Blue Post being able to have large numbers of people drinking outside without there being a set capacity at the premises. Patrons in order to have a drink outside were currently required to leave Duck & Rice at 18:00 hours and could stay at The Blue Post until 23:30.

The Sub-Committee were provided with some information on the Applicant's Outdoor Management Plan by Mr Grant. Proposals in the Plan included that there would be at least one door supervisor who would be on duty seven days a week after 17:00 whilst the outside area is being used. The Applicant would be prepared to employ more should the risk assessment require it. The Applicant would also set up barriers which would delineate where the maximum of 45 people would be able to drink. This would ensure that pedestrians were not blocked on the pavement. The management team would be required to collect any cups or glasses taken outside. There would also appropriate signage in place outside to remind customers to leave the area quietly.

Mr Grant said that although his client had applied for a terminal hour of 22:00 for alcohol to be sold to patrons who would be accessing the outside area, the management's intention was that alcohol would not be sold to patrons going outside after 21:00. From 21:00, management would begin the dispersal of patrons outside. He added that if Members of the Sub-Committee had specific concerns about the impact of the use of the outside area for drinking until 22:00, the Applicant could restrict its use to 21:00.

The Sub-Committee was addressed by PC Russell. She emphasised that management at the Duck & Rice are responsible operators. There were no recorded crimes at the premises during the previous twelve months. There were crime issues at Berwick Street and Soho as a whole, with 117 crimes having been reported in Berwick Street, predominantly in the later evening. The Police were keen that customers did not become victims of crime. PC Russell requested that there were two SIA door supervisors monitoring the outside area and that glassware was not used outside.

Mr Watson for Environmental Health referred to the long history of problems when the premises had been the Endurance, including public nuisance and flagrant breaches of conditions on the premises licence. He confirmed the capacity of 120 on the ground floor and that unrestricted drinking was currently

permitted outside until 18:00. He informed the Sub-Committee that the premises did benefit from a 'tables and chairs' licence located in Kemps Court. Since 2015 this had not been renewed. Mr Watson advised that there had been no recorded noise complaints in respect of Duck & Rice. He also confirmed that there were currently two licences at the premises, one for the first floor and ground floor and one for the ground floor (this application was a variation to premises licence 15/05416/LIPDPS).

Mr Watson informed Members that he had met with the Applicant to discuss the Outdoor Management Plan. He stated in relation to SIA door supervisors that he had been informed that the premises had nine dining managers who were all SIA qualified. It was his view that if the SIA door supervisors were directly employed by the owner of the premises they were likely to have a better idea of the operation than those employed by an external security company.

The Sub-Committee was advised by Mr Watson that there is a residential block behind the premises which had existed for just over a year. So far there had not been any complaints from residents but it was now being proposed that outside drinking would take place until later. Mr Watson expressed the view that if the outside area was adequately managed with the use of the barriers, door supervisors and the number of patrons limited to 45 outside the premises, there was unlikely to be additional public nuisance.

The Sub-Committee asked Mr McAnulty why the tables and chairs licence was not currently being used. He was proposing to move from an operation with no outside activity after 18:00 to an operation with 45 outside drinkers until 22:00. Mr McAnulty explained that the tables and chairs licence caused confusion. Customers needed to be informed that they were required to order a meal at the tables and chairs outside. The location of the tables and chairs was not suitable given that there were bins there that were constantly in use.

The Sub-Committee heard from Mr Rowe on behalf of the Licensing Authority. He referred to paragraphs 2.4.15 and 2.4.16 of the Council's Statement of Licensing Policy which relate to the Council's cumulative impact areas (the application was in the West End Cumulative Impact Areas. 2.4.15 set out the differences between the behaviour of customers at premises who are seated and served by waiter or waitress which was more likely to result in the licensing objectives being promoted and those who are vertically drinking. 2.4.16 sets out that 'the introduction of measures to reduce the extent of or remove opportunities for vertical drinking can address the underlying reasons for the special policies for cumulative impact' and Mr Rowe explained that the Applicant was proposing to take the opposite course. Mr Rowe made the point that the Sub-Committee needed to be satisfied that changing the operation outside the premises would not undermine the licensing objectives.

Mr Panto provided the advice to the Sub-Committee that the Applicant was not seeking an increase in capacity (120 persons could already consume alcohol without a meal within the ground floor part of the premises) or to the proposed hours at the premises. The application therefore was not contrary to policy and the Applicant was not required to give reasons as to why the application should be a genuine exception to policy. The application would be considered on its

merits but there was still a requirement to demonstrate that it would not add to cumulative impact.

Mr Brown, representing the Soho Society, said that there was no doubt that Duck & Rice was a different kettle of fish from Endurance. However, allowing significant numbers to engage in vertical drinking risked causing nuisance to residents in close proximity to the premises. Mr Brown confirmed Mr Grant's understanding that there was no opposition to the use of tables and chairs being extended until 22:00. He stated that if the Sub-Committee was minded to relax the requirement for table meals outside, it was the view of the Soho Society that customers should still be seated. The Soho Society recommended that the terminal hour was less than 22:00 and that the maximum numbers at any one time outside were less than 45 people. Mr Brown expressed the view that the fact that there had been no complaints in respect of the premises had to be seen in the light of there being no current use of the tables and chairs licence. The tables and chairs were also not located on Berwick Street unlike the proposed drinking area. The Kemps Court tables and chairs licence was for 15 chairs and 3 tables which was not similar in numbers to those it was proposed would drink outside.

Mr Brown did not believe that the fact that planning permission had been granted by the Council in 2016 for dining outside until 23:00 assisted greatly in relation to what was proposed for the outside area. He also did not accept that Berwick Street was characterised by outside drinking establishments. It was the case that The Blue Post did have outside drinking until later. It was the view of the Soho Society that 45 people vertically drinking until 22:00 would present a risk.

The Sub-Committee asked Mr Brown whether the Soho Society was content for outside drinking to take place until 21:00 or whether they were insisting that alcohol should continue to be ancillary to a table meal. Mr Brown replied that it was preferred that the current position remained. However, if the Sub-Committee was minded to permit vertical drinking, the Soho Society would want the terminal hour to be less than what was currently proposed.

The Sub-Committee also heard from Ms Sprosta, a local resident who had written in support of the application. She confirmed that she lived in the new block of flats behind the premises in Hopkins Street. She described Duck & Rice as the safest place she can be. It was a genuine community pub. She believed that there should be the flexibility for people to have a drink outside and that there would not be any issues if they were permitted to do so.

Mr Grant was given the opportunity to respond to the comments made by the other parties who had made representations. He informed those present that his client was amending the application so that outside drinking would cease at 21:00, there would be no glassware used outside after 18:00 (the vessels would be polycarbonate) and on Thursdays to Saturdays there would be a minimum of two SIA doormen monitoring the outside area from 17:00.

The Sub-Committee noted that Duck & Rice is a licensed premises with a local following and had promoted the licensing objectives to date with there being no

recorded complaints against the premises or recorded crimes in relation to the premises. The Sub-Committee accepted that Duck & Rice is well run in contrast to its predecessor, the Endurance pub. What was being requested now as a result of the proposed amendment or removal of conditions however was a change to the operation so that patrons would be able to drink outside the premises without the need to have any food significantly beyond 18:00 hours. Members were conscious that the Applicant had made a number of concessions and considered that the revised terminal hour of 21:00 for outside drinking was appropriate. Members were keen to get the balance right between the interests of the business in permitting outside drinking and that of local residents who could potentially be affected by any noise caused by patrons who are engaged in vertical drinking as referred to by Mr Brown. The Sub-Committee decided that a capacity of 40 outside was appropriate, given that this is one third of the capacity on the ground floor, including the outside area. The Sub-Committee welcomed that the Applicant had offered two SIA door supervisors to monitor the outside area after 17:00 on Thursdays, Fridays and Saturdays. The door supervisors would be expected to ensure that patrons remained within the barriers and did not block the pavement.

The Sub-Committee noted the concerns of the Police regarding the use of glassware in the outside area and amended the condition proposed by the Applicant so that there would be polycarbonate vessels used outside at all times. The Sub-Committee considered that this would be easier for the Applicant to comply with rather than having to change the nature of the drinking vessels from glassware to polycarbonate at 18:00 hours.

Mr Watson advised that a condition that 'the ground floor concertina door to the rear of the premises shall be kept closed after 21:00 hours' was no longer needed as these doors had not been incorporated into the layout. The Sub-Committee removed this condition from the licence.

The application had included two new additional conditions. One was a works condition which was attached to the licence by the Sub-Committee. The other related to the Outside Area Management Plan. The Sub-Committee made an amendment to the latter condition requiring the Outside Management Register in addition to the Plan to be retained on the premises at all times and made available for immediate inspection by any responsible authority.

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. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed:
- Ground Floor 120 persons (to include up to 40 persons in any external areas used in connection with the licensed premises)
First Floor 100.
10. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted

hours in all parts of the premises where intoxicating liquor is sold or supplied.

11. 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.
12. There shall be no payment made by or on behalf of the licensee to any person for bringing customers to the premises directly off the street.
13. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the venue is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
14. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
15. All waste should be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times save for the waste kept in sealed receptacles off the high way and no glass bottles at all should be placed outside the premises between 22:00 and 08:00
16. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, is swept and or washed and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
17. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
18. 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.
19. As soon as possible and in any event within 1 month from the grant of this licence, the premises shall join the local pubwatch or local crime reduction scheme approved by the police and local radio scheme, if available.
20. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
21. Signs to remind their customers to exit the premises very quietly and respect the residential neighbourhood when leaving the premises shall be put up very visibly inside the premises.

22. The first floor of 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, supplied, or consumed on the premises otherwise than to 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.

23. There shall be no sales of alcohol for consumption off the premises after 21:00 hours.
24. After 21:00 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
25. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed immediately outside the premises, apart from alcohol sold or supplied for consumption by up to 40 persons who are situated in a designated area shown hatched on the plan attached to this licence.
26. All outside tables and chairs shall be rendered unusable by 21.00 each day.
27. All outside areas shall cease to be used after 21:00 hours except by patrons permitted to temporarily leave and then re-enter the premises e.g. to smoke.
28. 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.
29. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.
30. 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.
31. All external doors shall be kept closed after 21.00 hours except for the

immediate access and egress of persons.

32. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
33. 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.
34. 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.
35. On each Thursday, Friday and Saturday, at least two SIA registered door supervisors shall be on duty on the ground floor entrance in use at the premises after 17.00 hours whilst the premises are open to the public.
36. There shall be no glassware used outside the premises at any time.
37. The premises shall operate in accordance with an Outside Area Management Plan. The Outside Area Management Plan shall be reviewed regularly and at least once every quarter a copy of both the most recent version of the Plan and of the Outside Management Register (referred to in the Plan) shall be retained on the premises at all times and made available for immediate inspection by any responsible authority.
38. The variation of this premises licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team (following request from the Premises Licence holder) at which time this condition shall be removed from this licence by the licensing authority.

4 39 CRAVEN ROAD, W2

LICENSING SUB-COMMITTEE No. 4

Thursday 25th May 2017

Membership: Councillor Jean Paul Floru (Chairman), Councillor Jan Prendergast and Councillor Aziz Toki

Legal / Policy Adviser: Barry Panto

Committee Officer: Jonathan Deacon

Presenting Officer: Heidi Lawrance

Relevant Representations: Environmental Health, Metropolitan Police, 1 Amenity Society, local residents x 4

Present: Mr Xavier Laurent (Business Director, Applicant Company), Mr Dave Nevitt (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr John Zamit) and Mr John Zamit, Chairman, South East Bayswater Residents' Association).

39 Craven Road, W2 17/02016/LIPN	
1.	Sale by retail of alcohol (on) – inside the premises
	Monday to Saturday 10:00 to 23:00 Sunday 10:00 to 22:30
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was informed during the hearing that Mr Laurent had amended the commencement hour for on sales on a Sunday to midday, which is in keeping with the Council's Core Hours policy.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee heard from Mr Laurent, Business Director of the Applicant Company. He confirmed the establishment is a delicatessen. He wished to be able to provide on sales including wine, which would be ancillary to food, to customers in a room in the back of the shop and also on the terrace. There would be six tables in the back of the premises and also two tables with eight chairs outside.</p> <p>Mr Nevitt, on behalf of Environmental Health, stated that it is a small A1 style shop at 39 Craven Road with a traditional delicatessen layout. He referred to the Applicant having agreed Environmental Health's proposed conditions, many of which were model conditions and the proposed hours were largely in keeping with the Council's Core Hours policy. A key condition agreed by the Applicant, Mr Nevitt believed, was that 'the supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal'. This would mean that the premises would operate more as a sit down restaurant and not as a drinking establishment. It was also proposed that there would be waiter or waitress service. Mr Nevitt added that he had agreed a terminal hour for the outside area with the Applicant of 20:00 and that there would be a maximum capacity of twenty customers for the entire premises, including the external seating area). He expressed the view that these conditions and the others agreed with the Applicant were acceptable given that the operation would be more akin to a restaurant.</p> <p>The Sub-Committee was addressed by Mr Brown, representing Mr Zamit. He informed Members that many of Mr Zamit's concerns were allayed as a result of the proposed conditions. Mr Brown advised that Mr Laurent was amenable to amending the proposed deliveries condition so that they would only take place</p>

	<p>between 08:00 and 20:00 as he would not be having deliveries later in the evening. Mr Zamit commented that he welcomed the new business. He was of the view that the Applicant appeared to be a responsible shopkeeper who had taken into account the recommendations of Environmental Health. He was content for waste or recyclable materials, including bottles, to be placed outside from 07:00 as he believed this was in keeping with Veolia's collection times.</p> <p>The Sub-Committee granted the application with the amended hours on Sundays. The Sub-Committee considered that the proposed hours and conditions would promote the licensing objectives. The Applicant had agreed Environmental Health's proposed conditions and also a proposed condition of the Police. Members considered that it was significant that the supply of alcohol would only be to seated customers and ancillary to a table meal which was served by waiter or waitress. This would prevent the premises becoming a bar. The Applicant had also been amenable to a condition proposed by South East Bayswater Residents' Association that deliveries would be between 08:00 and 20:00 and was content that the commencement hour for on-sales on Sunday was 12:00 and that the premises would close at 22:30 on Sundays, which is in keeping with the Council's Core Hours policy.</p> <p>The Sub-Committee noted that the outside area would not be used after 20:00 and that the maximum capacity for the entire premises, including that area, was 20. In order to prevent residents being inconvenienced by noise nuisance, Members attached a condition to the premises licence that 'all windows and external doors shall be kept closed after 20:00 hours, except for the immediate access and egress of persons'.</p>
2.	Sale by retail of alcohol (on) – on the external terrace
	<p>Monday to Thursday 10:00 to 20:00 Friday to Saturday 10:00 to 21:00 Sunday 10:00 to 20:00</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was informed during the hearing that Mr Laurent had amended the commencement hour on Sunday to midday, which is in keeping with the Council's Core Hours policy.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>It was noted that this aspect of the application solely related to consumption of alcohol on the external terrace rather than the sale of alcohol on that terrace. This would not be shown as a separate licensable activity on the licence but would be regulated by means of a condition on the licence and the applicant had agreed with a condition proposed by Environmental Health to the effect that the consumption of alcohol in the outside area at the front of the premises shall cease at 2000 hrs (see condition 23 below).</p>

3.	Hours premises are open to the public
	Monday to Saturday 06:00 to 23:30 Sunday 06:00 to 23:00
	Amendments to application advised at hearing: The Sub-Committee was informed during the hearing that Mr Laurent had amended the closing time for members of the public to 22:30 hours, which is in keeping with the Council's Core Hours policy.
	Decision (including reasons if different from those set out in report): The Sub-Committee granted the application with the amended hours on Sundays, 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. 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. Loudspeakers shall not be located in the entrance lobby or outside the premises building.

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. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 hours on the following day.
15. The number of patrons seated at the premises (including the external seats) at any one time (including staff) shall not exceed 20 persons.
16. The supply of alcohol at the premises (including the external terrace area) shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
17. The supply of alcohol shall be by waiter or waitress service only.
18. 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.
19. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
20. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
21. No deliveries to the premises shall take place between 20.00 and 08.00 on the following day.
22. 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.
23. The consumption of alcohol in the outside area at the front of the premises shall cease at 20.00hrs.
24. All windows and external doors shall be kept closed after 20:00 hours, except for the immediate access and egress of persons.

5 21 CHARING CROSS ROAD, WC2

LICENSING SUB-COMMITTEE No. 4

Thursday 25th May 2017

Membership: Councillor Jean Paul Floru (Chairman), Councillor Jan Prendergast and Councillor Aziz Toki

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

Relevant Representations: Environmental Health, Metropolitan Police, Licensing Authority, 1 Amenity Society, local residents x 2

Present: Mr Yinka Richer (Director, Candide Design), Mr Ian Watson (Environmental Health), PC Toby Janes (Metropolitan Police), Mr Steve Rowe (Licensing Authority), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr Didier Tickell) and Mr Didier Tickell (local resident).

21 Charing Cross Road, WC2 17/03024/LIPN	
1.	Late Night Refreshment (Indoors & Outdoors)
	Friday to Sunday 23:00 to 04:00
	Amendments to application advised at hearing: The Sub-Committee was informed at the hearing that the Applicant did not seek to provide late night refreshment to customers inside the premises after 23:00 but were seeking to open a hatch window where kebab and grill food would be sold as a takeaway to customers.
	Decision (including reasons if different from those set out in report): The Sub-Committee initially heard from Mr Richer. He stated that the Applicant was seeking to provide late night refreshment from 23:00 to 04:00 every night of the week. Mr Panto, Legal Adviser, made the point that the Applicant had only applied for late night refreshment Friday to Sunday from 23:00 to 04:00 and that he was therefore advising the Sub-Committee that these were the only days that Members should take into account when considering the application. The Sub-Committee asked Mr Richer whether he was aware that it is the Council's policy to refuse applications for premises supplying fast food in the Cumulative Impact Areas, other than applications to vary hours within the Core

Hours. Applicants were required to give reasons as to why the application should be a genuine exception to policy. Mr Richer responded that a previous licence had lapsed at the premises (in September 2016) and it would be a continuation of the use of the premises. There would be no alcohol served at the shop. Mr Richer informed the Sub-Committee that that the Applicant did not seek to provide late night refreshment to customers inside the premises after 23:00 but were seeking to open a hatch window where kebab and grill food would be sold as a takeaway to customers. It was intended to have a SIA licensed door supervisor on duty at the premises from 23:00 to 04:00 Friday to Sunday.

The Sub-Committee heard from PC Janes, on behalf of Metropolitan Police. He stated that the Police had maintained their objection as 21 Charing Cross Road is in the heart of the West End Cumulative Impact Area '(CIA)'. It is also a particularly busy street. PC Janes referred to the proposed hours being significantly beyond the Council's Core Hours policy. The Police were concerned that after 23:00 customers would remain in the CIA to consume their food and not disperse. The Police had found that fast food premises which were open after 23:00 attracted groups of customers, many of whom would have been consuming alcohol previously. There was the potential for them to be involved in anti-social behaviour or be victims of crime. PC Janes advised that he had examined the crimes database. It was very hard to pinpoint whether any crimes had taken place in relation to the previous incarnation of the premises because the crimes often tended to take place in the street. He added that the premises had not been trading recently so any customers there would be adding to cumulative impact in the CIA.

Mr Watson for Environmental Health commented that historically there had been a licence for late night refreshment at the premises. Fornetto, the most recent business to trade at 21 Charing Cross Road and whose licence had lapsed in September 2016, was able to provide late night refreshment until 03:00 every night of the week. The premises had never traded until 04:00. He also made the point that Fornetto had been able to sell alcohol ancillary to substantial table meals until Core Hours. The Applicant was not seeking to provide alcohol in the current application.

Mr Watson informed the Sub-Committee that the premises did not have a history of noise complaints or smells from odours / the extract system. He also referred to the policy presumption to refuse the application. There had, he advised, been no prior communication from the Applicant prior to the hearing that it was intended to sell takeaway from a serving hatch. The Applicant had not responded to Environmental Health's proposed conditions. Mr Watson, having now become aware of the style of operation after 23:00 Friday to Sunday, had particular concerns about the potential for queues and litter. In response to his concerns those representing the Applicant at the hearing were offering to agree a condition that they would clean the highway up to 75 metres each side of the premises. Mr Watson had proposed conditions to prevent public nuisance.

Mr Watson was asked whether Environmental Health's position was that the application should be refused in line with the policy presumption but if Members were minded to grant the application then conditions had been proposed or was

it Environmental Health's position that there were limited concerns if the proposed conditions were agreed. Mr Watson replied that the application was a new application in the CIA and there was a policy presumption to refuse the application, albeit there was some history with the site having a licence for late night refreshment. If the Sub-Committee was minded to grant the application, even in part, then Mr Watson was requesting that his proposed conditions were considered.

Mr Rowe, on behalf of the Licensing Authority, referred to the Council's policy for fast food premises in the CIA which is to refuse, other than applications to vary hours within Core Hours. Mr Rowe confirmed as set out in the report that officers had been in contact with the Applicant and he had not addressed how the premises would not add to cumulative impact in the CIA. It was the Licensing Authority's belief that exceptional circumstances had not been provided by the Applicant or those in attendance at the hearing on his behalf as to why the application should be granted.

Mr Brown, representing Mr Tickell, addressed the Sub-Committee. He brought to Members' attention that twelve flats from Faraday House, where Mr Tickell lives, overlook the premises and six flats from Garrick Mansion overlook the premises. Mr Brown had discussed the application with Mr Maccoby-Moliver, a local resident and Mr Kaner of the Covent Garden Community Association and he stated that they shared Mr Tickell's specific concerns. Mr Brown referred to there being a review of the premises licence when the premises had operated as All-American Fried Chicken with a 03:00 terminal hour and this had been supported by residents. The concerns then such as anti-social behaviour, noise and litter, he recalled, were in keeping with those set out in the policy that can occur when there is an existing 03:00 takeaway licence. Mr Brown stated that, as referred to in the Council's policy, if the current application was granted the premises would be attractive to customers who had previously consumed alcohol and may have become intoxicated. He agreed with the view of the Police that after 23:00 customers would remain in the CIA to consume their food and not disperse, even if the night bus stops were relocated to their original position opposite Garrick Mansions and Faraday House. It was the concern of residents that any passengers were likely to make noise whilst waiting for the buses.

Mr Brown expressed concerns in respect of the hatch window. It was the view of residents that customers eating inside would be of concern until 04:00 but overall would be less of a concern than a takeaway facility. He queried whether the hatch window was covered by CCTV. Customers would be congregating outside, caused by the 'honeypot' effect of takeaways referred to in the Council's Statement Of Licensing Policy. Mr Brown requested that if the Sub-Committee was minded to grant the application then the proposed hours for takeaway should be restricted, whether this was from the hatch or inside the premises.

Mr Tickell provided some additional information including that Charing Cross Road was a major thoroughfare, particularly for those who had previously been in drinking establishments. The hatch window did not provide a solution to the issues that the provision of takeaway would raise.

Mr Richer was given the opportunity to respond to the comments of the parties opposing the application. He stated that there would be a SIA licensed door supervisor on duty to assist dispersal. There was the possibility of employing more door supervisors if there was a need for it. The issue of litter would be addressed as a result of staff cleaning the outside area. Customers would be advised, including via notices, to leave the area quietly.

The Sub-Committee refused the application on the grounds that it was contrary to policy. The Sub-Committee did not consider that the Applicant or those representing him at the hearing had given any exceptional reasons which would have justified granting the application.

The Sub-Committee noted that paragraph 2.4.8 of the Council's Statement of Licensing Policy does refer to applications for new licences to replace licences which have lapsed because of the insolvency of a licence holder being considered by the licensing authority as a possible exception. However, having carefully examined this matter, the Sub-Committee noted that this was a new operator which had no connection with the previous operator and some six months had passed since the previous licence had lapsed. Moreover, the applicant would not himself have qualified to give the interim authority notice that is referred to in paragraph 2.4.8. It was also a style of operation being proposed which was not conducive to promoting the licensing objectives. This involved selling takeaway from a hatch window until 04:00 hours three nights a week. As set out by the objectors, the policy presumption against takeaways in the CIA had been introduced due to the fact that 'fast food premises which are open after 23.00 can attract large groups of customers, many of whom have been consuming alcohol in pubs, bars, or night clubs sometimes some distance away. The congregation of people around these premises leads to additional noise and disturbance and further congestion in the area'. The Statement of Licensing Policy also states that 'the Metropolitan Police have raised concerns about the levels of crime and disorder that happen outside fast food premises late at night due to alcohol fuelled behaviour, and the opportunities for crime afforded by the congregation of people'. These concerns had been re-iterated by PC Janes at the hearing. The case had been made on behalf of the Police and residents that customers were likely to remain in the CIA and not disperse. Members of the Sub-Committee did not consider that the measures that the Applicant or his representatives at the hearing had offered would mitigate these concerns and would justify overturning the policy presumption to refuse the application.

2. Hours premises are open to the public

Monday to Thursday 11:00 to 23:00
Friday to Sunday 11:00 to 04:00

Amendments to application advised at hearing:

The Sub-Committee was informed at the hearing that the Applicant did not seek to provide late night refreshment to customers inside the premises after 23:00 but were seeking to open a hatch window where kebab and grill food would be sold as a takeaway to customers.

	Decision (including reasons if different from those set out in report): The Sub-Committee refused the application.
3.	Seasonal variations / Non-standard timings
	<u>Late Night Refreshment: Indoors & Outdoors</u> and <u>Hours premises are open to the public</u> Christmas Eve and New Year's Eve: 23:00 hours until 04:00 hours.
	Amendments to application advised at hearing: The Sub-Committee was informed at the hearing that the Applicant did not seek to provide late night refreshment to customers inside the premises after 23:00 but were seeking to open a hatch window where kebab and grill food would be sold as a takeaway to customers.
	Decision (including reasons if different from those set out in report): The Sub-Committee refused the application.

6 29 SHEPHERD MARKET, W1

LICENSING SUB-COMMITTEE No. 4

Thursday 25th May 2017

Membership: Councillor Jean Paul Floru (Chairman), Councillor Jan Prendergast and Councillor Aziz Toki

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

Relevant Representations: Environmental Health, 1 Residents' Association and 1 local resident.

Present: Mr Alun Thomas (Solicitor, representing Orbiton Estates).

29 Shepherd Market, W1 17/02442/LIPN

The application was adjourned at the request of the Applicant as he was unwell and not in attendance at the meeting.

Mr Thomas, representing Orbiton Estates, made the point during consideration of the adjournment by the Sub-Committee that the Applicant had included in the text within Box M of the application form that only core hours were being applied for. These contrasted with the later hours that were set out in the other boxes on the application form [setting out the proposed hours for Late Night Refreshment (box I) and the supply of alcohol (box J)]. Mr Panto, Legal Adviser, agreed with those comments and stated that it was also the case that the Applicant had referred in Box M to there being no off-sales (no takeaway of alcohol) and yet Box J had referred to the requirement for on and off sales. Mr Panto added that he was advising that the contents of Box M of the application form would be relevant to the decision making for Members of a future Licensing Sub-Committee when the application came before them.