



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** Committee held on **Monday 9th October, 2017**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Jean Paul Floru (Chairman), Melvyn Caplan and Karen Scarborough

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

Councillor Melvyn Caplan stated in respect of Sophie's Steakhouse, 42-44 Great Windmill Street, W1 that he had sat on the previous application. He felt that in the interests of openness and transparency he should bring this to the attention of the Applicant and all other parties. He stated that despite this he was still able to consider the application with an open mind and free from any bias.

Councillor Karen Scarborough declared an interest in respect of Lazeez Lebanese Tapas, 29 Duke Street, W1 as local Ward Member and therefore left the room and did not take part in the determination of the matter.

3 LES DOUCEURS DE LA TENTATION, GROUND FLOOR, 8 FERNHEAD ROAD, W9

LICENSING SUB-COMMITTEE No. 4

Monday 9th October 2017

Membership: Councillor Jean Paul Floru (Chairman), Councillor Melvyn Caplan and Councillor Karen Scarborough

Legal Adviser: Horatio Chance
Committee Officer: Sarah Craddock
Presenting Officer: Heidi Lawrance

Relevant Representations: Environmental Health and seven Local Residents.

Present: Ms Dimitra Agapidis (Applicant), Councillor Guthrie McKie (supporting the Applicant), Mr Maxwell Koduah (Environmental Health) and Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing two local residents).

<p>Les Douceurs De La Tentation, Ground Floor, 8 Fernhead Road, W9 3ET 17/0855/LIPN (“The Premises”)</p>	
<p>1.</p>	<p>Late Night Refreshment:</p> <p>Monday to Thursday: 23:00 to 00:00 Friday and Saturday: 23:00 to 01:00</p> <p>Seasonal variations/Non-Standard timings: From end of permitted hours on New Years Eve until start of opening hours on New Years Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>The applicant amended the Late Night Refreshment to within the Core Hours Policy.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application for Les Douceurs De La Tentation (“The Applicant”) for a new Premises licence in respect of 8 Fernhead Road, London W9 3ET.</p> <p>The Licensing Officer provided an outline of the application to the Sub-Committee. She confirmed that the Police had withdrawn their representation following agreement of conditions with the applicant and that the Premises was not located in the Council’s designated cumulative impact areas.</p> <p>All parties were invited to make representations to the Sub-Committee in relation to the application. The parties responded to members’ questions and were given an opportunity to ask questions of each other.</p> <p>Ms Agapidis advised that she had been trading for seven years as a Bistro/Restaurant without the benefit of a Premises licence and that during this time there had been no public health issues at the Premises. She confirmed that she would amend her application to be within the Core Hours Policy and that conditions had been agreed with both the Police and Environmental Health. She showed the Sub-Committee photographs of the food that she cooked in her restaurant and explained that she now wanted to give her customers the full restaurant experience by allowing them to have a glass of wine with their meal. The Applicant stated that currently she charges her customers corkage at £2.50 per person. Ms Agapidis confirmed that it was a small restaurant with only 16 covers, that all customers needed to make a reservation and that in the past she had used the temporary event notice regime to promote the business. The Applicant advised the Sub-Committee that her Premises was an Oasis for local people wanting to eat good quality authentic food in pleasant surroundings.</p>

	<p>Councillor Mckie advised that he was speaking in support of Ms Agapidis' application. He explained that the area lacked a good dining restaurant that sold nice wine and that granting this licence would continue the enhancement and transformation of the area for the local community, which in his opinion was needed as part of the continued regeneration for the local area.</p> <p>Mr Maxwell Koduah representing Environmental Health (EH) highlighted that there had been noise complaints about other premises in the area. There had also been two complaints about these premises regarding cooking smells, however, after further investigation EH had decided that no further action was needed. Mr Koduah confirmed that all their proposed conditions had been agreed with the Applicant.</p> <p>Mr Brown, from the Westminster Citizens Advice Bureau, advised that he was representing two out of the seven local residents that had made a representation against the licence. Mr Brown advised the Sub-Committee that there was no objection to the licence being granted but to the late opening hour and drinking and smoking outside of the Premises which could cause public nuisance. Mr Brown confirmed that residents were content with the Premises operating within the Core Hours Policy.</p> <p>The Sub-Committee, after hearing all the evidence, were satisfied that there was no evidence to demonstrate that the Applicant would not promote the licensing objectives. It was noted by the Sub-Committee that the Applicant was passionate about her business and this came through in her submissions. The Sub-Committee was therefore persuaded that the Applicant was a responsible operator that would run her Premises in an effective and efficient manner that would help promote the licensing objectives. The Premise was also not located in one of the Council's designated cumulative impact areas. The Sub-Committee decided to grant Core Hours. The Sub-Committee, however, did recognise the resident's concerns regarding excessive noise, smoking and drinking outside of the Premises and therefore requested additional conditions to be added to the licence to avoid public nuisance and promote the licensing objectives.</p> <p>The Sub-Committee considered the conditions imposed on the Premises Licence were appropriate and proportionate to promote the licensing objectives</p>
<p>2.</p>	<p>Sale by Retail of Alcohol – On and Off</p> <p>Monday to Thursday: 11:00 to 00:00 Friday to Saturday: 11:00 to 01:00 Sunday: 11:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>The applicant has amended the original hours applied for above for the supply of alcohol for consumption on and off the premises within the Core Hours Policy.</p>

	Decision (including reasons if different from those set out in report): The application was granted, the reason for the decision is detailed in section 1.
3.	Hours Premises are Open to the Public Monday to Thursday: 09:00 to 00:00:00 Friday to Saturday: 09:00 to 01:00 Sunday: 11:00 to 22:30
	Amendments to application advised at hearing: The applicant amended the opening hours to within the Core Hours Policy.
	Decision (including reasons if different from those set out in report): The application was granted, the reason for the decision is detailed 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.

Conditions consistent with the operating schedule

None

- 9. There shall be no sales of alcohol for consumption off the premises after 23:00 hours.
- 10. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises
- 11. There shall be no deliveries outside the hours of 23:00 and 08:00 hours save for deliveries of fresh produce limited to bread, vegetables, meat and fish
- 12. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- 13. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 08:00 hours on the following day
- 14. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 and 08:00 hours on the following day
- 15. 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

16. 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
20. 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
21. Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
22. There shall be no self-service of alcohol.
23. 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.
24. 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.
25. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
26. 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.
27. 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.

28. No more than **(15)**% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
29. 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.
30. 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.
31. 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.
32. 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.
33. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
34. All relevant staff will receive refresher training on relevant alcohol laws and the licence holder's policy on challenging for ID. Such training to take place at least twice a year. Records will be maintained at the premises containing information about the training of any person who is authorised to make a sale of alcohol, including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on reasonable request to a police officer or a relevant officer of a responsible authority.
35. The maximum number of persons permitted on the premises at any one time (excluding staff) shall not exceed 16.
36. On the Sunday and Monday of the Notting Hill Carnival there shall be no sale of alcohol.

- 37. 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.
- 38. All outside tables and chairs shall be rendered unusable by **(22:30)** each day.
- 39. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- 40. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 6 persons at any one time.

4 NAGOMI, 4 BLENHEIM STREET, W1

LICENSING SUB-COMMITTEE No. 4

Monday 9th October 2017

Membership: Councillor Jean Paul Floru (Chairman), Councillor Melvyn Caplan and Councillor Karen Scarborough

Legal Adviser: Horatio Chance
 Policy Adviser: Chris Wroe
 Committee Officer: Sarah Craddock
 Presenting Officer: Heidi Lawrance

Relevant Representations: Environmental Health, The Metropolitan Police and One Local Resident.

Present: Rising Sun UK Limited (Applicants), Thomas and Thomas Partners LLP (Agent), Mrs Sally Fabbriatore (Environmental Health) and PC Bryan Lewis (Metropolitan Police)

Nagomi, 4 Blenheim Street, London W1S 1LD 17/08686/LIPV ("The Premises")	
1.	Late Night Refreshments: Monday to Wednesday: 23:00 to 00:30 Thursday to Saturday: 23:00 to 00:30
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee considered an application by Rising Sun UK ("The Applicant") Limited for a variation of a Premises licence in respect of 4 Blenheim

Street, London, W1S 1LD.

The Licensing Officer provided an outline of the application to the Sub-Committee. She confirmed that representations had been made from the Police, Environmental Health and one local resident, although no further correspondence had been received from the local resident. The Premises was not located in the Council's designated cumulative impact areas.

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

The Applicant's Representative advised they wished to change the layout of the Premises, extend the hour for the sale of retail of alcohol and add off sales on Monday to Saturday from 12:00 until 00:00 and on Sunday until 23:00, add Late Night Refreshment Monday to Saturday 23:00 to 00:30 and extend the opening hours. She further advised that following the take over and refurbishment of the Premises the owners wished to extend the licensing hours to allow them to be on a level playing field with other Premises in the area that had longer opening and licensable hours.

The Applicant's Representative stated that this was a small restaurant with 28 covers on the upper floor and 6 covers in the basement area of the Premises. The Premises were not located in the Council's designated cumulative impact areas and because of this the Sub-Committee considered that the extension of hours would not have an adverse impact on public nuisance, especially as the restaurant condition was attached to the licence in any event. It was stated that all conditions had been agreed with the Police and Environmental Health and that only alcohol purchased on the Premises with a table meal would be allowed to be taken off the Premises.

PC Bryan Lewis, representing the Metropolitan Police, confirmed that their representation was maintained as the application was outside of the Core Hours Policy. He further confirmed that there were no crime and disorder issues at these Premises. PC Bryan did request that the old CCTV condition be replaced by the new updated CCTV condition on the Premises licence.

Mrs Sally Fabbriatore, representing Environmental Health, (EH) confirmed that EH did not have any nuisance issues with this Premises or indeed with the extension of the licence to midnight. EH did advise the Sub-Committee that they would like Model Conditions MC16 and MC17, as well as the capacity condition to be added to the licence.

The Sub-Committee noted that conditions had been agreed with the Police and Environmental Health, that the Premises was situated outside of the Council's designated cumulative impact areas and that there was no crime and disorder issues at the Premises. The Sub-Committee decided to grant the application with amended hours on Sunday from 12:00 to 22:30 and additional conditions one of which was *'that there shall be no consumption of alcohol after midnight Monday to Saturday and after 10.30pm on Sunday'*.

2.	<p>Sale by Retail of Alcohol – On and Off</p> <p>Current: Monday to Saturday: 12:00 to 15:00 and 18:00 to 22:45 Sunday: 12:00 to 15:00 and 18:00 to 22:15</p> <p>Proposed Hours: Monday to Saturday: 12:00 to 00:00 Sunday 12:00 to 23:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, the reason for the decision is detailed in section 1.</p>
3.	<p>Hours Premises are Open to the Public</p> <p>Current: Monday to Saturday: 12:00 to 15:00 and 18:00 to 22:45 Sunday: 12:00 to 15:00 and 18:00 to 22:15</p> <p>Proposed Hours: Monday to Sunday: 12:00 to 00:30 Sunday: 12:00 to 23:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, the reason for the decision is detailed in section 1.</p>

Conditions attached to the Licence	
Mandatory:	
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.

Annex 2 – Conditions consistent with the operating Schedule

9. The sale of alcohol 'On' the premises shall only be to persons taking a table meal there and consumption by such person as ancillary to their meal.
10. That there shall be no consumption of alcohol after midnight Monday to Saturday and after 10.30pm on Sunday.
11. The supply of alcohol shall be by waiter/waitress only.
12. Non-intoxicating beverages, including drinking water, shall be available throughout the permitted hours in all parts of the premises where alcohol is sold or supplied for consumption on the premises.

13. 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 outside table area shall also be covered by external CCTV. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
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. 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
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) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system, searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
16. All refuse will be paid, properly presented and placed on the street 30 minutes before any agreed collection time.
17. Customers are permitted to take from the premises part consumed and resealed bottles of alcohol supplied ancillary to their meal.
18. The maximum number of persons permitted on the premises at any one time (excluding staff) shall not exceed 28 covers on the upper floor and 6 covers in the basement area.

5 SOPHIE'S STEAKHOUSE, 42-44 GREAT WINDMILL STREET, W1

LICENSING SUB-COMMITTEE No. 4

Monday 9th October 2017

Membership: Councillor Jean Paul Floru (Chairman), Councillor Melvyn Caplan and Councillor Karen Scarborough

Legal Adviser: Horatio Chance
Committee Officer: Sarah Craddock
Presenting Officer: Heidi Lawrance

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

Present: Sophie's Soho Ltd (Applicants), Mr Alun Thomas (Thomas & Thomas – Solicitor), Mr David Sycamore (Licensing Authority), PC Bryan Lewis (Metropolitan Police) and Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing The Soho Society.

Councillor Caplan stated that he had sat on the previous application. He felt that in the interests of openness and transparency he should bring this to the attention of the Applicant and all other parties. He stated that despite this he was still able to consider the application with an open mind and free from any bias.

Sophie's Steakhouse, 42-44 Great Windmill Street, London, W1D 7LU 17/09500/LIPV ("The Premises")	
1.	To remove the following condition from the recently granted new premises licence ref: 17/06235/LIPN 'All bags of persons entering the premises shall be searched by security after 23:00 hours daily'. There are no other changes to the licence sought.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee considered an application by Sophie's Steakhouse ("The Applicant") for a variation of a Premises licence in respect of 42-44 Great Windmill Street, London W1D 7LU. The Licensing Officer provided an outline of the application to the Sub-Committee and confirmed that representations had been made from the Police, Environmental Health and the Soho Society. She also confirmed that the Premises was located in the Council's West End cumulative impact area and that additional information received from the Police had been circulated to all parties. Mr Thomas advised that he had sent in additional information in the form of a report compiled by Mr Adrian Studd (Independent Licensing Consultant) regarding the variation application to include his views on the threat of terrorism in the UK highlighted at paragraphs 12-13 of his report and the response to that threat from paragraph 14 onwards. The Sub-Committee confirmed that they had

not received this document so in the interests of fairness and transparency agreed to adjourn the hearing temporarily to read it's contents and for all other parties to be given the opportunity to express their comments accordingly.

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

Mr Thomas, the applicant's representative, advised that the new licence had only been recently granted for the Premises in August with the following condition '*All bags of persons entering the premises shall be searched by security after 23:00 hours daily*' which the owners considered was unusual to have attached to a restaurant licence. The Applicant confirmed that there was seating throughout the basement but there was also space for people to dance and that the ground floor area had a bias to being more food led.

Mr Thomas, along with the owners, referred to the layout of the Premises which had a capacity of 800 (400 in the basement and 400 on the ground floor) with 120 being for the restaurant part of the venue on the ground floor. He confirmed that there would be a cross section of people visiting the Premises and that there would be considerable staff working on the Premises (12-15 waiting staff, 3 door staff, 3 managers and 5 bar staff) and that they were very familiar with managing such large venues.

Mr Thomas advised the Sub-Committee that in his view it was unusual for a restaurant to have such a condition imposed on its licence. It was submitted that compulsory bag searches would give the wrong impression/perception to its customers and that the condition would have a financial impact on the Applicant's business. He advised that the Premises would have to have one or two staff dedicated to checking bags and that this would be difficult and awkward to operate especially on the ground floor. The staff would also have to be SIA registered to perform that specific task. He further added that it was not considered that there was a high risk of terrorism in restaurant/food led establishments.

Mr Thomas considered that the Sub-Committee had three options before them, namely:

- a) to delete the condition in full,
- b) have random searches on both floors or
- c) keep the existing condition for the Basement only.

He advised that such a condition was more likely to be placed on a licence for a night club or a specific event such as in Hyde Park, rather than on a restaurant licence.

The Police, Licensing Authority and the Soho Society had maintained their representations on policy grounds and strongly believed that the condition should remain on the licence as no rationale had been given as to why a Premises that had not yet opened should be permitted to remove a condition

from its licence having regard to the promotion of the licensing objectives. The Police highlighted that this Premises had an overall capacity of 800 and that there continued to be a high level threat from terrorism which was highlighted when the licence was granted two months previously – it was submitted that the position had not changed in this respect. The Police submitted that the threat against terrorism in the Capital was regarded as “Severe” and that in addition to tackling the ongoing terrorism threat, the Police were still having to deal with general crime and disorder associated with gangs, acid attacks, and drug activity. It was stated that the risk to licensed Premises was very high and should not be dismissed.

The Police in submission cast doubt over some of the report’s findings. The Police stated that since Mr Studd left the service five years ago, policing practices and procedures had moved on since that time and it was accurate to state that since the happening of the terrorist attack in Borough Market on the 3 June 2017 the risk to licence premises is higher than ever and, as a consequence, the Police felt that proper safeguards should be put in place by licensed premises holders to minimise any potential risk of attack that would undermine the promotion of the licensing objectives.

It was stated by the Police that licensed Premises should now revise their security arrangement in light, of the severe threat and that the Police encouraged licensed premises to revisit their health and safety training manuals for all staff (to cover terrorist awareness training) and for proper risk assessments of licensed premises to be carried out as a matter of routine. This was important and essential for large scale venues where the customer base is high.

The Sub-Committee were also advised that bag searches were now common place in some licensed establishments and that it was now not, unusual for this type of Premises to be subject to this requirement. The Police maintained the view that the bag search condition imposed on the Licence after 23:00 hours that this would provide the necessary reassurance to members of the public visiting the Premises and was appropriate and proportionate.

The Sub-Committee were also advised by the Police that there were pros and cons for undertaking random searches. It was stated that random searches are not always effective for a variety of reasons, these include, the numbers carried out are not always defined, staff have to be motivated to be able to enforce this robustly and effectively, and that allegations can be made by customers that certain individuals are being targeted which could lead to complaints, Both the Licensing Authority and the Soho Society strongly concurred with the Police evidence.

Mr Thomas raised an issue with regard, to the Council’s public sector equality duty contained under section 149 of the Equality Act 2010 (“the 2010 Act”) and

human rights. The Legal Advisor sought clarification from Mr Thomas as to which one of the nine protective characteristics under the 2010 Act he was seeking to rely upon for the purposes of this application but the response given was not entirely clear. It was stated by the Legal Advisor that the Sub-Committee when considering all licensing applications must have regard to its public sector equality duty and human rights (Articles 1, 6 and 8 of the Human Rights Act 1998 (incorporating the European Convention of Human Rights) in accordance with the City Council's Statement of Licensing Policy.

The Sub-Committee, having heard all the evidence, decided to refuse the application on the grounds of the strong Police evidence, that the condition had not yet been tested as the Premise had not yet opened and because of the very large capacity of 800 of which only 120 was for the restaurant part of the venue. The Sub-Committee during its determination of the matter considered the potential financial implications for the Applicant's business, but on balance felt that this was not a fully persuasive argument to allow approval of the application alone as the Sub-Committee had to consider first, and foremost, what impact the removal of the condition would have on the licensing objectives, with, particular emphasis, on both the prevention of public safety and crime and disorder licensing objectives. In all the circumstances and for the reasons given above it was considered appropriate and proportionate to refuse the application.

6 LAZEEZ LEBANESE TAPAS, 29 DUKE STREET, W1

LICENSING SUB-COMMITTEE No. 4

Monday 9th October 2017

Membership: Councillor Jean Paul Floru (Chairman), Councillor Melvyn Caplan and Councillor Karen Scarborough

Legal Adviser: Horatio Chance
Committee Officer: Sarah Craddock
Presenting Officer: Heidi Lawrance

Relevant Representations: Environmental Health

Present: Caffè V Restaurant Limited (Applicants), Mr McCann (Solicitors) and Mrs Sally Fabbriatore (Environmental Health).

Councillor Karen Scarborough declared an interest as local Ward Member and therefore left the room and did not take part in the determination of the matter.

**Lazeez Lebanese Tapas, 29 Duke Street, London W1U 1LF
17/08985/LIPV ("The Premises")**

1.	<p>The application seeks:</p> <ol style="list-style-type: none"> 1. To extend the hours on Friday and Saturday for the Sale of alcohol until 01:00 and the opening hours until 01:30. 2. To add Late Night Refreshment as a licensable activity on Fridays and Saturdays from 23:00 to 01:00. 3. To change the name of the premises from “Café V” to “Lazeez Lebanese Tapas”.
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Caffe V Restaurant Limited (“The Applicant”) for a variation of a Premises licence in respect of 29 Duke Street, London, W1U 1LF.</p> <p>The Licensing Officer provided an outline of the application to the Sub-Committee and confirmed that representations had been made from the Police, Environmental Health and one local resident. The Police had withdrawn their representation following agreement of conditions with the applicant and there had been no further correspondence received from the local resident. The Premises were not located in the Council’s designated cumulative impact areas.</p> <p>The Applicant’s Representative advised that there was demand for extended hours especially during the weekends. Conditions had been agreed with both the Police and Environmental Health and a letter had been sent to the resident reassuring him that the conditions on the licence would ensure that the licensing objectives would be met. He further advised that the Premises were not located in a very residential area and that the Premises had a full restaurant condition already on its licence which meant that no alcohol could be sold without a table meal.</p> <p>Mrs Sally Fabbricatore, representing Environmental Health, (EH) confirmed that EH did not have any nuisance issues with this Premises or an issue with the extension of the licence. She further considered that the conditions on the licence would address public nuisance.</p> <p>The Sub-Committee considered that there was there was no evidence to demonstrate that the Applicant would not promote the licensing objectives. The Premises were also not in the Council’s designated cumulative impact areas. The Sub-Committee decided therefore to grant all aspects applied for.</p> <p>The Sub-Committee considered the conditions imposed on the Licence to be appropriate and proportionate to promote the licensing objectives.</p>

Conditions attached to the Licence

Mandatory:

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. Alcohol to be consumed as ancillary to a table meal.
10. The supply of alcohol shall only be to persons who are seated at tables and served by a waiter or waitress.
11. 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.
12. There shall be no sale of draught beer.
13. The number of persons accommodated at any one time (excluding staff) shall not exceed the limit set out in the current fire risk assessment.
14. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
15. No refuse, including bottles, shall be moved, removed or transferred to or in outside areas between 2300 hours and 0800 hours.
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, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
17. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
19. The maximum number of persons accommodated at any one time, shall not exceed 70 persons including staff, inclusive of a maximum of 40 persons in the basement.
20. The premises shall only operate as a restaurant
 - (i) in which customers are shown to their table,
 - (ii) 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,
 - (iii) which do not provide any take away service of food or drink for immediate consumption, and

(iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals.

21. All tables and chairs shall be removed from the outside area by 23.00 hours each day.
22. All windows and external doors shall be kept closed after 23:00 hours, except for the immediate access and egress of persons.
23. There shall be no sales of hot food or hot drink for consumption off the premises after 23:00.
24. No drinks shall be taken outside after 23:00 hours.
25. No deliveries to the premises shall take place between 23:00 and 07:00 on the following day.
26. 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.
27. 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.
28. 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.
29. 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.
30. 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.