



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 5th July, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Angela Harvey (Chairman), Susie Burbridge and Aicha Less

1 MEMBERSHIP

THERE WERE NO CHANGES.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

1 2 OLD COMPTON STREET, LONDON, W1D 4TA

LICENSING SUB-COMMITTEE No.1

Thursday 5th July 2018

Membership: Councillor Angela Harvey (Chairman), Councillor Susie Burbridge and Councillor Aicha Less

Legal Adviser: Horatio Chance
Policy Adviser: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Samantha Eaton

Relevant Representations: Metropolitan Police Service, Environmental Health), Licensing Authority, Soho Society, Covent Garden Community Association (CGCA) and nine local residents.

Present: Philip Kolvin (QC for the Applicant), Richard Taylor (Gosschalks instructing Solicitor for the Applicant), PC Bryan Lewis (Metropolitan Police Service), Anil Drayan (Environmental Health), David Sycamore (Licensing Authority), Jane Doyle and Mr David Gleeson (Soho Society), Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project), David

Kaner (Covent Garden Community Association) and Joseph Farrell (local resident)

Compton Cross, 2 Old Compton Street, W1D 4TA 18/03718/LIPN (“The Premises”)	
1.	Late Night Refreshment: Monday to Thursday: 23:00 to 23:30 Friday to Saturday: 23:00 to 00:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee considered an application by Marmalade Pubs Limited (“the Applicant”) for a New Premises licence in respect of 2 Old Compton Street, London W1 D 4TA. The Presenting Officer introduced the application to the Sub-Committee and advised that this was an application for a new Premises licence to permit licensable activities (sale of alcohol, performance of live music, playing of recorded music, anything of a similar description to live and recorded music and late night refreshment) until 1.00pm on a Friday and Saturday night when LGBT cabaret was to be provided. The hours would be in accordance with core hours on Sundays to Thursday inclusive and Friday and Saturdays when there was no cabaret. The Presenting Officer then advised of a late submission from Environmental Health. The Sub-Committee and all parties confirmed that they had received the late submission. 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 Kolvin asked if the Sub-Committee had received the late submissions by the Applicant. The Sub-Committee confirmed that they had not received the Noise Report from the Sound Consultant (compiled by Shaun Murkett Acoustic Consultants Ltd) and decided to use its discretion by adjourning the hearing temporarily to read the contents of the report before continuing with the hearing. The Chairman advised that they were content to accept the report as part of the Applicant’s evidence if the Responsible Authorities and Interested Parties also agreed and if Mr Kolvin gave a concise summary of the report in his submission highlighting the salient points to the Sub-Committee. The Applicant and all parties agreed to adopt this approach and proceed. Mr Kolvin referred the Sub-Committee to page 8, paragraph 4 of the Noise Report, which outlined Mr Murkett’s extensive monitoring of any noise nuisance heard from the resident’s flats and confirmed that the sound limiter had been set so that no electronically amplified sound could be heard in the resident’s flats. Mr Kolvin indicated using

the map that there was a Salsa Bar opening late at night located directly opposite the resident's flats which impacted on residents in terms of noise nuisance. The Sub-Committee in its determination of the matter considered the report's findings in relation to the noise survey undertaken when addressing the public nuisance licensing objective and conditions.

Mr Kolvin referred to the Council's Cumulative Impact Policy and advised that the Sub-Committee should compare what was already on the Premises licence to what the operator was now proposing by way of condition to control the impact of the operation on all seven days of the week. The Sub-Committee heard that if it considered that on balance that the net impact of the proposal was neutral or better than the Sub-Committee should grant the application.

Mr Kolvin advised that there was no fundamental increase in the opening hours on any night of the week and no changes regarding the licensing hours or activities from Sunday to Thursday or on Friday and Saturdays when the Premises was operating as a pub. The Applicant had agreed with Environmental Health a further 18 conditions, had agreed that there would be no off Sales of Alcohol after midnight and that the outside seating area would be removed by 23:00 each day so as to prevent nuisance. Mr Kolvin further advised that there were also additional conditions for the cabaret nights so the extra hour would not add to the cumulative impact area.

The Sub-Committee heard that entrance for the cabaret nights would be by pre-purchase ticket only and patrons already using the pub would have to purchase a ticket or leave the Premises at 22:00 hours. In practical terms the Sub-Committee was advised that the Applicant was to make an announcement before the start of the performance. There would be a maximum of 50 tickets available at £8 each – it was envisaged that existing customers were likely to take this offer up. All patrons would have to be seated during the cabaret and after midnight all alcohol would be served by waitress or waiter service only. In addition patrons would not be able to exit and then enter the building again after 23:00 unless they were a smoker.

Mr Kolvin addressed the resident's concerns that had been raised. He referred to page 8 of the report which outlined the City Inspectors visits to the Premises who had found that noise escape was negligible. The Applicant, however, had still employed Mr Murkett to deal with the issue and the sound limiter was now set so no electronically amplified sound could be heard in the resident's flats. Mr Kolvin confirmed that if after today the resident's could still hear music in their flats Mr Murkett would have to repeat the exercise again.

Mr Kolvin then addressed the papers regarding Environmental Health. Mr Kolvin advised that his Applicant had completely refurbished the Premises with a new sound system that should have replicated the calibration of the old system. The Applicant had received no noise complaints so when Environmental Health visited the Premises in January this was noted in his report. However, after this application was made it appeared that there had been an on-going noise complaint and therefore Mr Murkett had been employed to resolve the noise nuisance.

Mr Kolvin advised that these were iconic LGBT Premises and that the Sub-Committee needed to consider that 58% of LGBT Premises had closed between 2006-2017, half of small pubs had closed since the turn of the century and more than half of London's live music venues had closed since 2007. This venue fell into all three categories and all the Applicant wanted to do was use the hours he already had in the most controlled way to provide a LGBT cabaret to a seated audience of 50 persons on an occasional basis. Mr Kolvin further advised that the Applicant was seeking no special treatment beyond the performance of the Council's Public Sector Equality Duty under section 149 of the Equality Act 2010 to have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Mr Kolvin emphasised that the Applicant would like to keep alive the tradition of this venue but to do so needed the latitude sought by this application. The Legal Advisor to the Sub-Committee confirmed that the Council's section 149 Public Sector Equality Duty would be taken into account by the Sub-Committee in its capacity as a Licensing Authority when exercising this very function.

Mr Anil Drayan (representing Environmental Health) had maintained his representation as he had concerns about the extension of hours on Friday and Saturday for 'cabaret nights' and the possible increase in the West End cumulative impact area, however, it was for the Sub-Committee to decide if the application had demonstrated that it could be considered an exception to policy. Mr Drayan confirmed that conditions had been agreed with the Applicant.

David Sycamore (representing the Licensing Authority) had maintained his representation. The Licensing Authority was particularly concerned with the extension of hours on Friday and Saturday for 'cabaret nights' and how many events would be held during a year. Mr Kolvin advised that it would be impossible to hold cabaret nights every Friday and Saturday and agreed to cap the number of events to 52 events per year.

PC Lewis (representing the Police) had maintained his representation as the Police had concerns about the extension of hours on Friday and Saturday for 'cabaret nights' and the possible increase in cumulative impact in the area. PC Lewis advised that the Premises was located in a very busy and challenging area and that two door supervisors would be essential to control the Premises on cabaret nights in order that the crime and disorder licensing objective was not undermined. He outlined that the Premises would have to inform all patrons on arrival that they would have to purchase a ticket for the cabaret or leave the Premises at 22:00 hours.

Mr Farrell (local resident) advised that he was concerned with three issues: noise nuisance caused when the Premises door opened especially for smokers, the noise created from patrons leaving the venue late at night and that late opening hours attracted additional people to the area adding to the cumulative impact area. He added that there was a similar Premise called the Admiral Duncan that had a cabaret act that closed at midnight and he did not know of many LGBT premises that had closed.

Mr Kaner (representing the Covent Garden Community Association) advised

that the Premises were, in effect, operating as a bar and applying to extend the licence outside of core hours on these two days was against the Council's Policy. The area was already very busy and granting this application would add to the cumulative impact in the area. Mr Kaner then asked that if the application was granted the Applicant agree to stop off Sales of Alcohol from 22:00 hours and commented that it was very strange how the Premises had ended up with 120 minutes of drinking up time on the licence. Mr Kolvin advised that they were prepared to offer no off Sales of Alcohol after 22:00 hours on cabaret nights. Mr Kaner added that he was aware of "Salsa bar" causing problems in the area and residents were looking to review their licence. Mr Kaner emphasised that he did not believe the additional conditions would fully address the issue of the promotion of the licensing objectives.

Mr Kolvin advised that patrons had to be seated to watch the cabaret but between 22:00 and midnight patrons could choose to go to the bar and order a drink or order at their tables by waitress or waiter service. After midnight alcohol could only be ordered by waitress and waiter service at the table. Mr Kolvin confirmed that it was a seated cabaret not a vertical cabaret and was very much like a concert where you had to be seated but could get up to purchase a drink at the bar. Mr Kaner advised that he would prefer that it was only waiter and waitress service from 22:00 hours.

Mr Brown addressed the Sub-Committee on the Council's Policy and stated that the application clearly fell within Policies PB2 and CIPI and therefore would need to be refused unless the Applicant could demonstrate exceptional circumstances. He referred to Policy 2.4.1 of the City Council's SLP and read it out for the Sub-Committee's attention. Mr Brown considered the Open Hours as it was a fundamental part of the application as they should fall within core hours. He advised that it would be beneficial if patrons were seated with waitress and waiter service from 22:00 onwards on cabaret nights.

Mr Glesson (representing the Soho Society) advised that the Soho Society objected to this application with a rather heavy heart because of the number of LGBT premises that had closed down across London. He added that Soho was the natural and spiritual home for such venues but they did have to demonstrate that they could operate within the City Council's SLP.

Ms Doyle (representing the Soho Society) advised that she had a different point of view from Mr Glesson and that she objected to the application on the grounds of prevention of public nuisance, prevention of crime and disorder and also cumulative impact in the West End Cumulative Impact Area. The Sub-Committee heard that there was a high level of crime and disorder, drugs and homelessness already in the area. Ms Doyle contented that violent crime was much higher after midnight especially around venues that had late night licences. Ms Doyle stated further that late night venues also attracted increased drug selling/use by gangs and begging because of the number of people standing outside such venues and in the general area which added to the cumulative impact area.

The Chairman asked for the Applicant and the Responsible Authorities to respond to the Interested Parties concerns regarding the application.

Mr Kolvin advised that on cabaret nights the MC would announce that people without a ticket would be required to leave at 22:00 hours. There would also be notices on the walls and tables to that effect. In addition, the Applicant had accepted a condition that the A board be removed at 6pm on cabaret nights and that there would be a maximum of 5 smokers permitted outside the Premises after 23:00 hours to prevent nuisance Mr Kolvin stated that the Applicant did consider that two SIA were unnecessary as it was a small bar, there had been no noise nuisance issues and there was no evidence that people left the Premises shouting and causing problems in the area. The Sub-Committee was advised that there had been 13 TENs since last October with only one SIA supervisor present at the Premises and the 18 additional conditions would promote the licencing objectives. He added that all applications should be considered on their own merit and the capacity of the Premises did not increase as patrons could sit in the Premises until 1.30pm now.

The Sub-Committee heard that there were 54 seats in the Premises and a bench located outside of the Premises. Mr Farrell advised that people did sit on the bench at all hours of the night and offered a photo of the bench to the Sub-Committee from his mobile phone. Mr Kolvin agreed that a condition to remove the bench by 23:00 hours be added to the licence and stated that planning permission would be sought for the bench immediately. Mr Kaner stated that Mr Murkett had advised in his Noise Report that an additional steward be employed to control the Premises. Mr Kolvin advised that the Applicant was very happy to have a member of the management helping the door supervisor. PC Lewis advised that if a member of the management team did go out to help he would need to hold an SIA licence.

In response to a question from the Sub-Committee's Legal Advisor, Mr Kolvin advised that the application was within the Premises current opening hours, the 18 additional conditions would promote the licensing objectives, people would be seated whilst the cabaret was taking place and the Applicant considered that the application was an exception to policy.

The Sub-Committee carefully considered all the evidence in light of the licencing objectives and decided to grant the application with restricted hours and additional conditions for a 12 month period. The Sub-Committee considered the application was an exception to policy due to it being an iconic LGBT premises, live music venue and a small working pub and the Applicant had told the Sub-Committee that the Premises would continue to operate as such. The Sub-Committee further considered that the impact on the area would be neutralised and not add to cumulative impact in the West End area. The Sub-Committee felt that it was right and proper that it should scrutinise the application heavily to ensure that the arguments advanced in respect of exceptionality were justified and would not lead to negative impact in the cumulative impact area.

Following full Responsible Authority and residential engagement the Sub-Committee considered that the conditions such as limiting the cabaret nights to 52 per year, taking off Sales of Alcohol back to 22:00 hours and making alcohol sales ancillary to cabaret nights are all important measures that would help promote the Licensing Objectives. The Sub-Committee further considered that it

	<p>was necessary to employ two SIA supervisors on the door based on the Police and resident's evidence regarding Crime and Disorder in the area as this would promote the crime and disorder licensing objective. The Sub-Committee considered overall that the conditions it imposed on the Premises Licence to be appropriate and proportionate that would promote the licensing objectives. The Sub-Committee in its determination of the matter had regard to its Public Sector Equality Duty contained under section 149 of the Equality Act 2010 when considering the application.</p>
2.	<p>Sale by retail of alcohol</p> <p>Monday to Thursday 10:00 to 23:00 Friday to Saturday 10:00 to 00:00 Sunday 10:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, the reason for the decision is detailed in section 1.</p>
3.	<p>Live Music, Recorded Music, Performance of Dance, Anything of a Similar Description (indoors)</p> <p>Monday to Thursday 10:00 to 23:30 Friday to Saturday 10:00 to 00:00 Sunday 10:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, the reason for the decision is detailed in section 1.</p>
4.	<p>Hours premises are open to the public</p> <p>Monday to Thursday 09:00 to 00:30 Friday to Saturday 09:00 to 01:30 Sunday 09:00 to 00:30</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>

The application was granted, the reason for the decision is detailed in section 1.
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Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

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

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

or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

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

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different

from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

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

Conditions consistent with the operating schedule

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team covering all entry and exit points. All entry points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. Viewing of recordings shall be stored for a minimum of 31 days with date and time stamping. Recordings shall be made available immediately upon request of the Police or an authorised officer throughout the preceding 31 day period.
10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times the premises is 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.
11. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system or searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
12. There shall be a minimum of one SIA licensed Door Supervisor on duty in the premises from 8p.m until close of business on Fridays and Saturdays. They shall wear high visibility tops and their SIA licenses shall be displayed at all times.
13. The volume of recorded music shall be reduced to a background level during the wind down period.
14. A notice shall be placed prominently at the exits asking customers to leave quietly.

15. Kitchen extract filters shall be cleaned at least once a week.
16. Management and staff shall perform regular checks outside the premises whenever regulated entertainment is provided.
17. No person under the age of 18 years will be permitted on the premise unless accompanied by an adult. No person under the age of 18 will be allowed on the premises after 2300hrs.
18. The Sale by Retail of Alcohol, Performance of Live Music, Playing of Recorded Music and Anything of a Similar Description to that falling within Performance of Live Music and Playing of Recorded Music shall be extended from New Years Eve 10:00 to 01:00 on 2nd January.
19. Substantial food and suitable beverages other than alcohol, 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.
20. A noise limiter is to be installed to volume control for the Amplification Sound System. The limiter must be set at a level determined by and to the satisfaction of an Authorised Officer of the Environmental Health Service's Community Protection Department do as to ensure that no noise nuisance is caused to local residents and business. The noise limiter and amplification system shall not be altered or added to without prior agreement of the Environmental Health Service. The noise limiter panel shall then be secured to the satisfaction of Officers from the Environmental Health team.
21. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service.
22. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
23. All entrance doors to be kept closed except for the immediate access and egress of persons.
24. Windows will remain closed in all rooms when regulated entertainment is taking place.
25. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
26. No speakers shall be located in the entrance area.
27. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
28. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
29. No unauthorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) is inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture,

tree, or any other property, or is distributed to the public, that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services.

30. Any entertainment, performance, service, or exhibition involving nudity or sexual stimulation which would come within the definition of a sex establishment in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Greater London Council (General Powers) Act 1986, (whether or not locally adopted), shall not be provided.

The Sub-Committee imposed on the Premises Licence the following additional Conditions to apply only on Friday and Saturday cabaret nights when the premises are to operate licensable activities until 0100

31. Admission to the premises after 2200 will be by pre-purchased ticket only. The ticket will have a minimum value of £8
32. A maximum of 50 tickets will be sold per evening
33. All customers who have not purchased a ticket will be required to vacate the premises by 22.00
34. All customers will be required to be seated during the live performances save for those customers purchasing drinks in the Bar area of the Premises
35. Any alcohol sales after midnight will be by way of waiter/waitress service at tables
36. There will be no alcohol sales over the bar after midnight
37. There will be no entry/re-entry to the premises after midnight (save to allow re-entry to persons who have gone outside to smoke)
38. Extra conditions applying to the licence on every night of trade, whether or not cabaret is being operated
39. The extension of hours and the conditions are limited to 12 months.
40. All external shelving/seating fixed to the premises shall be removed or rendered unusable by 23.00 each day.
41. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number shall be made publicly available at all times the premises is open. This telephone number is to be made available to all residents and businesses in the vicinity.
42. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
43. 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 in the public highway. 44. After 23:00 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.

45. 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.
46. No deliveries shall take place to the premises between the hours of 11 p.m. and 7.30 a.m.

The Sub-Committee imposed on the Premises Licence the following additional conditions on those Fridays and Saturdays when cabaret is being offered.

47. Admission to the premises after 22:00 will be by pre-purchased ticket only. The ticket will have a minimum value of £8.
48. A maximum of 50 tickets will be sold per evening.
49. All customers who have not purchased a ticket will be required to vacate the premises by 22:00.
50. All customers will be required to be seated, save when purchasing drinks from the bar area during the live performance.
51. Any alcohol sales after midnight will be by way of waiter / waitress service at tables.
52. There will be no alcohol sales over the bar after midnight.
53. There will be no entry/re-entry to the premises after midnight (save to allow re-entry to persons who have gone outside to smoke).
54. On Friday and Saturday cabaret nights prominent signage, stating that patrons without a ticket will be required to vacate the premises from 22:00 hours, shall be displayed so as to be visible before entering the premises, at the bar and at the tables within the premises.
55. On Friday and Saturday when cabaret is being provided, a minimum of 2 SIA door staff or member of management in hi-visibility jacket and body worn video camera will patrol outside the premises in order to disperse patrons away from the area for at least 30 minutes after closing time.
56. After 22:00 on Fridays and Saturdays, when cabaret entertainment is being provided there will be no sale of alcohol for consumption off the premises.
57. Any licensable activity after 23:00 on Fridays and Saturdays when cabaret is being provided at the premises shall be ancillary to the provision of entertainment by way of cabaret.

58. Patrons permitted to temporarily leave and re-enter the Premises e.g. to smoke, shall be limited to 5 persons at any one time.
59. The extension of hours on Friday and Saturday for licensable activities will be limited to 52 occasions a year.
60. In the event that the new premises licence is granted in the terms sought, then the existing premises licence (17/010767/LIPDS) will be surrendered

2 CO-OPERATIVE, BAKER STREET, LONDON, NW1 5RT

LICENSING SUB-COMMITTEE No.1

Thursday 5th July 2018

Membership: Councillor Angela Harvey (Chairman), Councillor Susie Burbridge and Councillor Aicha Less

Legal Adviser: Horatio Chance
Policy Adviser: Kerry Simpson
Committee Officer: Sarah Craddock
Presenting Officer: Samantha Eaton

Relevant Representations: Environmental Health, the Metropolitan Police, Chiltern Court Resident's Ltd, St Marylebone Society, Baker Street News and five residents.

Present: Ms Richard Arnot (Solicitor, representing the Applicant), Mr Craig Smith (Representing the Applicant Company), Mrs Sally Fabbriatore (Environmental Health), PC Brian Lewis (Metropolitan Police), Mr Richard Baker (Licensing and Planning Consultant, representing the residents), Mr Robert Wall (representing the Chiltern Court Residents Ltd and St Marylebone Society Member), Mr Roy Light, Jasvinder Randhawa, Mr McDonald (Local residents).

Co-operative, 190-192 Baker Street, NW1 5RT 18/03285/LIPN ("The Premises")	
1.	Sale by Retail of Alcohol – off sales Monday to Sunday: 06:00 to 00:00
	Amendments to application advised at hearing: The Applicant amended the application for the sale of alcohol for consumption off the premises to between 08:00 and 23:00 hours Monday to Saturday and 10:00 to 22:30 on Sundays.
	Decision (including reasons if different from those set out in report): The Sub-Committee considered an application by Co-operative Group Food Ltd for a new premises licence in respect of Co-Operative, 190-192 Baker Street, London, NW1 5RT. The Presenting Officer introduced the application to the Sub-Committee. Mr Arnot (Applicant's Representative) advised that the Applicant had withdrawn his application for Late Night Refreshment, had amended the application for the

sale of alcohol for consumption off the Premises to between 08:00 and 23:00 hours Monday to Saturday and 10:00 to 22:30 hours on Sundays and amended the opening hours to Monday to Sunday: 06:00 hours to 23:00 hours accordingly.

Mr Arnot advised that the Premises would open in November 2018 and trade as a busy convenience store where it was hoped to also provide an alcohol offer. Alcohol sales would only account for approximately 15% of turnover, the Premises was not a dedicated off-licence and alcohol sales were ancillary to its function as a convenience store. The Applicant was very experienced and was aware of how to build up good relations with local residents and the Responsible Authorities. A Risk Manager was in place to help resolve any potential issues that might arise and details were provided of the extensive training staff received in alcohol sales. Other safeguards included the installation of CCTV at the Premises both internally and externally, requiring all tills to have age prompts and ensuring all beer and wine displays were located at the rear of the premises to try and prevent shoplifting. It was stated that the store would also have three personal licence holders, which meant it was unlikely that there would be a shift where one was not present in respect of alcohol sales. Mr Arnot said that the Applicant was very community minded and aimed to build up good relationships with local residents.

Mr Arnot explained it was the intention for the store to be open between 06:00 hours and 23:00 hours and the application had been amended to ensure the sales of alcohol were within the City Council's core hour's policy. It was submitted that discussions had taken place with the Police and Environmental Health who were requesting additional conditions and the Council's Model Conditions to be imposed on the licence. Mr Arnot brought the Sub-Committee's attention to the conditions proposed by the Applicant. It was recognised that the wording was different to the model conditions proposed by Environmental Health, however it was considered that the Applicant's conditions were more stringent and more appropriate for the operation of the Premises. Mr Arnot then referred the Sub-Committee to the Operating Schedule and conditions attached to pages 137 to 143 of the report and outlined the differences in the conditions proposed by the Applicant, Environmental Health and the Police.

Mr Arnot addressed the residents' concerns which had been raised. Firstly, concerns had been expressed over match days and the drinking of alcohol and to address this the Applicant had agreed to the Sporting Events Control condition being added to the licence.

The Sub-Committee noted that late night refreshment had also been withdrawn from the application and the Applicant had agreed to close the Premises at 23:00 hours instead of 00:00 hours. Mr Arnot advised that a new loading bay had been agreed with Transport for London ("TfL") and all deliveries would be in wheeled cages therefore not disturbing residents. Reassurances were also given that waste would be stored on site and then removed at the same time deliveries were made. The Sub-Committee advised that they had not been produced with documentary evidence to confirm that TfL had in fact agreed to this new loading bay.

Mrs Fabbricatore, representing Environmental Health, advised that its representation was maintained due to the Model conditions not being agreed by the Applicant. It was important to ensure that suitable conditions that could be enforced and had clear interpretations were placed on the licence. The Model conditions proposed were considered clear and consistent and this was important to promote the licensing objectives. This view was endorsed by the Chairman of the Sub-Committee.

PC Lewis advised that the Metropolitan Police's representation was maintained due to the Model Conditions not being agreed by the Applicant; in particular the CCTV Model condition. The Model Conditions proposed for the application had been tested, were understandable and enforceable and could be applied appropriately to each application on its merits. It was very unusual for an Applicant not to accept the Council's Model Conditions. In the past CCTV had not been installed correctly in premises when the CCTV model condition had not been placed on the licence.

Mr Richard Baker (Licensing and Planning Consultant, representing the residents) advised the Applicant had not consulted with the Responsible Authorities or local residents and that conditions had still not been agreed with the Police and Environmental Health. Chiltern Court was located directly above the Premises and would be greatly affected by the opening of this Co-op store. Mr Baker referred to the Premises plans to show the location of the alcohol in relation to the entrance and exit of the Premises and where the deliveries would be made to the store. Mr Arnot advised that TfL had advised that a new loading bay would be created for the store's deliveries. Mr Baker further advised that residents were concerned that the new entrance would be situated between the two entrances to Chiltern Court and about noise nuisance coming from the Premises thereby affecting residents. He suggested that this entrance stopped being used at 8pm or not be used at all and the Premises only use the entrance next to Baker Street Tube Station.

Mr Robert Wall (representing Chiltern Court residents and St Marylebone Society) advised that Chiltern Court would be greatly affected by the opening of this store. The Sub-Committee were advised that there was already too many Premises selling alcohol in the area and there was already a problem with street drinkers, beggars and drunken football supporters on match days. Mr Wall advised that he could not see how this new delivery place would be created in the area and emphasised that the Applicant had not been interested in Chiltern Court residents' concerns over alcohol being sold in the Premises.

Mr McDonald (House Manager of Chiltern Court) and Mrs Randhawa (local resident) gave the Sub-Committee details of the issues caused by excessive drinking in the area: such as people urinating and having sex in the street. These problems increased on match days and therefore they requested that the Co-op should stop selling alcohol three hours before the commencement of the relevant designated sporting event.

In response to questions regarding the creating of the loading bay, the Sub-Committee heard that the red box used by Chiltern Court Residents was going

to be moved under the 'Two-Way' Scheme Agreement and that the proposal for the new loading bay had not yet been given permission by Westminster City Council.

Mr Baker discussed the Council's Policy PN1 which was about the location of off-Licenses not located in a Cumulative Impact Area but were surrounded by local residents. Mr Baker advised that a Risk Assessment should be carried out regarding the number of cages that needed to be delivered to stock the store per week. Mr Arnot advised that there would be between 50-70 cages per week and that a Risk Assessment had been carried out but that it was not relevant to these proceedings and the four licensing objectives. Mr Baker advised that he did not agree with this. The Chairman asked what time the residents would prefer the deliveries and waste to be taken away and Mr Barker stated between 7pm and 10pm. He then referred to the conditions at the back of the report and suggested that the Applicant went through their suggested conditions in some fine detail.

In response to Mr Arnot's suggestion that the Model Conditions were replaced by the Applicant's own, the Chairman advised that as the City of Westminster was the largest Licensing Authority in the country it had developed over many years of good practice Model Conditions that worked well in terms of enforcement and promoted the Licensing objectives. Moreover, the model conditions referred to have been tested through the courts and have stood up to close scrutiny under the appeals regime. The Sub-Committee further advised that the residents' concerns relating to deliveries to the front of the Premises needed addressing primarily by the City Council in its position as the Local Planning Authority.

The Sub-Committee carefully considered the application and all the evidence presented before it. It was noted that the Premises was not located in a CIA but that there was strong sense of residential concern over the number of premises selling alcohol and the public nuisance that excessive alcohol consumption brings to an area. The Sub-Committee did note however that only a maximum of 15% of the sales area at the Premises would be used for alcohol sales and therefore alcohol would only represent a small portion of the deliveries taking place. As such, it was a decision of the planning authority and not the Sub-Committee to determine the overall delivery arrangements for the Premises and the front entrance of the building. It was expected that the planning authority would require the submission of a detailed operational management plan from the applicant regarding deliveries to the Premises and detailed plans regarding the front entrance of the Premises.

Therefore, having heard all the evidence the Sub-Committee agreed to grant the application subject to amendments to the conditions. The Sub-Committee in its determination of the matter considered that the Council's Model Conditions were tested, were understandable and enforceable and should be attached to the licence and not the Applicant's proposed conditions. The Sub-Committee further considered that the extensive conditions attached to the licence were appropriate and proportionate in the circumstances and would ensure the Premises did not create public nuisance and would ensure that the licensing objectives were promoted. The Sub-Committee has a duty to consider the

	<p>application on its individual merits. It felt that the restrictions in place and the reduction in the hours requested for the sale of alcohol would also safeguard the local area and give comfort to residents that the appropriate safeguards had been put in place to alleviate the concerns raised in relation to crime and disorder and public nuisance.</p> <p>Having heard all the evidence the Sub-Committee was satisfied that the application would promote the licensing objectives. As such the Sub-Committee agreed to grant the application accordingly.</p>
2.	<p>Late Night Refreshment</p> <p>Monday to Sunday 23:00 to 00:00</p>
	<p>Amendments to application advised at hearing:</p> <p>The applicant withdrawn their request for Late Night Refreshment at the Licensing Sub-Committee hearing.</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>Opening Hours of the premises</p> <p>Monday to Sunday: 06:00 to 00:00</p>
	<p>Amendments to application advised at hearing:</p> <p>The Applicant amended the application to Monday to Sunday: 06:00 to 23:00.</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 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 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.
5.
 - (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.
 - (ii) For the purposes of the condition set out in paragraph 5(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.
- (iii). Where the permitted price given by Paragraph 5(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.
- (iv).
 - (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(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.
- 6. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All till points and 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.
- 7. There shall be CCTV in Operation signs prominently displayed at the premises.
- 8. The premises shall operate a proof of age scheme, such as a Challenge 25, whereby the only forms acceptable identification shall be either a photographic driving licence, a valid passport, military identification or any other recognised form of photographic identification incorporating the PASS Logo, or any other form of identification from time to time approved by the secretary of the state.
- 9. *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) any faults in the CCTV system*
- (f) any refusal of the sale of alcohol*
- (g) any visit by a relevant authority or emergency service.*

10. The premises will be fitted with a burglar alarm system.
11. The premises will be fitted with a panic button system for staff to utilise in the case of an emergency.
12. The premises licence holder shall ensure that the appropriate fire safety, and health and safety regulations are applied at the premises.
13. A complain procedure will be maintained, details of which will be made available in store and upon request.
14. The licence holder shall ensure that all cashiers are trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) for evidence of age. This evidence shall be photographic, such as passport or photographic driving licence until other effective identification technology (for example, thumb print or pupil recognition) is introduced. All cashiers will be instructed, through training, that a sale shall not be made unless this evidence is produced.
15. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
16. A refusals register (whether kept and written or electronic form) will be maintained at the premises and will be made available for inspection upon request by an authorised Officer of the Police or Local Authority.
17. 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.
18. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
19. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all

alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.

20. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles
21. No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.
22. 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.
23. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
24. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
25. All cashiers 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 may 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 request to a police officer or a relevant officer of a responsible authority.
26. Prior to any "designated sporting event" (as defined in the Sporting Events Control of Alcohol Act 1985) the premises licence holder shall ensure that;
 - (i) Alcohol sales in respect of cans of beer or cider are limited to no more than 4 cans per person for a minimum of four hours before the commencement of the relevant designated sporting event;
 - (ii) No sales of alcohol in bottles or glass containers are made in the period four hours before the commencement of the designated sporting event;
 - (iii) Alcohol sales cease for a period of three hours immediately before the commencement of the relevant designated sporting event;
 - (iv) On any day where there is a relevant designated sporting event taking place, the premises will not externally advertise as a result of a local store promotion the availability of beer or cider in such a way as to be likely to be the sole inducement to attract persons to the premises who are either attending the designated sporting event or in the vicinity of the premises as a result of the designated sporting event;
 - (v) All members of staff working at the premises are informed of this condition prior to taking up employment;

- (vi) On the day of the relevant designated sporting event, upon the direction of a police officer, using the grounds of the prevention of crime and disorder or public safety, the premises will immediately cease to sell alcohol until further directed by the police or until the relevant designated sporting event has finished.
- 27. 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 other local crime reduction scheme approved by the police, and local radio scheme if available.
- 28. 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.
- 29. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
- 30. 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.
- 31. Deliveries to and the removal of waste from the premises shall only take place between 19:00 and 22:00 Monday to Sunday
- 32. 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.
- 33. The Licence will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team and this condition has been removed from the Licence.
- 34. A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

3 26 SOUTHAMPTON STREET, LONDON, WC2E 7JA

LICENSING SUB-COMMITTEE No.1

Thursday 5th July 2018

Membership: Councillor Angela Harvey (Chairman), Councillor Susie Burbridge and Councillor Aicha Less

Legal Adviser: Horatio Chance
Policy Adviser: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Samantha Eaton

Relevant Representations: Licensing Authority

Present: Mrs Lynette De La Vega (Applicant) and Roxsana Haq and Steve Rowe (Licensing Authority)

Abuelo, 26 Southampton Street, London WC2E 7JA (“The Premises”) 18/04918/LIPN (“The Premises”)	
1.	Sale by retail of alcohol ‘On’ Monday to Thursday 10:00 to 22:00 Friday and Saturday 10:00 to 23:00 Sunday 10:00 to 22:00 hours
	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 Abuelo Covent Garden Limited (“the Applicant”) for a New Premises licence in respect of 26 Southampton Street, London WC2E 7JA. The Presenting Officer provided an outline of the application to the Sub-Committee. The Applicant stated that she had considerable experience in the restaurant field and had owned a number of successful high-end restaurants in Australia and wanted to create that vision for these Premises. The Sub-Committee were advised that the cuisine was to be a fusion of Australian and Argentinian cultures. The Sub-Committee noted that the Police, Environmental Health and the Covent Garden Community Association had all withdrawn their representations as conditions had been agreed with the Applicant. 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.

	<p>The Applicant advised this was an application for a new premises licence to allow the Sale of Alcohol 'on' the premises Monday to Thursday 10:00 to 22:00, Friday and Saturday 10:00 to 23:00 hours and Sunday 10:00 to 22:00 hours. The Applicant advised that this was a small family run business all about enjoying good food, coffee and wine in a relaxing atmosphere. The Sub-Committee heard that the business would not be viable without the ability to serve a glass of wine or a few beers with a table meal especially in the evenings. The Sub-Committee noted the reason for wanting the sale of alcohol to start at 10am on Sunday was to enable customers to have a glass of champagne with their Sunday brunch should they wish to take up this offer. The Applicant said that she wanted to be able to give her customers that particular choice as the basis for her decision. The Applicant confirmed that she had agreed to the model restaurant condition where all sale of alcohol would be ancillary to a substantial table meal.</p> <p>The Sub-Committee noted that the Police, Environmental Health and the Covent Garden Community Association had all withdrawn their representations as conditions had been agreed with the Applicant. The Applicant had agreed that spirits would only be served at the Premises in a cocktail drink.</p> <p>The Licensing Authority had maintained their representation as the Premises was located within the West End Cumulative Impact Area and the hours applied for on Sundays fall outside the City Councils core hour's policy.</p> <p>The Sub-Committee after careful consideration of the matter decided to grant the application. The Sub-Committee considered that this was a family-run small business and that there was no evidence to demonstrate that the Applicant would not promote the licensing objectives. The Sub-Committee in its determination of the matter noted the financial situation of the Applicant but this was not the deciding factor as to why the application should be granted. The Sub-Committee has to consider the individual merits of the application based on the evidence it is presented with, and when assessing the matter looked at the overall impact granting the Premises Licence would have in the CIA and on the licensing objectives. The Sub-Committee noted that conditions had been agreed with both the Police and Environmental Health and were pleased that the restaurant condition where all sales of alcohol would be ancillary to a substantial table meal would be attached to the licence. The Sub-Committee further considered the conditions imposed on the Premises Licence to be appropriate and proportionate that will help promote the licensing objectives.</p>
<p>3. Opening Hours of the premises</p>	<p>Monday to Thursday 08:00 to 22:00 Friday and Saturday 08:00 to 23:00 Sunday 10:00 to 22:00 hours</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</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.
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Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

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

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

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

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

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

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

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

Where -

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

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

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

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

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

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by

that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

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

Conditions consistent with the operating schedule – replaced by agreed EH and MET conditions.

9. Staff training in the awareness of alcohol service laws, the premises license and requirements. This will include selling alcohol to underage people, drunk or disorderly behaviour on or outside the premises, illicit drug use or sale, violent or anti social behaviour or harm to children. All staff will be trained on the Licensing Act and adhere to the hours of operation and the licensable activities during those hours.
10. CCTV system to be installed at the premises.
11. Signage will be displayed to request that our staff and customers respect the needs of residents and leave quietly.
12. Deliveries of goods will be carried out at a time or in a manner that prevents disturbance. Movement of rubbish bins will be kept to a minimum very early or late in the day to avoid disrupting sleep of residents nearby.
13. Adopt a 'challenge 25' strategy which encourages anyone over 18 but looks under 25 to display true ID if they intend to purchase any alcohol. All staff will be well trained on this.

Conditions proposed by the Police, agreed by the applicant

14. 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.
15. 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.

16. The premises shall only operate as a restaurant :
 - (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non-disposable crockery,
 - (iv) which do not provide any take away service of food or drink for immediate consumption,
 - (v) which do not provide any take away service of food or drink after 23.00, and
 - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals. Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
17. 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.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. 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.
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, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

21. There shall be no self-service of alcohol.

Conditions proposed by the Environmental Health, agreed by the applicant

- 22. The number of seated persons on the ground floor (excluding staff) shall not exceed 20 persons.
- 23. 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.
- 24. 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.
- 25. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- 26. 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.
- 27. All tables and chairs shall be removed from the outside area by (23.00) each day.

Conditions Proposed by the Covent Garden Community Association:

- 28. The sale of alcohol shall only be made when ancillary to a substantial table meal (to include a sharing plate of cheese and charcuterie etc) and only to seated customers.
- 29. The alcohol supplied shall be restricted to wine only.
- 30. That spirits would only be served as part as a cocktail.

4 CAFÉ FIORI, 42 CRANBOURN STREET, LONDON, WC2H 7JH

LICENSING SUB-COMMITTEE No.1

Thursday 5th July 2018

Membership: Councillor Angela Harvey (Chairman), Councillor Susie Burbridge and Councillor Aicha Less

Legal Adviser: Horatio Chance
Policy Adviser: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Samantha Eaton

Relevant Representations: Metropolitan Police, Licensing Authority, Ward Councillor and Heart of London Business.

Present: Jonathan Smith (Poppleston Allen), Ariel Levy (Licence Holder), PC Adam Deweltz (Metropolitan Police), Licensing Authority (Steve Rowe), Councillor Louise Hyams (St James's Ward) and Robin Hibbert (Heart of London Business).

Café Fiori, 42 Cranbourn Street, London WC2H 7JH ("The Premises") 18/03438/LIPV	
1.	<i>To remove condition 20 from the licence which prevents any takeaway service being provided to customers between 03:00 and 05:00 daily. All hours, activities and other conditions to remain as existing.</i>
	Amendments to application advised at hearing: The Applicant made the following amendments to the application at the Licensing Sub-Committee Hearing: To remove condition 20 from the licence which prevents any takeaway service being provided to customers between 03:00 and 05:00 on a Saturday and Sunday and Bank Holiday Mondays. All hours, activities and other conditions to remain as existing. The Applicant agreed to employ two door supervisors between 03:00 hours and 05:00 hours on a Saturday and Sunday and Bank Holiday Mondays but only when hot food and drink was being sold off the Premises during these times.
	Decision (including reasons if different from those set out in report): The Sub-Committee considered an application by Mr Levy Meir ("the Applicant") for a variation to the Premises licence in respect of 42 Cranbourn Street, London WC2H 7JH. The Presenting Officer provided an outline of the application to the Sub-

Committee. She confirmed that representations against this application had been made by the Police and the Licensing Authority and that representations in support for the application had been made by Councillor Hyams (St James's Ward) and Heart of London Business. The Premises was located in the Council's West End designated cumulative impact area.

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 Smith (Applicant's Representative) advised that this was an application for a variation of a premises licence to remove Condition 20 from the licence which prevents any takeaway service being provided to customers between 03:00 and 05:00 on a Saturday and Sunday and Bank Holiday Mondays. All hours, activities and other conditions on the licence were to remain the same.

Mr Smith advised that this was a family business which had been operating for the past 45 years in Leicester Square. The Applicant was a member of the Heart of London Business Alliance which promoted a responsible night-time economy and the business actively promoted the Council's Licensing objectives. The Sub-Committee heard that there were no residential properties above the Premises and the Premises was located near Leicester Square Tube Station and the night buses.

Mr Smith advised that the Applicant had agreed to employ two door supervisors between 03:00 hours and 05:00 hours on a Saturday and Sunday and Bank Holiday Mondays when hot food and drink was being sold off the Premises and that only one door would be used during the extension of hours so that the takeaway service was easier to control. In addition, he had enhanced the CCTV both inside and outside of the Premises along with introducing regular and extensive litter pick-ups in the vicinity of the Premises.

The Licensing Authority had maintained their representation on policy grounds. Policy FFP2 states that "the grant of variations or new licences for fast food premises in the Cumulative Impact Areas should be limited to exceptional circumstances" and it is therefore for the Sub-Committee to decide if the application had demonstrated that it could be considered an exception to policy.

The Police had maintained their representations on policy grounds but were somewhat reassured with the improved CCTV both inside and outside of the premises and the two door supervisors that would be present during 03:00 hours and 05:00 hours when hot food and drink was sold off the premises as this measure promoted the crime and disorder licensing objective.

Both Councillor Louise Hyams and the Heart of London Business spoke in support of the application and advised that this was a good family-run business, which was a genuine part of the community working to improve industry standards and promote a responsible night-time economy.

The Sub-Committee gave careful consideration to the application and decided to grant the application. The Sub-Committee considered the application was an

exception to policy because of the support from the local ward Councillor and the local BID, there was no history of crime and disorder at the Premises and the conditions offered by the Applicant would mitigate the overall impact in the cumulative impact area. The Applicant was clearly an established business in the local area who knew it well so was therefore well versed with the problems associated with crime and disorder and public nuisance and what effective measures needed to be put in place and taken in terms of its management of the Premises that would ultimately promote the licensing objectives. The Sub-Committee further considered the conditions imposed on the Premises Licence to be appropriate and proportionate

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.

Conditions reproducing the effect of conditions subject to which relevant existing licences have effect

Conditions relating to Late Night Refreshment

9. This licence is subject to all the former regulations made by Westminster City Council prescribing standard conditions for annual night café licences, effective from 1 October 2001.

Conditions for Sale of Alcohol

10. The maximum number of persons, including staff, to be present in the licensed premises shall not exceed the number specified from time to time by the proper officer of the London Fire and Civil Defence Authority. As to the ground floor 100 persons

11. In that part of the premises hatched green on the deposited plan intoxicating liquor shall not be sold or supplied otherwise than to persons taking table meals there & for consumption by any such person as an ancillary to his meal.

12. Suitable beverages, other than intoxicating liquor including drinking water, shall be equally available for consumption with or otherwise as an ancillary to food supplied in the premises.

Conditions which reproduce the effect of any restriction imposed on the premises by specified enactments.

13. (i) Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

(a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10.00 to 23.00.

(b) On Sundays, other than Christmas Day or New Year's Eve, 12.00 noon to 22.30.

- (c) On Good Friday, 12.00 to 22.30.
 - (d) On Christmas Day, 12.00 to 15.00 and 17.00 to 22.30.
 - (e) On New Year's Eve, except on a Sunday, 10.00 to 23.00.
 - (f) On New Year's Eve on a Sunday, 12.00 to 22.30.
 - (g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00.00 midnight on 31st December).
- (ii) Alcohol may be sold or supplied for one hour following the hours set out above and on Christmas day, between 15:00 and 19:00 to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply.

Monday to Saturday

- (iii) (a) Alcohol may be sold or supplied until 1 a.m. in the morning following weekdays to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by that person in that part of the premises as an ancillary to his meal.
- (b) The alcohol must be sold or supplied at a time before (i) the provision of entertainment by persons present and performing or (ii) the provision of substantial refreshment, has ended. For other purposes or in other parts of the premises the hours set out above shall continue to apply.
- (c) This condition does not authorise any sale or supply to any person admitted to the premises either after midnight or less than half an hour before the entertainment is due to end, except in accordance with condition number 7.ii above

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;

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

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

14. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:
- (a) He is the child of the holder of the premises licence.
 - (b) He resides in the premises, but is not employed there.
 - (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
 - (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

Annex 2 – Conditions consistent with the operating Schedule

15. All emergency exits shall remain unlocked whilst the premises are open to the public.

16. Capacity for Late Night Refreshment is 100 persons including staff.
17. All waste to be properly presented and placed out for collection no earlier than 30 minutes before the schedule collection times
18. The highway and public spaces in the vicinity of the premises are kept free of litter from the premises at all material times to the satisfaction of the Council.

Annex 3 – Conditions attached after a hearing by the licensing authority

19. Live Music shall be limited to a maximum of two performers.
20. There shall be no sale of hot food or hot drink for consumption off the premises between 03:00 and 05:00 except on Saturday, Sunday and Bank Holiday Mondays.
21. After 23:00 hours all windows and doors to be kept closed except for the immediate access and egress of persons.
22. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
23. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
24. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
25. No rubbish including bottles will be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
26. 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.
27. 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 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. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
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 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.

29. A direct telephone number for the manager at the premises shall be publicly available at all times when the premises is open. This telephone number is to be made available to residents in the vicinity.
30. All service of late night refreshment shall be by waiter or waitress service only and to seated customers.
31. A proof of age scheme, such as Challenge 21, shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
32. A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises are open.
33. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - a. all crimes reported to the venue
 - b. all ejections of patrons
 - c. any complaints received
 - d. any incidents of disorder
 - e. seizures of drugs or offensive weapons
 - f. any faults in the CCTV system or searching equipment or scanning equipment
 - g. any refusal of the sale of alcohol
 - h. any visit by a relevant authority or emergency service.
34. In the restaurant area children under 18 shall be accompanied by a responsible adult after 23:00 hours.
35. An enhancement of the existing CCTV system to include an additional camera outside, pointing towards Leicester Square covering the front
36. 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 premise 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.
37. 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 date with the absolute minimum of delay when requested.

- 38 Only one of the two entrance doors to the premises to be used between 03:00 and 05:00
- 39 Additional litter pick to take place between 04:30 and 05:00 between Café Firori and the two entrances to Leicester Square Tube on Charing Cross Road.
- 40 A minimum of 2 SIA licensed door supervisors shall be on duty at the premises between the hours of 03:00 and 05:00 whenever hot food and drink is being sold for consumption off the premises.
- 41 All staff engaged outside the entrance to the premises, or supervising or controlling queues shall wear high visibility yellow jackets or vests.

**5 WOODS QUAY, SAVOY PIER, VICTORIA EMBANKMENT, LONDON,
SW1A 2HR**

This application was granted under Delegated Authority prior to the hearing.

6 RULES RESTAURANT, 34-35 MAIDEN LANE, LONDON, WC2E 7LB

This application was granted under Delegated Authority prior to the hearing.

7 ROSE BAKERY, 18 - 21 HAYMARKET, LONDON, SW1Y 4DQ

LICENSING SUB-COMMITTEE No.1

Thursday 5th July 2018

Membership: Councillor Angela Harvey (Chairman), Councillor Susie Burbridge and Councillor Aicha Less

Legal Adviser: Horatio Chance
Policy Adviser: Kerry Simpkin
Committee Officer: Sarah Craddock
Presenting Officer: Samantha Eaton

Relevant Representations: Licensing Authority

Present: Neil McCann (Chell-Joelson Law), Dover Street Market International (Dsmi) Limited (Applicant), Roxsana Haq and Steve Rowe (Licensing Authority)

Rose Bakery, 18-21 Haymarket, SW1Y 4DQ ("The Premises") 18/05160/LIPN	
1.	Sale by Retail of Alcohol – On Sales Monday to Saturday: 11:00 to 19:40 Sunday: 12:00 to 19:40
	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 Dover Street Market International (Dsmi) Limited, ("the Applicant") for a New Premises licence in respect of Rose Bakery, 18-21 Haymarket, SW1Y 4DQ. The Presenting Officer provided an outline of the application to the Sub-Committee. She confirmed that the Metropolitan Police Force and Environmental Health had withdrawn their representation as conditions had been agreed with the Applicant. The Licensing Authority had maintained their representation as the Premises are located in the West End Cumulative Impact Area. 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 McCann (Applicant's Representative) stated that this was an application for a new premises licence for the Sale by Retail of Alcohol on the Premises from

	<p>Monday to Saturday 11:00 to 19:40 and Sunday 12:00 to 19:40.</p> <p>The Sub-Committee heard that the Premises was an existing upmarket café within a retail unit and that it only traded when the retail unit was open. The Bakery has no direct street access. Rose Bakery was also located in overseas branches of Dover Street Markets. Mr McCann circulated a sample menu and photographs of the cafe to the Sub-Committee and confirmed that conditions had been agreed with both the Police and Environmental Health. The Sub-Committee further heard that the Premises was mainly a retail shop and therefore would not add to the cumulative impact within the cumulative impact area and that alcohol would be sold ancillary to a table meal. In addition, Mr McCann advised that the Applicant was happy to add Model Condition 39 to the licence, which states that <i>'the supply of alcohol shall be by waiter or waitress service only'</i>.</p> <p>Roxsana Haq and Steve Rowe (Licensing Authority) confirmed that the Premises was located in a cumulative impact area and as such Policy PB2 needed to be considered. It was acknowledged that this was mainly a retail shop and that the addition of Model Condition 39 would be a benefit on the licence, however, it was for the Sub-Committee to decide if the application had demonstrated that it could be considered an exception to policy.</p> <p>The Sub-Committee considered that this was mainly a retail shop and that there was no evidence to demonstrate that the Applicant would not promote the licensing objectives. The Sub-Committee further noted that conditions had been agreed with both the Police and Environmental Health and that there had also been no residential representations. The Sub-Committee after careful consideration of the matter decided to grant the application. The Sub-Committee considered the conditions imposed on the Premises Licence to be appropriate and proportionate and will help promote the licensing objectives.</p>
<p>3.</p>	<p>Opening Hours of the premises</p> <p>Monday to Saturday: 11:00 to 20:00 Sunday: 12:00 to 20:00</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 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.

9. 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 driving licence, passport or proof of age card with PASS Logo.

10. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23:00 and 08:00 hours on the following day.
11. All waste shall be properly present and placed out for collection no earlier than 30 minutes before the scheduled collection time.
12. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
13. The premises shall 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.
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 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.
15. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where the alcohol is sold or supplied for consumption on the premises.
16. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. 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 alcohol
 - h. Any visit by a relevant authority or emergency service
17. There shall be no self-service of spirits on the premises save for spirit mixtures less than 5.5% ABV.

18. No super strength beers, lagers, cider or spirit mixtures of 5.5% ABV or above shall be sold at the premises, save for premium brands.
19. 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 sale of alcohol shall be ancillary to the use of the premises as a high-end bakery and café.
21. Alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises.
22. Condition 9 of Annex A provided with the application shall be amended to read 'There shall be no self-service of alcohol'.
23. The supply of alcohol shall be by waiter and waitress service only.

8 58 OLD COMPTON STREET, LONDON W1D 4UF

This application was granted under Delegated Authority prior to the hearing.

CHAIRMAN: _____ **DATE** _____