



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** held on **Thursday 25th October, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Melvyn Caplan (Chairman), Peter Freeman and Jim Glen

#### 1 MEMBERSHIP

There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

There were no declarations.

#### 1 UNIVERSITY OF WESTMINSTER, 4-12 LITTLE TITCHFIELD STREET, LONDON, W1W 7UW

### LICENSING SUB-COMMITTEE No.3

Thursday 25 October 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Jim Glen

Legal Adviser: Horatio Chance  
Policy Adviser: Kerry Simpkin  
Committee Officer: Sarah Craddock  
Presenting Officer: Michelle Steward

Relevant Representations: Environmental Health Team, Fitzrovia Neighbourhood Association, Middleton Place Residents Association, Councillor Jonathan Glanz (Ward Councillor) and Local residents

Present: Ms Harriet Wells (Solicitor for the Applicant), Mr Alex Fleming (The Applicant and proposed DPS), Mr Dave Nevitt (Environmental Health Team), Mr Fred Drabble representing Mr Christopher Shaw, Mr Christopher Shaw and Councillor Jonathan Glanz

**University of Westminster, 4-12 Little Titchfield Street, W1W 7UW (“The Premises”) 18/07713/LIPN**

**1. Regulated Entertainment (Indoors):**

Monday to Thursday: 09:00 to 23:30  
Friday to Saturday: 09:00 to 00:00  
Sunday: 09:00 to 22:30

Seasonal variations/Non-standard timings: Sunday’s immediately before a bank holiday: 09:00 to 00:00.

The premises may provide the authorised licensable activities from the terminal hour on New Year’s Eve to the commencement time on New Year’s Day.

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 the University of Westminster The Court of Governors, (“the Applicant”) for a New Premises licence in respect of University of Westminster, 4-12 Little Titchfield Street, W1W 7UW.

The Presenting Officer provided an outline of the application to the Sub-Committee. She confirmed that the Metropolitan Police had withdrawn their representation as conditions had been agreed with the Applicant. Environmental Health had maintained their representation on policy grounds. The Premises are located in the West End Ward but not in a Cumulative Impact Area. She further confirmed that representations had been received from the Fitzrovia Neighbourhood Association, Middleton Place Residents Association and local residents and these were in relation to noise nuisance and anti-social behaviour.

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.

Ms Wells advised that the Sub-Committee had before it an application for a new Premises licence. The Sub-Committee heard that the Applicant was proposing to licence the Ground and Lower Ground Floors, specifically Portland Hall, Lecture Theatre G.03 and the Refectory to hire out for both external and private events. These rooms were located in the middle of the University so that no noise created at events would escape from the building. It was stated that the majority of events hosted at the University would be conferences/lectures and amateur dramatic shows performed by students. The Sub-Committee was advised that the Applicant’s use of the Premises was primarily for educational purposes. There was no intention to open a permanent bar or hold regulated entertainment as a primary event except for the odd live performance.

Mr Fleming advised that the University was being creative by raising additional funds by hiring out their building for external and private events. The majority of the events would be held during the daytime so would be finished between 9-10pm, however, the University wished to retain Core Hours on their licence for the odd occasion that an event was organised up to 11pm. There would also be no need to apply for Temporary Event Notices under the TENS regime if Core Hours were to be placed on the licence. The University did not intend to let out its space just for drinking and there would always be some type of additional activity linked to the serving of alcohol. He confirmed that the University had an Operational Management Plan that would set out how guests be dispersed after an event in a sensible way so as not to cause nuisance to nearby residents.

Ms Wells referred to the representations that had been made from the Responsible Authorities and advised that conditions had been agreed with the Metropolitan Police and the Environmental Health Team. The University had contacted the Fitzrovia Neighbourhood Association who were particularly concerned about the use of Riding House Street as an entrance and exit to the venue for licensable activities and about noise nuisance in the area. She advised that for security purposes only students could use this entrance as one needed to have a swipe card to enter and exit from this door. The Sub-Committee noted that the Applicant had agreed three additional conditions with the Resident Associations regarding the availability of street parking, no take away food and that licensable activities shall be ancillary to the main function of the building as an educational institution. Ms Wells then went through the proposed conditions and advised how they would alleviate the concerns of the residents with a view to promoting the licensing objectives. Ms Wells finally advised that the Applicant was willing to adjust the application to Core Hours for Late Night Refreshment. The Sub-Committee understood the Applicant's rationale for submitting the application but had to consider in the wider context the views expressed by local residents and Environmental Health in their respective objections. It was on this basis that the Sub-Committee had to be persuaded that the licensing objectives would ultimately be promoted and not undermined having regard to the evidence put before the Sub-Committee.

Mr Nevitt advised that as far as Environmental Health were concerned they were happy with Core Hours being placed on the licence. He confirmed that the rooms being licenced were situated in the middle of the University building so there were no immediate concerns that there would be noise break out from the Premises resulting in nuisance. He further confirmed that at this stage it would be disproportionate to request the University to install a noise monitor for the type of events that they were planning to hold at the Premises and the Sub-Committee did not advance this point further. Environmental Health were, however, concerned about the late night dispersal of guests and preferred that the Middle Titchfield Street entry be used because of the high level of security presence in the street and because it was away from residential properties. Environmental Health would also require the University to produce an Events Management Plan that would deal with the management of events at the Premises, to include how the Premises would manage effectively noise nuisance and dispersal of guests.

Councillor Jonathan Glanz (representing local residents) advised that the University was very much part of the community and residents understood that it had to find opportunities for staying financially viable but that a balance had to be struck when considering the views of residents. Residents were, however, concerned about the late night noise that would accompany people leaving the Premises after the serving of refreshments and would like a set terminal hour for all activities, as this area was becoming 'under stress' because of the increasingly large number of licenced Premises in the area. Residents would also like the University to have an Events Management Plan and an arrangement in place whereby residents be consulted if there was to be a change in events held at the Premises because some of the past music events held at the Premises had caused disturbance to local residents which in turn led to problems with noise and dispersal. The Chairman confirmed for the record that the Sub-Committee could only consider representations from residents that had been received on time.

Mr Fred Drabble (representing Mr Christopher Shaw) advised that he echoed the concerns that Councillor Glanz had raised above and emphasised the concern that the area was under stress because of the number of applications for licences being applied for in the area. He advised that Mr Shaw was particularly concerned about the late opening hours, the potential noise nuisance and the increase in the cumulative impact of the residential area. There was also concern about the number and type of events held at the University per week/month.

The Sub-Committee confirmed that the Applicant was happy with Core Hours, the condition(s) regarding delivery and collection times and the entry and exit points for students.

The Sub-Committee carefully considered all the evidence on its individual merits and decided to grant the licence with the exception of the seasonal variation for New Year's Eve. The Sub-Committee on taking into account that there were residents living in the area determined that the condition '*No alcohol shall be consumed more than 30 minutes after the permitted terminal hour for the supply of alcohol*' be added to the licence as provided for by Condition 50 below. The Sub-Committee considered the conditions proposed by the Applicant and the various undertakings and assurances it had given to the Sub-Committee in relation to working with the local community in an efficient and effective manner so as to avoid the risk of nuisance emanating from the Premises by ensuring that each event has an Event Management Plan in place which must be adhered to at all times as provided for by Condition 27 below were good indicators that the application should be granted accordingly. The Sub-Committee considered the conditions it imposed on the Premises Licence, inter alia, relating to CCTV, smoking, delivery times and collections, event management plans, security and general management arrangements of the Premises to be appropriate and proportionate in the circumstances that would help promote the licensing objectives and furthermore would ensure the Premises did not have a negative impact overall on the local area.

<p><b>2.</b></p>	<p><b>Late Night Refreshment (Indoors)</b></p> <p>Monday to Sunday: 23:00 to 00:00</p> <p>Seasonal variations/Non-standard timings: The premises may remain open for the provision of late night refreshment from 23:00 on New Year's Eve to 05:00 on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>The Applicant adjusted the application to Core Hours for Late Night Refreshment during the hearing.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, (reasons for decisions are detailed in Section 1) subject to conditions as set out below</p>
<p><b>3.</b></p>	<p><b>Sale by retail of alcohol</b></p> <p>Monday to Thursday: 10:00 to 23:30  Friday to Saturday: 10:00 to 00:00  Sunday: 12:00 to 22:30</p> <p>Seasonal variations/Non standard timings: Sunday's immediately before a bank holiday: 09:00 to 00:00</p> <p>The premises may provide the authorised licensable activities from the terminal hour on New Year's Eve to the commencement on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, the reason for the decision is detailed in section 1.</p>
<p><b>4.</b></p>	<p>Hours premises are open to the public</p> <p>Monday to Sunday – N/A</p> <p>The premises are not open to the general public. The University's 24 hours Security Team or Receptions require advance notice of visitors and guest lists for both internal and third party events.</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.

**Additional Conditions 9.** Alcohol will not be stored on the premises. All alcohol is brought from the University's wine cellar in Regent Street. The store is locked and under the control of the Catering Manager.

10. All events will be pre-planned and with a full guest list for both internal and third party events.
11. A risk assessment will be carried out for all events to ensure safety of attendees and staff.
12. There shall be no supply of alcohol and provision of late night refreshment otherwise than to persons attending pre-booked events at the premise.
13. Security staff or Stewards shall assist with the departure of guests or attendees from events and encourage them to depart quietly and safely from the premises and the area.
14. All exit points from the premises shall be manned for the duration of any events until 60 minutes after licensable activities have ceased.
15. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
16. During events, the Premises Licence Holder shall ensure that there is at least one security officer or steward for every 100 patrons (or part thereof) to manage the effective dispersal of guests from the premises until all guests have left.
17. The Premises Licence Holder shall ensure that any queue to enter the premises which forms outside of the premises is orderly and supervised by security staff or stewards to ensure that there is no public nuisance or obstruction to the public highway. Any queue shall be restricted to the Little Titchfield Street.
18. All guests or attendee's at an event (excluding members of staff) shall vacate the premises within 60 minutes after the terminal hour for licensable activities.

19. During licensable activities, all guest and attendees (excluding members of staff) shall not enter or leave the premises from the Riding House Street entrance except in the event of an emergency.
20. 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.
21. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited so far as is possible to 15 persons at any one time.
22. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be restricted to the Little Titchfield Street.
23. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
24. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
25. A direct telephone number for the premises shall be publicly available at all times the premises are open.
26. A log should be kept of all complaints received by the premises in relation to events, whether through the dedicated telephone number or by other means. The log shall be available for inspection by Council Officers at all times when the premises are open to the public.
27. For each event, the Premises Licence Holder shall ensure that there is an Event Management Plan to include, but not limited to: Noise Management Plan; Customer Dispersal Policy and Security & Stewarding arrangement. Such plan shall be kept on the premises and made available immediately upon the request of Police or authorised officer during and up to 31 days after the event
28. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
29. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
30. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day.
31. No deliveries to or removals from the premises including dismantling equipment shall take place between 23.00 and 08.00 hours on the following day.
32. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
33. 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.

34. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
35. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
36. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
37. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
38. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
39. 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.
40. No licensable activities shall take at the premises until the capacity of the premises has been assessed by the Environmental Health Consultation Team and a condition detailing the capacity so determined has replaced this condition on the Licence. The capacity shall not exceed 530 persons excluding staff.
41. 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.
42. 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 required.
43. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

44. 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.
45. 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.
46. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, as licensed premises, shall be displayed outside the premises.
47. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the building as an educational institution.
48. No takeaway food service will be used for the licensable activities.
49. The availability of on-street or off-street parking will not be advertised for events at which licensable activities are to take place, except in relation to parking for blue badge holders.
50. With the exception of residents and their bona fide guests, no alcohol shall be consumed more than (30) minutes after the permitted terminal hour for the supply of alcohol.

**2 40-42 WILLIAM IV STREET, LONDON, WC2N 4DD**

**LICENSING SUB-COMMITTEE No.3**

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Jim Glen

Legal Adviser: Horatio Chance,  
Policy Adviser: Kerry Simpkin  
Committee Officer: Sarah Craddock  
Presenting Officer: Michelle Steward

Relevant Representations: Local residents

Present: Mr Alun Thomas (Solicitor Representing the Applicant) and Mark Browning (Representing the residents)

**40-42 William IV Street, London, WC2N 4DD (“The Premises”) 18/09429/LIPN**

**1. Late Night Refreshment (Indoors):**

Monday to Saturday : 23:00 to 23:30

Seasonal Variations/Non Standard timings:

These hours to be extended from the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day

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 Shaftesbury Covent Garden Limited, (“the Applicant”) for a New Premises licence in respect of 40 – 42 William IV Street, London, WC2N 4DD.

The Chairman sought clarification from the Policy Advisor and Legal Advisor in relation to the Council’s Policy on ‘lapse licences’. The Council’s Cumulative Impact Zone Policy in Paragraph 2.4.8 stipulates that ‘Application for new licences to replace licences which have lapsed because of the failure to submit an interim authority notice in due time in the event of the death or the insolvency of the licence holder will be considered by the Licencing Authority as possible exceptions unless there are representations that indicate that there have been problems with the previous Licence. Licences may be granted with conditions which replicate the effect of those of the previous Licence and with conditions which bring the licence in line with good practice on other licenses e.g. Door supervisors’. The Sub-Committee was also advised that the Premises must be considered as a new application and also on its own individual merit.

Mr Thomas clarified that the application was seeking to reinstate the previous licence with the same terms and conditions (*mutatis mundas*). He also advised that the Premises Freehold had been acquired and that the previous licence holder company had gone into administration on 20 June 2018. Mr Thomas advised that there was no ‘Shadow Licence’ in place and that a letter had been sent to the Licensing Authority which provided information on why the Licence had lapsed. The Sub-Committee was advised that there was a three week period between the lapse of the Licence and the application to reinstate the Premises Licence.

Mr Thomas advised that there had been no concerns raised during the Premises recent history and highlighted that no representations had been received from any of the Responsible Authorities and that Model Conditions were already incorporated onto the lapse Premises Licence. He advised that the concerns raised about the Premises were historic and were not against the previous tenants. Mr Thomas reminded the Sub-Committee that they could impose

conditions which would help to negate past concerns and ensure good practice.

The Sub-Committee was advised that Shaftesbury Covent Garden Limited was currently in negotiation with two potential clients and was committed in ensuring that all tenancies are acceptable to the local residents. Mr Thomas highlighted that proposed hours of operation were within the set 'core hours'. Shaftesbury Covent Garden Limited was noted as having over 250 Licensed Premises and were reputed as being responsible landlords.

Mr Browning (Representing local residents) advised the Sub-Committee that there were a number of concerns with the previous tenants that were based in the Premises. He advised that no actual concerns had been raised whilst the Premises operated as a restaurant and requested that conditions be imposed which would ensure that this remains the position. Mr Browning advised that the Premises' basement was not in use whilst it operated as a restaurant and commented that potential concerns may arise if this section of the building is granted with licensable activities. Mr Browning also highlighted that Paragraph 2.4.8 of the Council's Cumulative Impact Zone Policy required all representations to be taken into consideration and these include both historic and recent.

The Sub-Committee was advised that residents would be satisfied if Condition 9 is replaced with the Model Restaurant Condition and were requested to take into consideration how the Premises previously operated. There was also a request for the sale of alcohol to be made ancillary and that the consumption of alcohol whilst standing be prohibited. Mr Browning commented that local residents had not been consulted about the proposed use of the Premises and would be satisfied if it continues to operate as a restaurant.

Following questions from the Sub-Committee, Mr Thomas advised that the Ground Floor and First Floor of the Premises had licensable activity. It was stated there is no desire to extend licensable activities to the Basement area of the Premises. Mr Thomas commented that Les Deux Salons, the previous tenants, did not operate on a full Model Restaurant Condition and Condition 9 should therefore remain as there had been no concerns raised whilst the establishment was in operation. The Sub-Committee enquired whether the Applicant would be willing to compromise and accept a condition which stipulates that the consumption of alcohol is ancillary to food. Mr Thomas advised that there was no intention for the Premises to become a 'drink led' establishment and that the lapsed licence imposed a Condition which required that substantial food is available. Mr Thomas commented that there had been no conversation with the Applicant about compromising on set conditions and that a 'watered down' version of Condition 9 may be accepted by the Applicant.

The Sub-Committee carefully considered all the evidence and decided to grant the application accordingly. The Sub-Committee noted that the Premises was located in the Cumulative Impact Zone and that the Applicant had successfully demonstrated that the application met the 'exception' threshold as set out in the Council's Policy and that the policy also permits for existing conditions to be transferred to new Premises Licences. The Sub-Committee advised that they

	<p>took into consideration of the Representation made, past concerns raised about the Premises and the time frame between the lapsed licence and the new application. The Sub-Committee agreed that licensable activities should be restricted to only the Ground Floor and First Floor areas of the Premises and requested that the Premises Floor Plans be amended to reflect this. The Sub-Committee considered the conditions imposed on the Premises Licence to be appropriate and proportionate and was satisfied that they would help promote the licensing objectives.</p>
<b>2.</b>	<p><b>Sale by retail of alcohol (Both):</b></p> <p>Monday to Saturday: 11:00 to 23:30  Sunday: 12:00 to 22:30</p> <p>Seasonal Variations/Non Standard timings:  These hours to be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, the reason for the decision is detailed in section 1.</p>
<b>3</b>	<p><b>Recorded Music (Indoors):</b></p> <p>Monday to Saturday: 11:00 to 23:30  Sunday: 12:00 to 23:00</p> <p>Seasonal Variations/Non Standard timings:  These hours to be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, the reason for the decision is detailed in section 1.</p>
<b>4.</b>	<p><b>Opening Hours of the premises</b></p> <p>Monday to Sunday: 10:00 to 00:30 on the following day</p> <p>Seasonal Variations/Non Standard timings:  These hours to be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day</p>

	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The application was granted, the reason for the decision is detailed in section 1.

## Conditions attached to the Licence

### Mandatory Conditions

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



- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
  - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
- (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;

- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

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

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

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

Where -

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

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

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

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

- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Additional Conditions**

9. Substantial food and substantial beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
10. A noise limiter located in a separate and remote lockable cabinet from the volume control must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service's Community Protection Department so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured to the satisfaction of officers from the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the applicant only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement with the Environmental Health Service.
11. 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.
12. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
13. No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.

14. The approved arrangements at the premises, including means of escape provisions, fire warning and fire fighting equipment, the electrical installation

and mechanical equipment, shall at all material times be maintained in good condition and full working order.

15. The certificates listed below shall be submitted to the Council annually.
  - i. Any emergency lighting battery or system
  - ii. Any electrical installation
  - iii. Any fire alarm system
16. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
17. No changes shall be made to the approved layout of the premises without the consent of the Council.
18. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
19. All fire doors shall be maintained effectively self closing and not held open other than by an approved device.
20. Fire resisting doors to ducts, service shafts and cupboards shall be kept locked shut.
21. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
22. Only hangings, curtains, upholstery and temporary decorations, complying with the relevant British (or where appropriate European) Standard shall be used. Where necessary these shall be periodically tested for flame resistance and re-treated as necessary.
23. Curtains and hangings shall be arranged so as not to obstruct fire safety signs, fire extinguishers or other fire fighting equipment.
24. Staff with specific responsibilities in the event of fire or other emergency, together with deputies, shall receive training and written instruction appropriate to their role.
25. The flue of any boiler or heating appliance shall be professionally cleaned at intervals not less than the minimum recommended by the appliance manufacturer.
26. Ventilation ducting and shafts generally shall be maintained in a clean condition.
27. Ventilation air filters shall be cleaned or changed for new filters periodically as may be necessary to maintain a satisfactory flow of air supply.
28. All interior surfaces of extract ventilation ducting serving kitchens and serveries shall be thoroughly cleaned at least annually.

29. Grease filters in extract ventilation hoods in kitchens and serveries shall be regularly cleaned e.g. weekly.
30. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 7 days prior notice being given to the Council where consent has not previously been given.
  - i dry ice and cryogenic fog
  - ii smoke machines and fog generators
  - iii pyrotechnics including fire works
  - iv firearms
  - v lasers
  - vi explosives and highly flammable substances.
  - vii real flame.
  - viii Strobe lighting.
31. Noise and vibration will not be allowed to emanate from the premises so as to cause a nuisance to nearby properties.
32. Notices will be prominently displayed at exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
33. No rubbish including bottles will be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
34. Flashing or particularly bright lights on or outside the premises will not be permitted to cause a nuisance to nearby properties (save insofar as they are necessary for the prevention of crime).
35. At the close of business each day the premises are open for the purposes of the licence the licensee shall ensure that the pavement from the building line to the kerb edge immediately outside the premises, including the gutter/channel at its' junction with the kerb edge, is swept and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
36. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
37. Rubber pads that will prevent noise nuisance arising from the movement of furniture shall be installed and maintained under the feet of the legs of all tables and chairs within the premises.
38. Cleaning is not to take place at the premises before 06:00.
39. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue Licence.

40. The sale of alcohol and provision of late night refreshment is allowed from the end of permitted hours on New Year's Eve to the commencement time for those activities on New Year's Day.
41. The number of persons permitted in the premises at any one time shall not exceed:  
Ground floor 120  
First floor 110.
42. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
43. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
44. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
45. 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.
46. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
47. 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.

48. Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke, shall not be permitted to take drinks or glass containers with them.

**3 BASEMENT & GROUND FLOOR, 5-6 HENRIETTA STREET, LONDON, WC2E 8PS**

**LICENSING SUB-COMMITTEE No.3**

Thursday 25 October 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Jim Glen

Legal Adviser: Horatio Chance  
 Policy Adviser: Kerry Simpkin  
 Committee Officer: Sarah Craddock  
 Presenting Officer: Michelle Steward

Relevant Representations: Licensing Authority and Local Resident

Present: Ms Lisa Sharkey (Agent representing the Applicant), Linda Campin (representing the local resident) and Ms Daisy Gadd (Licensing Authority)

<b>Basement and Ground Floor, 5-6 Henrietta Street, WC2E 8PS (“The Premises”) 18/09161/LIPN</b>	
<b>1.</b>	<b>Sale by retail of alcohol:</b>  Monday to Saturday: 11:00 to 00:00 Sunday: 12:00 to 23:30
	Amendments to application advised at hearing:  None
	Decision (including reasons if different from those set out in report):  The Sub-Committee considered an application by Taster Food UK Ltd, (“the Applicant”) for a New Premises licence in respect of 5-6 Henrietta Street, London WC2E 8PS.  The Presenting Officer provided an outline of the application to the Sub-Committee. She confirmed that Environmental Health and the Metropolitan Police Service had withdrawn their representations as conditions had been agreed with the Applicant. She advised that the Licensing Authority had maintained their representation on policy grounds and the Premises was located in St James’s Ward and within 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.

Ms Sharkey advised that this was an application for a New Premises Licence for Sale of Retail of Alcohol from Monday to Saturday: 11:00 to 00:00 and Sunday: 12:00 to 23:30. The Premises would operate as a restaurant and the Applicant had agreed that the model restaurant condition 66 be attached to the licence. Ms Sharkey stated that Din Tai Fung was a world renowned restaurant operation with over 151 restaurants worldwide.

Mrs Sharkey advised that the Applicant wished to retain a holding bar in the Premises purely for the use of patrons waiting to be seated in the restaurant area. The Applicant would also like to operate the Premises slightly beyond Core Hours. She further advised that the Premises currently had a Premises Licence that had not been surrendered to the Licensing Authority and referred to paragraphs 2.4.8 and 2.1.8 of the City Council's Statement of Licensing Policy. She emphasised that the new licence should be granted on the same terms as the existing licence, which allowed the Premises to operate beyond Core Hours and have a bar, on the basis that the current licence had not been surrendered yet. Mrs Sharkey then referred to the proposed conditions and suggested amendments and deletions to the proposed conditions to be attached to the new Premises licence. The Sub-Committee noted that the Applicant wished to have a holding bar in the Premises and make changes to the some of the conditions, however, Environmental Health and the Police had withdrawn their representations on the basis that the conditions and in particular, the model restaurant condition 66 had been agreed with the Applicant. The Licensing Sub-Committee was therefore reluctant to change the wording of conditions that had been agreed with the Responsible Authorities.

The Licensing Authority had maintained their representation on policy grounds as the application was outside of Westminster's Core Hours Policy and because the Applicant needed to demonstrate that they would not add to cumulative impact in the area. The Licensing Authority requested that if there was to be a Holding Bar the conditions should reflect that the bar could only be used by patrons waiting for a table meal.

Ms Campin (representing the local resident) advised that residents were generally concerned about the increase in licenced premises in Henrietta Street but were reassured that the Premises would be operated as a restaurant and not a bar. Other issues of concern were the use of table and chairs outside on the pavement which would have a direct impact on the level of noise and disturbance coming from the building and people queuing outside of the building waiting to be given a restaurant seat which could have the potential of causing public nuisance . Ms Campin confirmed that the conditions agreed with Environment Health and the Police would promote the Licensing objectives.

The Sub-Committee carefully considered all the evidence presented at the Committee. The Sub-Committee noted that the Applicant wished to have a holding bar and amend some of the proposed conditions, however, Environmental Health and the Police had withdrawn their representation on the basis that conditions and in particular, the restaurant condition 66 had been agreed with the Applicant. The Sub-Committee further noted that residents were concerned about the increase in licenced premises in Henrietta Street but were reassured that the Premises would be operated as a restaurant and that the



<p>conditions agreed with Environment Health and the Police would promote the Licensing objectives. The Sub-Committee considered the conditions proposed to be placed on the licence were appropriate and proportionate in the circumstances and would ensure the Premises did not impact negatively on the local area.</p> <p>As Environmental Health and the police had withdrawn their objections on the basis of agreed conditions, the committee did not agree to change those conditions to allow the holding bar as that was not included in the agreed conditions. The Sub-Committee granted the application accordingly.</p>
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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.

### **Additional Conditions**

9. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to serve alcohol.
10. The premises licence holder will ensure that proper training for all staff on premise specific policies as part of new hire training.
11. The premises licence holder will ensure training records are recorded and documented.
12. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
13. All windows and external doors shall be kept closed after 23:00 hours, except for the immediate access and egress of persons
14. Queues will be actively managed by premises staff, especially later in the evening, to keep noise to a minimum. Rowdy behaviour from people queuing to get in should not be tolerated. Premises staff will refuse entry to anyone behaving in an anti-social way.
15. Customers will not be allowed to take glasses out of the restaurant. This will prevent them from loitering outside the restaurant.
16. Staff who depart late at night when the business has ceased trading, will conduct themselves in such a manner as to avoid causing disturbance to nearby residents.
18. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23:00) hours and (08:00) hours on the following day.
19. No collection of waste or recycling materials (including bottles) from the premises shall take place between (23:00) and (08:00) on the following day.
20. No deliveries to the premises shall take place between (23:00) and (08:00) on the following day.

21. Kitchen machinery will not cause nuisance to local residents by way of noise, odours or vibration.
22. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards such as driving licence, passport or proof of age card with the PASS Hologram.
23. The bar will keep a refusals book (or refusal button on EPOS – Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18. The book will contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused.
24. Staff training in the age related sections of the Licensing Act 2003 will be provided to all bar and front of house staff. This includes the ability to competently check customers' identification where necessary. Training records will be documented and kept.
25. A health and safety policy and full risk assessment will be written by a qualified health and safety consultant
26. Customers will not be allowed to carry any glasses, bottles or tableware out of the restaurant.
27. The supply of alcohol shall cease at 23:00 hours until such time that the provision of Late Night Refreshment is permitted on the premises
28. The number of persons permitted on the premises at any one time (excluding staff) shall not exceed:
  - a. Basement 190 persons
  - b. Ground Floor 110 persons

With no more than 300 persons on the premises at any one time (subject to clearance)

29. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
30. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
31. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.

32. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
33. 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
34. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, all not be permitted to take drinks or glass containers with them
35. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
36. 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.
37. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
38. 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.
39. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority by way of variation.
40. 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.
41. 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.

42. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

43. 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.

#### **4 UNIT 29, TROCADERO, 13 COVENTRY STREET, LONDON, W1D 7AB**

##### **LICENSING SUB-COMMITTEE No.3**

Thursday 25 October 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Jim Glen

Legal Adviser: Horatio Chance  
Policy Adviser: Kerry Simpkin  
Committee Officer: Sarah Craddock  
Presenting Officer: Michelle Steward

Relevant Representations: Licensing Authority and local residents

Present: Ms Lisa Sharkey (Solicitor representing the Applicant), Mr Hadid Ahmed (Applicant, Director Global Vips Limited) and Daisy Gadd (Licensing Authority)

<b>Unit 29, Trocadero, 13 Coventry Street, London, W1D 7AB (“The Premises”) 18/08646/LIPN</b>	
<b>1.</b>	<b>Late Night Refreshment (Both):</b>  Monday to Sunday: 23:00 to 05:00
	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 Global Vips Limited, (“the Applicant”) for a New Premises licence in respect of Unit 29, Trocadero, 13 Coventry Street, W1D 7AB.  The Presenting Officer provided an outline of the application to the Sub-Committee. She confirmed that the Licensing Authority had maintained their representation on policy grounds and that the Premises was located in the West End Cumulative Impact Area (“CIA”). She further confirmed that representation had been received by a local resident and these were in relation to noise nuisance and anti-social behaviour.  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.  Ms Sharkey (Applicant’s Representative) advised the Sub-Committee that Mr Ahmed had over 29 years’ experience managing and operating convenience stores. He currently owns a similar premises in Leicester Square and was reported to be well accustomed to the local surrounding area its challenges and aware of the Local Authorities concerns. Mr Ahmed has operated the Premises for 3 years, has a SIA Registered Badge and is also a Personal Licence Holder.  The Sub-Committee was informed that the Premises operates as a 24 Hours convenient store and also serves a wide range of hot food which include pizzas, samosas, sausage rolls and paninis. The hot food for sale is not prepared on the Premises and is only reheated. The current premises license permits the sale of hot food between 05:00 hours to 23:00 hours. Ms Sharkey informed that Mr Ahmed wanted to serve hot food 24hrs and this was required in order to meet current demands. At present, the Applicant is unable to warm food after 23:00 hours. This condition was reported to cause conflict with customers in particular when staff members refuse their request to warm food. The Applicant informed the Sub-Committee that to diffuse potential arguments and to prevent staff being verbally abused by customers, signs advising that the equipment to heat food



are faulty are displayed after 23:00 hours. Patrons are redirected to other eateries when their request for hot food is refused.

Ms Sharkey advised that Mr Ahmed had applied for Temporary Event Notice (TENs) and when granted these had not caused any public nuisance. They were reported to have also deter 'conflicts' between customers and staff members. She further stated that the Premises was unlikely to be viewed as a 'fast food Premises' because of its particular style of operation and character. It was submitted that the primary function of the Premises was that of a convenience store and serving food was ancillary to its main use.

In response to questions from the Sub-Committee, Mr Ahmed ) advised that on average around 70 people purchased hot food from the Premises between Friday and Saturday and 50 people during the other days of the week. It was estimated that 2% of customers request hot food during the late evening and that the Premises is visited by some 500 individuals during the course of the week. There was not a major increase in sales of 'hot food' when TENs were granted.

Ms Sharkey noted that the 'fast food' premises were of concern to the Police and this was due to these establishments attracting crowds. She advised that Mr Ahmed was aware of the importance of ensuring that the immediate areas around these type of Premises are kept clean and safe so as to prevent public nuisance. The Police and Environmental Health were consulted by the Applicant; there have been no concerns raised in relation to crime and disorder.

The Sub-Committee was advised that the Premises was not large and that it primarily operated as a convenience store and that food is only 'warmed up'. The patrons who frequent the Premises largely purchase other goods. Mr Ahmed advised that a wide range of customers frequented the Premises and these included, local residents, commuters, hotel users, hospital staff, tourist and late night shift workers. It was stated that the store is not frequented by 'clubbers'.

The Sub-Committee were advised that the hours requested to sale alcohol were within the set core hours. The Premises will have alcohol on display and beverages such as spirits will be displayed behind the counter. The Applicant was reported to sell alcohol in his other premises; there have been no concerns raised about the store's operation.

The Sub-Committee held a brief discussion and reminded the Applicant the rationale behind the Fast Food Policy and commented that food provided after 23:00 hours was governed under Policy FFP2. In these circumstances Applicants will need to demonstrate how their application fell within the 'exceptional circumstances' rule. Ms Sharkey reminded the Sub-Committee that the Premises was primarily operated as a convenience store and that there were no plans to alter the business model. The Premises is not viewed by customers as a designated place to purchase hot food.

Ms Sharkey outlined the conditions which had been agreed by the Applicant and commented that these demonstrated that the Premises came within the

'exceptional rule' threshold and this was due to the Premises style of operation. She commented that proposed Condition 9 was met, as the food was not prepared inside the Premises and was solely heated up and that there was no plans to convert the store into a fast food style premises. Ms Sharkey in her submissions to the Sub-Committee made references to proposed Conditions 13, 14, 15 and 16 and confirmed that the Applicant was willing to implement them and noted that these covered a wide range of areas such as the requirement to have a personal licence holder on the Premises at prescribed times, the display and purchase of alcohol and usage of sale area. Ms Sharkey advised that the Applicant was willing to accept proposed Condition 24 which had been stipulated by Environmental Health.

Ms Daisy Gadd (Licensing Authority) advised the Sub-Committee that the application fell within the Fast Food Policy and reminded the Sub-Committee that after 23:00 hours, hot food would be purchased and taken away for immediate consumption. Ms Gadd advised that there was policy to prevent the attraction and retention of people in the Cumulative Impact Zone Areas and that it was Policy to refuse these types of applications, unless it was demonstrated that the proposed Licence was an 'exception' which would require a deviation from the terms of the policy but this has to be conveyed to the Sub-Committee. Ms Gadd also confirmed that Applicants would also need to demonstrate that sales of alcohol in the Cumulative Impact Zone Areas would not add to the cumulative impact.

Ms Sharkey advised that Ms Ahmed successfully operated a similar Premises near Leicester Square Tube Station and that the store was located within the CIA. It is envisaged that the Premises will not add to or have an impact on CIA. She confirmed that alcoholic beverages will be priced higher than those sold in nearby premises such as Tesco and that only a small percentage of the shop floor will be used to display alcohol. Ms Sharkey reminded the Sub-Committee that the Premises was primarily operated as a convenience store and will not be of attraction to individuals who wish to purchase cheap alcohol or pre load on beverages.

The Sub-Committee carefully considered all the evidence and agreed to grant the sale by retail of alcohol (off) and commented that the proposed time scales were within core hours and that they were satisfied that the controls and conditions put forward would not add to the cumulative impact and would ultimately have the effect of promoting the licensing objectives .

The Sub-Committee noted that the Council's late night refreshments policy included fast food and that licences should only be granted when exceptional circumstances can be demonstrated. The Sub-Committee commented that they had taken into consideration the points raised by the Application, however, they decided that the Applicant had failed to demonstrate how the Premises fall under the 'exceptional circumstances' rule. The Sub-Committee noted that whilst the application had minimal representation this did not in itself warrant for a derivation from Policy. The Sub-Committee noted that Condition 24 no longer applied.

<b>2.</b>	<p><b>Sale by retail of alcohol (Off)</b></p> <p>Monday to Saturday: 08:00 to 23:00  Sunday: 10:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised that the requested hours for sale of alcohol on Sunday was 10:00 to 22:30hrs and not 08:00 to 23:00 as detailed in the report.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted, (reasons for decisions are detailed in Section 1) subject to conditions as set out below</p>
<b>3.</b>	<p><b>Opening Hours of the premises</b></p> <p>Monday to Sunday: 00:00 to 00:00</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.

### **Additional Conditions**

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

12. All sales of alcohol for consumption 'Off' the premises shall be in sealed containers only, and shall not be consumed on the premises.
13. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
14. 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.
15. 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.
16. 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.
17. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
18. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
19. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed within the premises.
20. 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, proof of age card with the PASS Hologram and military ID cards.
21. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority
22. 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 emergency service.

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.

**5 ESSENTIALS, UNIT 1, LEICESTER SQUARE STATION, CHARING CROSS ROAD, WC2H 0AP**

**LICENSING SUB-COMMITTEE No.3**

Thursday 25 October 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Jim Glen

Legal Adviser: Horatio Chance  
 Policy Adviser: Kerry Simpkin  
 Committee Officer: Sarah Craddock  
 Presenting Officer: Michelle Steward

Relevant Representations: Licensing Authority and Transport for London (TFL in support of the application)

Present: Ms Lisa Sharkey (Solicitor representing the Applicant) and Ms Daisy Gadd (Licensing Authority)

<b>Essentials, Unit 1, Leicester Square Station, Charing Cross Road, WC2H 0AP("The Premises") 18/08641/LIPV</b>	
<b>1.</b>	<b>Late Night Refreshment (Both):</b>  Friday to Saturday: 23:00 to 05:00
	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 Global Vips Limited, ("the Applicant") for a Variation to the Premises licence in respect of Unit 1, Leicester Square Station, Charing Cross Road, London WC2H 0AP.  The Presenting Officer provided an outline of the application to the Sub-Committee. She confirmed that the Licensing Authority had maintained their representation on policy grounds. The Premises are located in St James's Ward and within 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.

Ms Sharkey advised that this was an application for a variation of a premises licence for Late Night Refreshment (on and off) the Premises Friday to Saturday: 23:00 to 05:00. The Sub-Committee heard that the Premises currently operated as a convenience store and already benefited from a licence for the sale of alcohol off the Premises. It was stated that Mr Ahmed (Applicant) had over 29 years' experience managing and operating Convenience stores and was well accustomed to the local surrounding area. Mr Ahmed was also a SIA Licence Holder and a Personal Licence Holder. Mr Ahmed now wished to add Late Night Refreshment in line with the operation of the late night tube during the weekends. The Sub-Committee was informed that the Premises had operated these hours under a number of Temporary Event Notices and there had been no Public Nuisance or complaints made to the relevant authorities.

Ms Sharkey advised that the application be granted under exceptional circumstances due to the Premises being located within the underground public side concourse of Leicester Square tube station. Ms Sharkey advanced the argument further by stating, that there was a high level of security inside the Tube station and that people purchasing food from the Premises would be largely leaving the West End. The Sub-Committee noted that Transport for London had submitted a letter of support for the application and indicated that the Premises had no negative impact on them regarding Crime and Disorder or Public Nuisance.

The Licensing Authority had maintained their representation on policy grounds in accordance with Policy FFP2. 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 Sub-Committee carefully considered all the evidence and decided to grant the application accordingly. The Sub-Committee considered the application was an exception to policy due to the location of the Premises, the high level of security inside the Tube Station in terms of CCTV monitoring and security staff and that people purchasing food from the Premises would be largely leaving rather than staying in the West End so there would be no problem with the dispersal of customers.

The Sub-Committee noted that conditions had been agreed with both the Police and Environmental Health and that there had been no history of complaints at the Premises. The Sub-Committee considered on balance that the conditions imposed on the Premises Licence to be appropriate and proportionate and was

	therefore satisfied that they would help promote the licensing objectives.
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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.

### **Additional Conditions**

9. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
10. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
11. Outside of the hours authorised for the sale of alcohol, all alcohol within the trading area is to be secured behind locked grilles/screens or secured behind locked cabinet doors so as to prevent access to the alcohol by both customers and staff save for restocking.
12. No super strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises except for premium beers and ciders sold in glass bottles.
13. No more than 15% of the sales area to be used at any one time for the sale, exposure for sale, or display of alcohol.
14. There shall be no self-service of spirits on the premises except for spirit mixtures below 5.5% ABV (alcohol by volume).
15. 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.
16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
17. 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.
18. The premise 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 the Police or an authorised officer throughout the preceding 31 day period.

19. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
20. A diary 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.
21. Licensable activities shall at all times be ancillary to the main functions of the premises as a convenience store.
22. There shall be no primary cooking and late night refreshment food shall be limited to food reheated in a microwave or Panini grill operated by staff behind the counter.

**6 3 SAVILLE ROW, LONDON, W1S 3PB**

**LICENSING SUB-COMMITTEE No.3**

Thursday 25 October 2018

Membership: Councillor Melvyn Caplan (Chairman), Councillor Peter Freeman and Councillor Jim Glen

Legal Adviser: Horatio Chance  
 Policy Adviser: Kerry Simpkin  
 Committee Officer: Sarah Craddock  
 Presenting Officer: Michelle Steward

Relevant Representations: Environmental Health and Metropolitan Police Service

Present: Mr Dave Nevitt (Environmental Health) and PC Reaz Guerra (Metropolitan Police)

<b>3 Savile Row, London, W1S 3PB (“The Premises”) 18/12161/LITENN</b>	
<b>1.</b>	<p><b>Temporary Event Notice</b></p> <ul style="list-style-type: none"> <li>• Sale by Retail of Alcohol</li> <li>• Late Night Refreshment</li> <li>• Regulated Entertainment</li> </ul> <p>09:00 (30 January 2019) – 03:00 (31 January 2019)</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>

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

The Sub-Committee considered an application by Mr Vittorio Mischi, (“the Applicant”) for a Temporary Event Notice in respect of 3 Savile Row, W1S 3PB.

The Presenting Officer provided an outline of the Temporary Event Notice to the Sub-Committee. She confirmed that Environmental Health and the Metropolitan had given notice of objection under s.104 (2) of the Licencing Act (“The Act”) and that the Premises was located in St James’s Ward but not in a Cumulative Impact Area. The Applicant, Mr Vittorio Mischi, was not in attendance as he was currently abroad. It was stated that the Applicant had emailed earlier in the day to request an Adjournment but did not give a reason as to why he could not attend the hearing.

The Chairman was advised by PC Guerra that the Applicant had been made fully aware of the hearing date and had not indicated that he would be unable to attend on that date. The Legal Adviser advised that the Applicant had left it very late to request an Adjournment and that Temporary Event Notices needed to be considered within a set time period as set out in the Act. In the absence of an exceptional reason provided by the Applicant and given the public interest test the Sub-Committee decided to hear the application.

PC Guerra (representing the Metropolitan Police) advised that this was an application for a Temporary Event Notice to bring the Beatles together again to play on the roof of the Premises. The Sub-Committee heard that there was insufficient details describing the management of the event and how the licensing objectives would be promoted. The Premises did not have the benefit of a Premises Licence and the event would attract huge numbers of people to the area involving road closures and high security in the area.

Mr Dave Nevitt (representing Environmental Health) concurred with the Metropolitan Police and advised that the proposed event was likely to increase Public Nuisance and may impact on Public Safety. He advised that there was no details on how over 400 people would be kept safe on a roof top and that an open air event at 3am would cause a great deal of Public Nuisance. Mr Nevitt advised that he had spoken to the Applicant about a week ago and had informed him that a great deal more detail was needed about the management and operation of the event. The Applicant had not been forthcoming with any further information regarding the event for the Sub-Committee to consider as part of the application process.

The Sub-Committee carefully considered all the submissions for the notice of objection and decided to issue a counter notice to the premises user, in accordance with s.105 of the Act. The Sub-Committee considered that there was wholly insufficient detail to allow such an event to take place. The Sub-Committee considered it was unfortunate that the Applicant could not attend the Hearing and explain the nature of his application in detail but were satisfied that the proper procedural steps had been undertaken in that he had been given notice of the date, and opportunities by the Responsible Authorities to submit further details about the event. The Applicant did have the opportunity to submit a new application for a Temporary Event Notice that would need to detail the

	management and operation of the event.
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The Meeting ended at 3.00 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_