



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 11th October, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Angela Harvey (Chairman), Louise Hyams and Aziz Toki.

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1 THE DRAFT HOUSE, WEST END QUAY, SOUTH WHARF ROAD, LONDON, W2 1LA

LICENSING SUB-COMMITTEE No. 1

Thursday 11th October 2018

Membership: Councillor Angela Harvey (Chairman), Councillor Louise Hyams and Councillor Aziz Toki.

Legal Adviser: Barry Panto

Committee Officer: Toby Howes

Presenting Officer: Michelle Steward

Relevant Representations: Environmental Health, a Residents' Association, a Right to Manage Company, 3 Ward Councillors, 2 corporate objections and 59 individual representations.

Present: Anthony Lyons (Solicitor, representing the Applicant Company), Mark Elliott (Operations Manager, Applicant Company), Dave Nevitt (Environmental Health), Richard Brown (Solicitor, Citizens Advice Bureau, representing Michael Clarke, John Zamit and Paddington Waterways and Maida Vale Society), John Zamit (South East Bayswater Residents'

Association) and Paul Harrison (West End Quay Right to Manage Company).

The Draft House, West End Quay, South Wharf Road, London, W2 1LA (“The Premises”) 18/09700/LIPN	
1.	Sale by retail of alcohol: On and off sales
	Monday to Saturday: 10:00 to 23:00 Sunday: 12:00 to 22:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): This was an application by Draft House Holding Ltd for a new premises licence to replace an existing premises licence. The application is for essentially the same hours of operation but does not include any regulated entertainment apart from the exhibition of films Anthony Lyons (Solicitor, representing the Applicant Company) began by giving apologies for absence from James Brown, Retail Operations Director at BrewDog and director of Draft House Holdings Limited, who was away on business and had submitted a witness statement. Mr Lyons explained that BrewDog had acquired Draft House Holdings Limited in 2018, as both companies shared an appreciation for fine beers. BrewDog had acquired 13 sites this year, and in respect of this site, the conditions on its current premises licence did not fit the business model that BrewDog premises operated to. The Sub-Committee heard that the premises had previously operated as the Grand Union public house, which hosted DJs on Fridays and Saturdays until the terminal hour. Some internal refurbishments were due to take place on the premises. Mr Lyons stated that the Applicant Company had undertaken pre-application consultation and had extensive conversations with City Council officers. Many of the conditions proposed were as a result of recommendations made by officers, including some as a result of a meeting with Dave Nevitt from Environmental Health. It was not proposed to extend the hours of operation, however it appeared that some residents had misunderstood the Applicant Company’s intentions as they had commented that the Applicant Company was seeking to extend the hours in their representation. Mr Lyons stated that the only extension the Applicant Company was seeking was to be permitted to supply alcohol without it being ancillary to a table meal to customers in the external area up to 20:00 hours, rather than up to 17:00 as permitted on the current licence.

Mr Lyons referred Members to James Brown's witness statement amending the sale and consumption of alcohol to 10:00 to 23:00 Monday to Saturday and 12:00 to 22:00 Sunday, in order to address residents' concerns. The same hours would also apply to all other licensable activities. It was proposed that there be a 30 minutes dispersal period after these hours at which time the premises would close. Mr Lyons added that all the hours proposed were within core hours. Furthermore, the Applicant Company was willing to reduce the terminal hour for licensable activities in the external area from 22:30 to 22:00, again to address residents' concerns about possible noise nuisance later in the evening, which Mr Lyons asserted was a significant concession. Conditions were also proposed that all patrons in the external area were to be seated and be served by waiter/waitress service. The Sub-Committee noted that the external area was privately owned, but not by the Applicant Company. Mr Lyons stated that the capacity for the external area was for 112 seated persons and the proposed designated smoking area would be away from residential properties. He advised that only the Harbet Road entrance could be used for entry and egress after 22:00, with the front area closed. Mr Lyons stated that there would be fixed notices on the external tables advising customers that consumption of alcohol could only be ancillary to a table meal after 20:00 and that the external area would close at 22:00.

Mr Lyons advised that a meeting had been arranged with residents once the representations had been received and this had taken place the previous week, with two residents in attendance. No residents had made telephone contact with the Applicant Company. Mr Lyons stated that the Applicant Company did care about residents and the local community and was also passionate about its product. The Applicant Company had lobbied for the use of 1/3 pint glasses and very low alcohol beer products were also available. The customers enjoyed appreciating high quality beer in a seated setting. The premises was not located within a cumulative impact area and there had been no issues with the premises since BrewDog had acquired it, with no noise complaints received since.

Mark Elliott (Operations Manager, Applicant Company) was invited to address the Sub-Committee and he informed Members that tables and chairs in the external area would be stacked and rendered unusable from 22:00. He advised that he also oversaw BrewDog premises in Old Street and Tower Bridge locations in central London, where there was considerable social interaction with local residents. Mr Elliott advised that the BrewDog blueprint for 2019 was "Beer, community and people" and the Applicant Company played a significant role in promoting craft beer. There were some 78,000 beer enthusiasts who invested in the company and most sales were in 1/3 or 1/2 pint measures.

The Sub-Committee sought clarification in respect of off sales, including the use of growlers. In acknowledging that the premises was located in a residential area, it was suggested that during the hours that consumption of alcohol would not be ancillary to a table meal in the external area that this may increase the risk of noise. Clarification was also sought with regard to music on the premise and whether the 'Beer Here' neon sign on the front façade shown on the photographs still existed.

In reply to questions from Members, Mr Elliott advised that growlers would be

used for off sales and that they could hold around a litre, however most off sales would consist of 330ml cans. Mr Lyons advised that there would be background music on the premises only and he contended that there was significantly louder music played at a nearby premises. He confirmed that the 'Beer Here' neon sign remained.

Barry Panto (Legal Adviser) sought the Applicant Company's views in respect of re-wording proposed condition 24 as model condition 12 and to be further amended to read "No noise generated on the premises (including the external area), 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, including the removal and stacking of furniture and barriers". This was agreed by Mr Lyons on behalf of the applicant.

Dave Nevitt (Environmental Health) then addressed the Sub-Committee and advised that currently part of the internal ground floor area was used for vertical drinking, whilst in other areas the restaurant model condition 66 applied. He had met the Applicant Company twice and their application largely reflected what Environmental Health had recommended, including the proposed conditions. Mr Nevitt stated that the premises was of modern design and there was good acoustic integrity inside the premises and so he was not concerned about noise breakout from within. However, he had some concerns with regard to the use of the external tables and chairs, smoking area and dispersal of customers, especially as there were residential flats above the premises. The area did not have much background noise and so noise from the premises could be potentially more disturbing.

Mr Nevitt stated that the Applicant Company had been asked to address matters relating to the use and hours of the external area. He welcomed proposals for a designated smoking area and agreed that the Harbet Road area was the most appropriate location. In respect of dispersal, residents should be encouraged to exit the area via Praed Street. Mr Nevitt also welcomed the reduction in hours for licensable activities which were less than core hours, however the premises was generally busier earlier in the evening in any case. He felt that limiting consumption of alcohol up to 20:00 in the external area without it being ancillary to a table meal was acceptable, however he felt that further consideration needed to be given in respect of the number of external tables and chairs. He suggested that efforts be made to place as many external tables and chairs as possible under the overhang in order to protect resident from noise. Mr Nevitt felt that it may be possible to place around 50 to 60 covers under the overhang, which would represent around a 40% to 50 % reduction to the 120 covers mentioned by Mr Lyons.

Richard Brown (Solicitor, Citizens Advice Bureau, representing Michael Clarke, John Zamit and Paddington Waterways and Maida Vale Society) then addressed the Sub-Committee and confirmed that the Applicant Company had invited residents on 1 October for a meeting to take place on 4 October, which may explain why only two residents had been able to attend. There had been a number of objections from residents to the application, with many relating to the use of the external area and dispersal. These concerns were not taken into account during the pre-application stage because of when the representations

had been received. Mr Brown felt that the amendments to the application did not properly address the concerns of residents, particularly in respect of noise from the external area earlier in the evening and residents were against extending the hours to which consumption of alcohol could take place in the external area without it being ancillary to table meal from 17:00 to 20:00. Amending this restriction would be more likely to harm residents through extending the hours of noise through drinks led activities. Mr Brown referred to residents' representations which emphasised the importance of operators respecting the site they were located in and that it is not appropriate to alter a licence to fit a business model if this impacted upon residents.

In Mr Brown's view, the premises was drinks led and there was no evidence of what the alcohol/food split was. The premises was located in a residential area and there were already issues in relation to noise from the premises at the moment, so relaxing the alcohol ancillary condition to the external area would only exacerbate this problem. Sound was also magnified by the surrounding tall buildings in the area. Mr Brown acknowledged the amendments to the application and the reduction in hours, however these did not go far enough to address residents' concerns. In respect of the proposed total capacity of 355 persons, Mr Brown noted that there were only 200 covers inside the premises. There was also a condition on the existing licence that only permitted off sales of alcohol where it was supplied with take away food that was not proposed in this application.

Paul Harrison (West End Quay Right to Manage Company) then addressed the Sub-Committee and confirmed that he was speaking on behalf of Dr Gerald Higgs (West End Quay Right to Manage Company). Mr Harrison began by confirming that his company did not manage the commercial properties in the area and he then read out Mr Higgs' written representation. Although the amendments to the application were welcomed, it was still felt that the application would lead to a more drinks led establishment and cause more noise disturbance in a largely residential area. Mr Harrison welcomed the proposals in respect of the designated smoking area and customer dispersal.

John Zamit (South East Bayswater Residents' Association) was then invited to address the Sub-Committee and began by stating that he knew the area well. He had been approached during the pre-application stage and had advised the Applicant Company that residents would not be happy if the proposals were to change the nature of the premises so that they would operate more like a public house. The reduction in hours to the original application were welcomed, however he felt that the premises would still operate more like a public house. He queried why a capacity of 112 persons for the external area was proposed, when there only appeared to be 86 external seats in the plans. Although planning permission for 112 external covers had been approved, this was only a 1 year permission and was due to expire in November 2018. Mr Zamit felt that there was a lack of clarity about precisely where the designated smoking area after 22:00 would be. He expressed concern about noise emanating from the premises when the doors were open and also about the possibility of vertical drinking in the external area, particularly in the summer months and he suggested that an appropriate condition be added to prevent this.

The Sub-Committee sought further clarification in respect of the capacity of the external area and how the area would be identified. Further details were requested on the entrance doors and clarification was sought on whether customers could smoke at the external tables and when did the gates to the basin of West End Quay close.

In reply, Mr Lyons stated that there were 82 covers in the external area in the plans. The front entrance included a lobby area and the fire doors would be closed. Customers would be permitted to smoke at the external tables up until 22:00, whilst those inside who wanted to smoke would go to an external area around the front of the premises before 22:00. Members noted that gates to the basin of West End Quay were closed by the time the premises was closed.

Upon further inspection of the plans, Mr Lyons acknowledged that there were 86 covers in the external area and he agreed on behalf of the Applicant Company that this be the total capacity for the external area.

Mr Panto then sought clarification as to the overall capacity of the premises. Mr Nevitt stated that he understood that the internal capacity was 215 persons, meaning that the total capacity was 301 persons when the external capacity was added.

At this point, Mr Brown referred to a previous decision letter for the premises from an application for a variation in 2013 which gave a total capacity for 250 persons, which suggested an internal capacity of 164 persons if the external capacity was 86. It was noted that the capacity figures had been erroneously omitted on the current premises licence.

Mr Lyons was invited to make his concluding remarks on behalf of the Applicant Company. Mr Lyons began by acknowledging that the intention was for the premises to operate as a craft beer establishment that also offered wines. The premises did not offer regulated entertainment such as live music, unlike other venues in the area. The Applicant Company had also gone to considerable lengths to address the concerns raised by residents and so Mr Lyons felt it was appropriate to grant the application as proposed.

The Sub-Committee granted the application, subject to the consumption of alcohol being ancillary to a table meal in both the internal (excluding the bar area as marked in the plans) and external areas from 19:30 Monday to Sunday and so proposed condition 11 was amended accordingly. In respect of the internal bar area, the Sub-Committee noted Mr Nevitt's advice that there was no area clearly marked on the plans as such. Mr Zamit had then referred to an area that could be considered the internal bar area in the plans that he felt was acceptable, which Mr Lyons then confirmed on behalf of the Applicant Company as also being acceptable. In view of this, the Sub-Committee agreed to this constituting the internal bar area and advised that the plans be amended accordingly to reflect this. Proposed condition 22 was amended to include the words "The fire exit doors shall be closed at all times, except in the case of an emergency or to collect furniture and the barriers at the close of business." This was amended as it was acknowledged that the Applicant Company needed use of the fire doors to pack away furniture and the barriers at close of business.

	<p>Proposed condition 24 was amended to model condition 12 and to include reference to the external area, as agreed by Mr Lyons on behalf of the Applicant Company during the course of the hearing. Proposed condition 40 was amended so that the total capacity be 250 persons for the premises at any one time, including a capacity of 86 persons to the external area that was agreed by Mr Lyons on behalf of the Applicant Company at the hearing.</p> <p>The Sub-Committee added a condition stating that entry to and exit from the premises be from Harbet Road from 22:00 Monday to Sunday, as proposed by the Applicant Company in Mr Brown’s witness statement. Another condition added stated that there shall be no exhibition of any films in the external area. Model condition 62 was also added in respect of licensable activities not taking place under the new premises licence until the current premises licence has been surrendered.</p> <p>In determining the application, the Sub-Committee noted the concerns of all the residents who had made representations and the wishes of the Applicant Company in making a balanced decision. The Sub-Committee noted that the premises was located in close proximity to residential properties, however the hours proposed were within core hours and the premises was not in a cumulative impact area. There had been careful consideration of the conditions and the Sub-Committee considered that the conditions agreed would assist the Applicant Company in upholding the promotion of the licensing objectives..</p>
2.	Exhibition of Films: Indoors
	<p>Monday to Saturday: 10:00 to 23:00 Sunday: 12:00 to 22:00</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>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
3.	Hours premises are open to the public
	<p>Monday to Saturday: 10:00 to 23:30 Sunday: 12:00 to 22:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>

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

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

A responsible person in relation to a licensed premises means the holder of the

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

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

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Additional Conditions

9. Alcohol consumption in the external area (shown edged in blue on the plan attached to this licence) shall only be by patrons seated at tables.
10. The service of alcohol for consumption in the external area shall be by way of waiter/waitress service.
11. After 7.30pm, the sale by retail and consumption of alcohol in both the internal and external areas (excluding the bar area in the internal area shown hatched on the plan attached to this licence) must be ancillary to the provision of a table meal.
12. In the external area, all licensable activities shall cease and the area shall cease to be used for drinking and/or dining at 10.00pm daily.
13. Furniture in the external area shall be rendered unusable by 10.00pm and removed at close of business without causing any nuisance to residents.
14. The external area shall be clearly delineated by barriers which must be removed by 10.00pm.
15. After 10.00pm daily, a designated smoking area shall be provided on Harbet Road as shown on the plan attached to this licence.
16. After 10.00pm daily, the number of patrons permitted to temporarily leave and then re-enter the premises shall be limited to 20 persons at any one time, and those persons shall not be permitted to take any beverages or food outside with them.
17. After 10.00pm daily, entrance to and exit from the premises shall only be through the Harbet Road entrance.
18. Substantial food and suitable beverages other than alcohol, including drinking water, shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
19. All licensable activities shall be on the ground floor only.
20. 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.

21. A staff member 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.
22. A daily log is to be maintained to ensure that any capacity limit set for the premises is recorded and can be properly monitored. Information regarding the capacity will be given to an authorised officer of a responsible authority on request.
23. All entrance doors (including those on Harbet Road) are to be kept closed after 9pm, save for the immediate access and egress of persons and the fire exit doors shall be closed at all times, except in the case of an emergency or to collect furniture and the barriers at the close of business.
24. No speakers shall be located in the entrance lobby area or to any external areas of the premises.
25. There shall be no exhibition of any films in the external area.
26. No noise generated on the premises (including the external area), 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, including the removal and stacking of furniture and barriers.
27. Notices will be prominently displayed at exits to the premises warning patrons of the proximity of residential premises, requesting the public to respect the needs of local residents and to leave the premises and the area quietly and in an orderly fashion.
28. All refuse will be properly presented and placed on the street 30 minutes before any agreed collection time. Every endeavour will be made to prevent refuse being left on the street for more than 2.5 hours.
29. No rubbish including bottles will be moved, removed or placed in outside areas between 11pm and 8am daily.
30. No deliveries to the premises shall take place between 11pm and 8am daily.
31. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties (save insofar as they are necessary for the prevention of crime).
32. No super-strength beers, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold for consumption off the premises, except for premium beers and ciders.
33. All off sales of alcohol are to be in sealed containers only and for consumption

off the premises only (save for consumption in the delineated external area).

34. Open containers of alcohol shall not be permitted to be taken beyond the boundary of the external area.
35. All SIA registered door staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility yellow jackets or vests.
36. SIA licences worn by SIA registered door staff shall be clearly displayed and visible at all times.
37. A daily door supervisor log shall be correctly maintained at the premises and signed at the end of each day by the duty manager. This will include: the print name of the door supervisor, badge number, expiry date of SIA licence and the signature of the door supervisor.
38. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
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. 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.
41. An incident log shall be kept at the premises, and made available on request to an authorised office of the council or police, which will record the following:
 - (i) All crimes reported to the venue
 - (ii) All ejections of patrons
 - (iii) Any complaints received concerning crime and disorder
 - (iv) Any incidents of disorder
 - (v) All seizures of drugs or offensive weapons
 - (vi) Any faults in the CCTV system or searching equipment or scanning equipment
 - (vii) Any refusal of the sale of alcohol
 - (viii) Any visit by a relevant authority or emergency service
42. The DPS, or another representative of the premises licence holder, shall join and maintain membership of the local pubwatch or other local crime reduction scheme approved by the police, and local radio scheme, if available.
43. The maximum number of persons accommodated at the premises at any one time, excluding staff (including internal and external areas) shall be 250. The maximum capacity of the external area shall be 86 persons (excluding staff).
44. A Smoking Policy and Dispersal Policy will be implemented and adhered to,

copies of which will be retained at the premises and produced for immediate inspection by the police or an authorised officer of the Council.

45. No licensable activities shall take place at the premises until premises licence 18/005550/LIPT (or such other number subsequently issued for the premises) has been surrendered and is incapable of resurrection.

**2 PURE WINES, LOWER GROUND FLOOR, 21 BERNERS STREET,
LONDON, W1T 3LP**

LICENSING SUB-COMMITTEE No. 1

Thursday 11th October 2018

Membership: Councillor Angela Harvey (Chairman), Councillor Louise Hyams and Councillor Aziz Toki.

Legal Adviser: Barry Panto
Committee Officer: Toby Howes
Presenting Officer: Michelle Steward

**Pure Wines, Lower Ground Floor, 21 Berners Street, London, W1T 3LP
18/09777/LIPN**

Application granted by delegated authority following withdrawal of all representations prior to the hearing.

**3 ITALIAN GARDEN CAFE, KENSINGTON GARDENS, SERPENTINE ROAD,
LONDON, W2 2UH**

LICENSING SUB-COMMITTEE No. 1

Thursday 11th October 2018

Membership: Councillor Angela Harvey (Chairman), Councillor Louise Hyams and Councillor Aziz Toki.

Legal Adviser: Barry Panto
Committee Officer: Toby Howes
Presenting Officer: Michelle Steward

Relevant Representations: A Residents' Association.

Present: Sarah Bellamy-Colicci (Compliance Manager, Applicant Company), Dave Nevitt (Environmental Health – called as a witness), Richard Brown (Solicitor, Citizens Advice Bureau, representing John Zamit) and John Zamit (South East Bayswater Residents' Association).

**Italian Garden Café, Kensington Gardens, Serpentine Road, London, W2 2UH
("The Premises")
18/04177/LIPN**

1. Sale by retail of alcohol: On sales

Monday to Sunday: 11:00 to 19:30

Amendments to application advised at hearing:

Sunday: 12:00 to 19:30

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

This was an application for a new premises licence in respect of a café operating within Kensington Gardens. Michelle Steward (Presenting Officer) introduced the item and advised that the proposed hours for sale of alcohol on Sunday had been amended to a later commencement hour of 12:00. She confirmed that the Police and Environmental Health had withdrawn their representations after agreeing conditions with the Applicant Company.

Sarah Bellamy-Colicci (Compliance Manager, Applicant Company) was invited to address the Sub-Committee and stated that the reason for the application was to add alcohol as part of the customer offer. She stated that the premises would continue to operate as a café, and not a bar. Presently, there was only W/C provision for staff, however there were W/C facilities in the park adjacent to the premises which carried a charge to use, although there had previously been no charge.

Richard Brown (Solicitor, Citizens Advice Bureau, representing John Zamit) advised that he was happy with condition 22 in the report proposed by the Police stating that if customer toilets are not provided at the premises, the licence holder shall ensure that access to the nearby public toilets shall be free of charge to the customers of the premises. As the Police, and also Environmental Health, had withdrawn their representations, he sought clarification as to whether this condition could be adhered to. Mr Brown also suggested that the Applicant Company's proposed condition 15 relating to the premises not operating beyond the park's opening hours was preferable to the alternative condition proposed by the Police.

John Zamit (South East Bayswater Residents' Association) addressed the Sub-Committee and stated that the premises was one of his favourite cafes. He welcomed the amendment to a later commencement hour for the sale of alcohol on Sunday. In respect of the nearby public W/C facilities, he advised that there was a 20 pence charge to use them and the hours during which they were open did not entirely cover the opening hours of the premises. Mr Zamit informed the Sub-Committee that Parks Services had stated that a token system would not

	<p>work, and so customers would be required to use cash to use the W/C facilities. He stated that consideration could be given as to whether the application warranted an exception to provide W/C facilities, or whether an informative could be added requesting that the Applicant Company use its best endeavours to work with Parks Services to introduce a token system that customers could use.</p> <p>Ms Bellamy-Colicci was invited to respond and she advised that Parks Services were working on a contactless solution, but there was no timeframe as to when this would be completed.</p> <p>Mr Brown then called Dave Nevitt (Environmental Health) as a witness. Mr Nevitt began by confirming that he had withdrawn his representation because the Applicant Company had agreed condition 22 with the Police in relation to free use of the public W/C facilities for customers of the premises. Mr Nevitt was of the view that it should be possible to find a way to make it possible for customers to have free use of the public W/Cs in the park at all the times that the premises was open to the public and this would be acceptable to him.</p> <p>Members enquired whether the Applicant Company could reach an agreement with the public W/C facilities attendant to use some card or token system to allow free access for customers of the premises, or failing this, whether the Applicant Company would be willing to provide customers with the necessary change to use them.</p> <p>In reply, Ms Bellamy-Colicci advised that it may be possible to reach an agreement with the W/C attendant regarding the use of some kind of card or token system, however they were not always present. She confirmed that the Applicant Company would be happy to provide customers with change to use the public W/C facilities if necessary.</p> <p>The Sub-Committee granted the application, subject to adding the Applicant Company's proposed condition regarding the premises operating hours not going beyond the park's opening times, as suggested by Mr Brown at the hearing in preference to the Police's proposed alternative.</p> <p>In determining the application, the Sub-Committee noted that the proposed hours for sale of alcohol were well within core hours and the premises was not located in a cumulative impact area. The Sub-Committee also noted that the Police and Environmental Health had withdrawn their representations after agreeing conditions with the Applicant Company. In addition, a resident had indicated his approval of the proposed amended hours for sale of alcohol on Sunday. The Sub-Committee therefore saw no grounds for refusing the application and considered that the conditions to be added to the premises licence would assist the Applicant Company in upholding the promotion of the licensing objectives.</p>
<p>2.</p>	<p>Hours premises are open to the public</p>
	<p>Monday to Sunday: 06:30 to 20:00</p>

	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).

Conditions attached to the Licence

Mandatory Conditions

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

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

A responsible person in relation to a licensed premises means the holder of the

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

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

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Additional Conditions

9. There will be management controls and effective staff training to ensure that all staff are aware of the premises licence and the requirements to meet the licensing objectives, paying particular attention to:
- a) No selling of alcohol to underage people;
 - b) The prevention of violent and anti-social behaviour;
 - c) The prevention of drunk and disorderly behaviour on the premises.
10. There will be a clear and legible notice outside the premises indicating the normal hours under the terms of the premises licence during which licensable activities are permitted.
11. Clear and conspicuous notices will be displayed warning customers of potential criminal activity, such as theft, that may target customers.
12. Custom will not be sought by means of personal solicitation outside or in the vicinity of the premises.
13. Staff will be trained to request that customers use the premises in an orderly and respectful manner.
14. All alcoholic drinks sold in the premises will be opened at the time of purchase, by the server, to discourage customers purchasing multiple alcoholic drinks and taking them into the park.
15. The premises will not operate beyond park opening times and the sale of alcohol will cease 30 minutes before closing time.
16. 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.
17. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

18. The consumption of alcohol at the premises shall only be by patrons who are seated. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
19. 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.
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, or proof of age card with the PASS Hologram.
21. If customer toilets are not provided at the premises the licence holder shall ensure that access to the nearby public toilets shall be free of charge to customers of the premises.
22. 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.
23. 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.
24. There shall be no self-service of alcohol on the premises.
25. There shall be no draught sales of alcohol.
26. 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.
27. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - a) all crimes reported to the venue
 - b) all ejections of patrons
 - c) any complaints received concerning crime and disorder
 - d) any incidents of disorder
 - e) any 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
28. No more than 10% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.

29. All cashiers will receive refresher training on relevant alcohol laws and the licence holder's policy on challenging for ID. Such training to take place at least twice a year. Records will be maintained at the premises containing information about the training of any person who may make a sale of alcohol including the date of their training and by the nature of the training undertaken. The relevant documentation shall be produced on request to a police officer or a relevant officer of a responsible authority.
30. No alcohol shall be consumed more than 30 minutes after the permitted hour for the supply of alcohol.

The Meeting ended at 1.58 pm.

CHAIRMAN: _____

DATE _____