



City of Westminster

# Committee Agenda

Title: **Licensing Sub-Committee (2)**

Meeting Date: **Thursday 28th March, 2019**

Time: **10.00 am**

Venue: **Room 18.01-03, 18th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP**

Members: **Councillors:**

Tim Mitchell (Chairman)  
Jacqui Wilkinson  
Aziz Toki

**Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda**

**Admission to the public gallery is via a visitor's pass which is available from the main ground floor reception at 64 Victoria Street from 9.30am. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.**



**An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Kisi Smith-Charlemagne, Senior Committee and Governance Officer.**

**Email: [kscharlemagne@westminster.gov.uk](mailto:kscharlemagne@westminster.gov.uk) Tel: 020 7641 2783**

**Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

**Note for Members:** Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Director of Law in advance of the meeting please.

**AGENDA**

**PART 1 (IN PUBLIC)**

**1. MEMBERSHIP**

To report any changes to the membership.

**2. DECLARATIONS OF INTEREST**

To receive declarations by Members and Officers of any personal or prejudicial interests in matters on this agenda.

**Licensing Applications for Determination**

**1. VANITY BAR AND NIGHT CLUB, BASEMENT TO FIRST FLOOR, 4 CARLISLE STREET, LONDON, W1D 3BJ**

**(Pages 1 - 46)**

App No	Ward / Cumulative Impact Area	Site Name and Address	Application	Licensing Reference Number
1.	West End Ward	Vanity Bar and Night Club, Basement to First Floor, 4 Carlisle Street, London, W1D 3BJ	Sex Establishment Venue	18/15940/LISE VR

**2. BASEMENT AND GROUND FLOOR, 47 MARGARET STREET, LONDON, W1W 8SB**

**(Pages 47 - 66)**

App No	Ward / Cumulative Impact Area	Site Name and Address	Application	Licensing Reference Number
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	Area			
2.	West End Ward/ Not in Cumulative Impact Area	Basement And Ground Floor, 47 Margaret Street, London, W1W 8SB	New Premises Licence	18/15982/LIPN

**3. 48 ALBEMARLE STREET, LONDON, W1S 4JP**

**(Pages 67 - 120)**

App No	Ward / Cumulative Impact Area	Site Name and Address	Application	Licensing Reference Number
3.	West End Ward/ Not in Cumulative Impact Area	48 Albemarle Street, London, W1S 4JP	New Premises Licence	19/00705/LIPN

**Stuart Love  
Chief Executive  
22 March 2019**

In considering applications for premises licences under the Licensing Act 2003, the sub-committee is advised of the following:

### **POLICY CONSIDERATIONS**

The Licensing Sub-Committee is required to have regard to the City of Westminster statement of Licensing Policy, effective from 7<sup>th</sup> January 2016.

### **GUIDANCE CONSIDERATIONS**

The Licensing Sub-Committee is required to have regard to any guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. The most recent version was published in April 2018.

### **CORE HOURS WHEN CUSTOMERS ARE PERMITTED TO BE ON THE PREMISES** (As set out in the Council's Statement of Licensing Policy 2016)

- For premises for the supply of alcohol for consumption on the premises:

Friday and Saturday: 10:00 to midnight  
Sundays immediately prior to Bank Holidays: Midday to midnight  
Other Sundays: Midday to 22:30  
Monday to Thursday: 10:00 to 23:30.

- For premises for the supply of alcohol for consumption off the premises:

Monday to Saturday: 08:00 to 23:00  
Sundays: 10:00 to 22:30.

- For premises for the provision of other licensable activities:

Friday and Saturday: 09.00 to midnight  
Sundays immediately prior to Bank Holidays: 09.00 to midnight  
Other Sundays: 09.00 to 22.30  
Monday to Thursday: 09.00 to 23.30.



## City of Westminster Licensing Sub-Committee

<b>Meeting:</b>	<i>Licensing Sub-Committee</i>
<b>Date:</b>	<i>28 February 2019</i>
<b>Classification:</b>	<i>General Release</i>
<b>Premises:</b>	<i>Vanity Bar and Night Club, Basement to First Floor, 4 Carlisle Street, London, W1D 3BJ.</i>  <i>18/15940/LISEVR</i>
<b>Wards Affected:</b>	<i>West End</i>
<b>Financial Summary:</b>	<i>None</i>
<b>Report of:</b>	<i>Operational Director for Public Protection &amp; Licensing</i>

### **1. Executive Summary**

- 1.1 The council has received an application for the renewal of the sex establishment licence under the Local Government (Miscellaneous Provisions) Act 1982 (the Act) for Vanity Bar and Night Club, Basement to First Floor, 4 Carlisle Street, London, W1D 3BJ. Vanity Bar is licensed to operate as a sexual entertainment venue under the Act. The report sets out the application details, objections, policy and legal context along with other considerations that the Licensing Sub-Committee requires to determine this application.

### **2. Recommendations**

- 2.1 That following consideration of this report, any information given orally at the hearing and/or in writing by the applicants and objectors the Licensing Sub-Committee may determine to:

- 2.1.1 Grant the application in full
- 2.1.2 Grant the application subject to the standard conditions and/or any modifications to any part of the application and imposition of any additional conditions proposed by a party to the hearing, or
- 2.1.3 Refuse the application

### **3. Relevant history**

- 3.1 The Basement to First Floor at 4 Carlisle Street has operated as a sex establishment (Sexual Entertainment Venue) since 2012. In 2014, the licence was transferred to the current Premises Licence Holder. Following the grant of the sex establishment licence for the premises in 2012, annual renewal applications have been submitted and granted under delegated authority. Following the transfer of the Sexual Entertainment Venue Licence in 2014, the grant of the renewal in 2014 was determined by the Licensing Sub-Committee and subsequent renewals have been granted under delegated authority. The last renewal application for this venue was submitted on the 8<sup>th</sup> December 2017 and was granted under delegated authority. The current licence (reference 17/14637/LISEVR) expired on the 16 December 2018. A copy of the licence 17/14637/LISEVR is attached as **Appendix A1**.
- 3.2 A copy of the full sex establishment licence history for this premises since 2012 is attached as **Appendix B1**.

### **4. Application being considered**

- 4.1 On 11 December 2018, Nags Head Limited submitted an application to renew the sex establishment licence to continue to operate the premises as a sexual entertainment venue. The licence permits relevant entertainment Monday to Saturday from 09:00 to 03:00 and Sunday from 09:00 to 23:00.
- 4.2 The applicant has not requested to change the relevant entertainment or to remove any standard conditions to the licence if this application is granted. A copy of the application form is attached as **Appendix C1**.
- 4.3 As a valid application has been received prior to the expiry of the SEV Premises Licence, the licence is deemed to continue until it is determined by the Council.

### **5. Objections**

#### Objection 1

- 5.1 On 5 January 2019, an objection was received to the renewal application within the statutory 28 day consultation period (attached as **Appendix D1A**). In the objection, the objector stated that noise emanates from the premises in bursts when the dancers have customers and is clearly audible from neighbouring premises. A large number of pedicabs congregate outside the club at about 02:00 in readiness for closing time at 03:00 and during December 2018 the club was open much later. Customers also congregate outside the club causing noise and disruption with no care with for residents.
- 5.2 The objector has not confirmed to the Licensing Service that they wish to waive their right to anonymity, and for this reason the objector will remain anonymous.
- 5.3 On 7 January 2019 an email in support of Objector one was submitted. This is attached as **Appendix D1B**.

#### Objection 2

- 5.3 On 7 January 2019, an objection was received to the renewal application within the statutory 28 day consultation period (attached as **Appendix D2**). In the objection, the objector stated that the premises causes disturbance and nuisance to residents and other occupiers.
- 5.4 The objector has not confirmed to the Licensing Service that they wish to waive their right to anonymity, and for this reason the objector will remain anonymous.

### Objection 3

- 5.5 On 7 January 2019, an objection was received to the renewal application within the statutory 28 day consultation period (attached as **Appendix D3**). The objector submitted the representation on the grounds of public nuisance and the prevention of crime of disorder. The objector stated that the club's management has failed to monitor and dissuade pedicabs gathering outside the premises and that sporadic noise emanates from the premises when the customer requests dancer entertainment. It is understood that although the basement has been soundproofed, the ground and first floors have not.
- 5.6 The objector has not confirmed to the Licensing Service that they wish to waive their right to anonymity, and for this reason the objector will remain anonymous.

### Objection 4

- 5.7 On the 28 December 2019, an objection was received to the renewal application within the statutory day consultation period (attached as **Appendix D4**). The objector submitted the representation on the grounds of public nuisance. The objector has witnessed that the premises are regularly open later than the hours permitted on their licence, loud music emanates from the premises, pedicabs and customers congregate outside the premises causing noise nuisance.
- 5.8 The objector has not confirmed to the Licensing Service that they wish to waive their right to anonymity, and for this reason the objector will remain anonymous.

## **6. Licensing Act 2003 Premises Licence**

- 6.1 The premises currently benefits from a premises licence (reference 15/03179/LIPDPS) issued under the provisions of the Licensing Act 2003. A copy of the current premises licence is provided at **Appendix E1** of this report.

## **7. Policy Considerations**

### 7.1 Suitability of applicant – SU1

The applicant has stated that no relevant offences have been committed.

### 7.2 SEV carried on for the benefit of another person – SU2

The applicant has confirmed that they will not be carrying out the functions of regulated entertainment at this premises for the benefit of another person.

7.3 Appropriate number of SEV in a locality – NO1

The appropriate number of sexual entertainment venues in the relevant localities is 25 in the Westminster core CAZ north. As the premises are currently licensed this application, if granted, will not exceed 25.

7.4 Character of the relevant locality – LO1

Carlisle Street is a small cul-de-sac with little or no vehicle traffic

7.5 Use of premises in the vicinity – LO2

The main use of the premises in the immediate vicinity is residential with a few licensed premises (Licensing Act 2003). There are no other SEV premises or schools within 100 metres of the premises. There is 1 place of worship within 100 metres of the premises. A map of the relevant locality is attached to this report as **Appendix F1**.

7.6 Layout, character or condition of the venue – LO3

The premises has its main entrance on Carlisle Street. The basement, ground and first floors are included within the licensable areas for Relevant Entertainment purposes.

**8. Legal Implications**

8.1 The Licensing Sub-Committee may determine to:

- (a) Grant the application in full
- (b) Grant with additional special conditions which the Licensing Sub-Committee deem appropriate; or
- (c) Refuse the application.

8.2 Before refusing to renew an application, the Licensing Authority shall give the licence holder an opportunity to appear before and of being heard by the Licensing Sub-Committee (Para 10(19) Schedule 3 LG(MP)A1982).

8.3 In considering this application, the Licensing Sub-Committee shall have regard to any observations submitted to them by the Chief Officer of Police and any objections that have been received in writing within the 28 day consultation period (Para 10(18) Schedule 3 LG(MP)A1982).

8.4 The Licensing Sub-Committee may refuse to grant or renew a licence for the following reasons set out in (Para 12(3) Schedule 3 LG(MP)A1982):

- (a) that the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;
- (c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- (d) that the grant or renewal of the licence would be appropriate, having regard:
  - (i) to the character of the relevant locality; or



- (ii) to the use to which any premises in the vicinity are put; or
- (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

An applicant whose application for the grant or renewal of a licence is refused on either ground specified in paragraph (c) or (d) above shall not have the right to appeal to the magistrates' court.

- 8.5 If the Licensing Sub-Committee determine to grant a Sexual Entertainment Venue licence, the licence will be subject to the Standard Conditions for Sexual Entertainment Venue licences, unless the Sub-Committee determines that certain Standard Conditions should be expressly excluded or varied (Para 13(4) Schedule 3 LG(MP)A1982).
- 8.6 Should the Licensing Sub-Committee determine to refuse the application for the renewal of a licence under Paragraph 12(3)(a) or (b) Schedule 3 LG(MP)A 1982, the applicant may appeal to the Magistrates' Court within 21 days beginning with the date on which the applicant is notified of the refusal of his application (Para 27(1) Schedule 3 LG(MP)A1982). The licence will remain in force until the time for bringing an appeal has expired and, if such an appeal is brought, until the determination or abandonment of that appeal (Para 27(10) Schedule 3 LG(MP)A1982).

## **9. Human Rights and Equality Issues**

- 9.1.1 In making a decision consideration will need to be given to the applicant's rights under the European Convention on Human Rights. The right to peaceful enjoyment of possessions (Article 1 of the First Protocol) and freedom of expression (Article 10) may be relevant.
- 9.1.2 The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to-
  - (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.
- 9.3.1 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

## **Appendices**

- A1 – Copy of sex establishment licence 17/14637/LISEVR
- B1 – Sex establishment licence history
- C1 – Application form
- D1A – Objection 1
- D1B – In support of Objection 1
- D2 – Objection 2
- D3 – Objection 3
- D4 – Objection 4
- E1 – Copy of premises licence 15/03179/LIPDPS
- F1 – Map of locality

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact: Michelle Steward on 020 7641 6500 or at [msteward1@westminster.gov.uk](mailto:msteward1@westminster.gov.uk)**

## **BACKGROUND PAPERS**

Local Government (Miscellaneous Provisions) Act 1982  
Policing and Crime Act 2009  
Sexual Entertainment Venues Statement of Licensing Policy 2012  
Sexual Entertainment Venues Guidance and Procedure effective 17 February 2012  
Home Office Guidance March 2010

**SEX ESTABLISHMENT LICENCE**  
**Sexual Entertainment Venue**

Premises licence number:	17/14637/LISEVR
Original Reference:	12/02694/LISEVN

The CITY OF WESTMINSTER, under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009

hereby licences:                      Nags Head Limited

to use the premises:                Vanity Bar and Night Club  
    4 Carlisle Street  
    London  
    W1D 3BJ

as a Sexual Entertainment Venue.

This licence commences on 16 December 2017 and will expire on 16 December 2018.

Relevant Entertainment may be provided during the following times:

Monday to Saturday	09:00 to 03:00
Sunday	09:00 to 23:00

Relevant Entertainment may only be provided in the permitted areas outlined in red shown on the plans attached at Appendix 1.

This licence is granted subject to the conditions attached at Appendix 2.

DATE: 09 MARCH 2018

SIGNED:



On behalf of the Director – Public Protection  
and Licensing



Appendix 1 – Plans

Attached

## Appendix 2 – Conditions

### Standard Conditions:

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of Relevant Entertainment, or material depicting nudity or Relevant Entertainment, shall be visible from outside the premises.
5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.
6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the Relevant Entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.
9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period together with facilities for viewing.
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 is open to the public and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.

12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
  - (a) all crimes reported to the venue;
  - (b) all ejections of patrons;
  - (c) any complaints received;
  - (d) any incidents of disorder;
  - (e) seizures of drugs or offensive weapons;
  - (f) any faults in the CCTV system or searching equipment or scanning equipment;
  - (g) any refusal of the sale of alcohol;
  - (h) any visit by a relevant authority or emergency service;
  - (i) any breach of licence conditions reported by a Performer.
13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.
15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
16. Relevant Entertainment shall be given only by performers and the audience shall not be permitted to participate in the Relevant Entertainment.
17. There shall be no physical contact between Performers whilst performing.
18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.
20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
21. Where Relevant Entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.

23. Performers must redress fully immediately after each performance.

**Additional conditions**

24. No Relevant Entertainment shall take place unless CCTV adequately covers and monitors the stage area to the satisfaction of the Environmental Health Consultation Team and the Licensing Service.
25. Relevant Entertainment shall be restricted to the area outlined in red. On the ground floor performers may only perform on the stage area.
26. Whilst Relevant Entertainment is taking place at the premises, the maximum number of persons accommodated at any one time (excluding staff and dancers) shall not exceed 10 persons in the basement, 70 persons on the ground floor and 9 persons on the first floor.
27. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
28. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
29. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
30. 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.
31. 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.
32. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
33. 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 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
- i. pyrotechnics including fire works
  - ii. firearms
  - iii. lasers
  - iv. explosives and highly flammable substances.
  - v. real flame.
  - vi. strobe lighting.
34. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
35. There shall be at least one SIA registered door supervisor on duty on every floor where Relevant Entertainment is provided for the entire time the Relevant Entertainment is provided.
36. a) Applying to the basement only:

- i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
  - ii. Before this area opens 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.
- b) Applying to the ground floor only:
- i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
  - ii. Before this area opens 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.
- c) Applying to the first floor / mezzanine only:
- i. Licensable activity is not to take place until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association - Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
  - ii. Before this area opens 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.
37. All windows and external doors shall be kept closed at any time when Relevant Entertainment takes place, except for the immediate access and egress of persons.
38. A noise limiter 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, Premises Management 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 by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence Holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. 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. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.



39. No sexual entertainment performances will take place which will involve the passing round of a glass or jar or any other container that has to be filled with money before the performers remove any clothing.

**Sex establishment licence history****Appendix B1**

<b><u>Application reference</u></b>	<b><u>Details of application</u></b>	<b><u>Date of determination</u></b>	<b><u>Decision</u></b>
12/02694/LISEVN	Application for a new Sexual Entertainment Venue licence.	Granted by Licensing Sub-Committee	12 June 2012
14/01806/LISEVT	Transfer of SEV licence from Allied Promotions Ltd to Nags Head Ltd	Granted under delegated authority	16 June 2014
14/06704/LISEVV	Application to vary Sexual Entertainment Venue licence	Granted by Licensing Sub-Committee	18 December 2014
14/11173/LISEVR	Application to renew Sexual Entertainment Venue licence	Granted by Licensing Sub-Committee	12 February 2015
15/11556/LISEVR	Application to renew Sexual Entertainment Venue licence	Granted under delegated authority	01 March 2016
16/13696/LISEVR	Application to renew Sexual Entertainment Venue licence	Granted under delegated authority	11 January 2017
17/14637/LISEVR	Application to renew Sexual Entertainment Venue licence	Granted under delegated authority	07 March 2018



**APPLICATION TO RENEW A SEXUAL ENTERTAINMENT VENUE LICENCE**

IMPORTANT: This form is open to inspection by the public.

**H/ We NAGS HEAD LIMITED**  
*(Insert name(s) of applicant)*

**apply to renew the Sexual Entertainment Venue licence under the Local Government (Miscellaneous Provisions) Act 1982 for the following premises:**

**Premises name: VANITY BAR AND NIGHTCLUB**

**Premises address: 4 CARLISLE STREET, LONDON W1D 3BJ**

**Licence reference number: 17/14637/LISEVR (ORIGINAL REF: 12/02694/LISVN)**

**Important Note:** Before completing this application, please read the following:

- WCC's Statement of Licensing Policy for Sexual Entertainment Venues
- WCC's Standard Conditions for Sexual Entertainment Venues
- WCC's Rules of Procedure governing Sexual Entertainment Venue applications

**PART 1 – Applicant Details**

Please state whether you are renewing the Sexual Entertainment Venue licence as:

- a) an individual or individuals  complete section (A)
- b) a person other than an individual:
- i. as a body corporate  complete section (B)
- ii. as an unincorporated body  complete section (B)

**Section A – Individual Licensee Details** NOT APPLICABLE

First name(s):	
Surname:	
Former names (if any):	
Title:	
Home address:	
Postcode:	
Email address:	
Contact telephone number:	
Date of Birth:	
Have you been a resident of an EEA state throughout the period of 6 months immediately preceding the date the application was made?	Yes <input type="checkbox"/> No <input type="checkbox"/>

**Additional Licensee Details (if necessary)** NOT APPLICABLE

First name(s):	
Surname:	
Former names (if any):	
Title:	
Home address:	
Postcode:	
Email address:	
Contact telephone number:	
Date of Birth:	
Have you been a resident of an EEA state throughout the period of 6 months immediately preceding the date the application was made?	Yes <input type="checkbox"/> No <input type="checkbox"/>

**Section B – Body Corporate or Unincorporated Body Details**

Business Name: (if your business is registered, use its registered name)	NAGS HEAD LIMITED
Is your business registered in the UK with Companies House?	Yes <input checked="" type="checkbox"/> Registered Number: 06251735
	No <input type="checkbox"/>
Is your business registered in another EEA state:	Yes <input type="checkbox"/> EEA State: Registered Number:
	No <input checked="" type="checkbox"/>
Legal Status: (e.g. Company Partnership, etc)	PRIVATE LIMITED COMPANY
Home Country: (the country where the headquarters of your business is located)	UNITED KINGDOM
Registered Address:	17 – 19 WHITECHAPEL ROAD, LONDON
Postcode:	E1 1DU
<b>Directors, Partners, Owners and Managers</b>	
You must provide details of all DIRECTORS (if the applicant is a company), all PARTNERS (if it is a partnership), and all MANAGERS of the business or organisation, including day-to-day MANAGERS OF THE PREMISES.	
Have there been any changes to the directors, partners or managers involved with the premises?	Yes <input type="checkbox"/> (please see below) No <input checked="" type="checkbox"/>
If yes, please provide details of the changes on a separate sheet, including the full name, private address and capacity of each director, partner and manager involved with the operation of the premises.	

**Other Business Interests**

Is the applicant, or any person named in this application, involved in any way with any other sex establishment (e.g. sexual entertainment venue, sex shop, sex cinema, hostess bar)?

Yes  (please complete below) No

Please provide details, including the name and address of the establishment and the nature and extent of the interest. (If necessary please provide a separate sheet).

THE NAGS HEAD GENTLEMAN'S VENUE  
(LICENSED BY WAY OF A SEV LICENCE)  
17 – 19 WHITECHAPEL ROAD  
LONDON E1 1DU

**PART 2 – Premises Details**

Premises name:	VANITY BAR AND NIGHTCLUB
Premises address:	4 CARLISLE STREET LONDON
Postcode:	W1D 3BJ
Premises telephone number:	0207 287 5041
Email:	info@vanity-soho.co.uk
Website address:	www.vanity-soho.co.uk
Where the licence is for a vehicle, vessel or stall, state where it is used as a sexual entertainment venue:	Not applicable
Have there been any changes to the nature of the relevant entertainment since the licence was last granted / renewed?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide details below.

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**PART 3 – Convictions / Disqualifications**

Have you, or any person named in or associated with this application, been convicted of any crime or offence?	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If yes, please provide details on a separate sheet	
Have you been refused the renewal of a licence for this premises, vehicle, vessel or stall within the last 12 months?	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If yes, has the refusal been reversed on appeal?	
Yes <input type="checkbox"/>	No <input type="checkbox"/> NOT APPLICABLE
Have you had a sex establishment licence revoked in Westminster within the last 12 months?	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

**PART 4 - Checklist**

Please tick as appropriate:

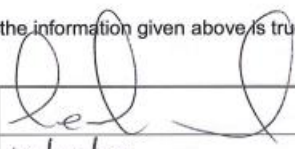
All relevant sections of the application form have been completed in full	<input checked="" type="checkbox"/>
Payment of the fee has been made in full (refer to Part 6 of this form)	<input checked="" type="checkbox"/>
Notice of this application <del>has been published in a local newspaper</del> will be published in a local newspaper within the next 7 days, a full copy of the newspaper to be provided to the Licensing Authority as soon as possible	<input checked="" type="checkbox"/>
Notice of this application has been displayed at the premises	<input checked="" type="checkbox"/>

The application has been served on the Metropolitan Police Service	<input checked="" type="checkbox"/>
--	-------------------------------------

### **PART 5 - Declaration**

**APPLICANTS ARE WARNED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE RENEWAL OF A LICENCE MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT, OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING TWENTY THOUSAND POUNDS (£20,000).**

I, LUKE ELFORD declare that the information given above is true and complete in every respect.

Signed	 LUKE ELFORD FOR TLT LLP
Date:	10/12/18
Capacity:	Solicitors to the Applicant

~~For joint applications:~~ NOT APPLICABLE

Signed	
Date:	
Capacity:	

#### **Agent Details**

Are you an authorised agent acting on behalf of the applicant?

Yes  No

If yes, please provide the following:

Agent name:	TLT SOLICITORS (LUKE ELFORD)
-------------	------------------------------



Agent Address:	20 GRESHAM STREET LONDON
Postcode:	EC2V 7JE
Agent Telephone Number:	0333 006 1358
Agent Email:	luke.elford@ltsolicitors.com

**Correspondence Details**

Please provide the details to which all correspondence should be sent:

Name:	AS ABOVE
Address:	AS ABOVE
Postcode:	AS ABOVE
Telephone Number:	AS ABOVE
Email:	AS ABOVE

**PART 6 – Payment**

If applying by post you can pay by cheque, postal order or credit / debit card. Please make cheques and postal orders payable to 'City of Westminster'.

If you would like to pay by credit / debit card please complete this section:

Type of credit / debit card:	<input type="checkbox"/> Visa <input type="checkbox"/> MasterCard
	<input type="checkbox"/> Solo <input type="checkbox"/> Maestro <input type="checkbox"/> Delta
Card number:	
Issue date:	/   (mm/yy)
Expiry date:	/   (mm/yy)
Issue number:	(for Maestro / Solo)
Name on card:	
Amount (£):	

**THIS APPLICATION SHOULD BE COMPLETED IN FULL AND RETURNED TO THE LICENSING SERVICE, PREMISES MANAGEMENT, WESTMINSTER CITY HALL, 64 VICTORIA STREET, LONDON, SW1E 6QP.**

**Objection 1**

Received 5 January 2019

I am writing to object the renewal of the Sexual Entertainments Venue licence for Vanity Bar and Nightclub.

The club is located in the basement, ground and first floor mezzanine of 4 Carlisle Street, beneath three occupied flats, with residential at no 5 next door and the landlord and his partner live above the Nellie Dean pub on the other side, The situation of the club seems inappropriate in that this part of Carlisle Street ends in a cul de sac and is a relatively quiet area of Soho. Once the pubs (Nellie Dean and Toucan), Pizza Express and the Piano Bar close, after midnight there is very little noise apart from that generated by Vanity. The other premises in this part of Carlisle Street are residential or office with the Nadler hotel at the end, which does not have bars or restaurant open to the public. Apart from Vanity there is no attraction for passing trade on the street. Venues of this type are more suited to the buzzy atmosphere of the southern parts of Dean St (Sunset strip), Old Compton St and Brewer Street area.

One of my principal objections to the renewal of the club's licence is that it attracts a large number of pedicabs which hang around outside the club particularly near closing time – the club normally closes at 3am (so we can expect noise from 2am) but it was open much later than that during December. They congregate in Carlisle Street, below our windows, 4-5 lined up under the awning outside the Nellie Dean pub next door, across the road and in Dean Street. They laugh, chat, argue etc with no care to the residents who are trying to sleep. The fact that it is a dead end and very little traffic also lends to its appeal as a pedicab park, where they can park up and lurk. Apart from Vanity there are no other very late venues in this area so this is one of the few possibilities of work. On occasions you see a customer leaving Vanity only to be harassed by a number of drivers, each trying to entice them into their vehicle, which also adds to the noise.

The problem was discussed at a meeting at WCC on 6th February 2018 with the club owners and management and they sent a letter date 19 February outlining their proposals for controlling the pedicabs. I subsequently had a meeting with [REDACTED] the Club manager, at the club to meet the member of staff who would be dealing with the problem. It all seemed to work really well for a few months and there were definitely less pedicabs about, though [REDACTED] who lives opposite on the corner of Carlisle and Dean Street, said that they were congregating beneath his windows facing Dean Street. [REDACTED] mentioned at our meeting that she too was fed up with the pedicabs hanging about and that she would also have a word with them. Sadly, however, the problem is back again as bad as ever (see attached photos taken on 20<sup>th</sup> December at 4.40 am). It started deteriorating in the summer and I kept hoping that it would improve again but no. I appreciate that the club has no specific powers to deal with the pedicabs but despite point 4 in the attached letter, staff do not seem to be able to move them on and can still be seen to chatting too them.

The building itself is inappropriate for this type of venue. It was originally built in the 17th century, with many alterations over the centuries, which does not render it suitable for a club with bursts of loud music. I have lived in this building for over 30 years and have suffered from clubs in the lower floors for a majority of the time. Due to the age of the structure it has been very difficult to show how exactly the sound travels through the building – there have been a

number of visits by acoustic engineers, sound engineers not to mention WCC officers. The problem was partially solved after 20 years by sound proofing being installed in the basement which, in past incarnations, was where the loud music/disco took place. However, when Vanity were granted their licence, despite objections from residents that the music should be basement only, the Licensing Committee allowed music to take place on all floors. So once again the residents are suffering from loud music. In this case the music is not constant but happens in bursts as required by the dancers when they have customers.

Other building residents have mentioned the problems of both internal and external noise and I also received a number of calls from the tenants of [REDACTED] saying that the noise was unbearable and that they had discussed this with the Vanity management but it did not improve. They left soon after and did not renew their tenancy of the building. This is despite [REDACTED], the owner, stating at the licensing hearing that no noise would be audible from the club. The Licensing Committee did put a condition on the licence "21. No Noise or vibration shall emanate from the premises in to adjacent residential premises."

The club says that all music is controlled via a sound limiter with limits set by the council as per condition 25 on the licence. On my above mentioned visit to the club, [REDACTED] showed me a knob located on the wall in the mezzanine area, which she said could be altered by the girls but she was going to arrange that this was caged in and inaccessible.

I am therefore objecting on the grounds that the premises are an inappropriate location for a club of this type both as to the location in a quiet area away from the main areas of nightlife of Soho and to the nature of the building with 3 flats above, and residents on both sides.

Email received in support of Objector 1

From [REDACTED]  
Received 7 January 2019

Dear [REDACTED],

Many thanks for your email setting out your concerns in relation to this property.

You may recall that when this property and Licence changed hands from being Candy Bar (which rarely, if ever, use this Sexual Entertainment Licence), I objected to the proposed Transfer and expressed concern as to the track record of the Transferees.

I am sorry to note that those were not taken into account when the transfer of the Licence was granted, although I do recall there were significant and detailed Conditions applied to the Licence. If those Conditions are being ignored, then I would support residents and others affected in any review process or informal process to ensure that the Licensees operate in accordance with the terms of the Licence and in a neighbourly way.

Best wishes,

Yours sincerely,

[REDACTED]  
[REDACTED]



**Objection 3**

Received – 7 January 2019

I write to make a relevant representation to the above renewal application on behalf of [REDACTED].

[REDACTED] objects to this application as it is currently presented, on the grounds of prevention of public nuisance, and prevention of crime and disorder in the West End Cumulative Impact Area.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

**Application summary**

***The applicant seeks renew the licence for this sexual entertainment venue.***

The club is located in the basement, ground and first floor mezzanine of 4 Carlisle Street, beneath three occupied flats, with residential next door (no 5) and, on the other side, the Nellie Dean pub has the landlord and his partner living upstairs. The other premises in this part of Carlisle Street are residential or office with the Nadler hotel at the end, which has no licensed premises open to the public. This end of Carlisle Street is a cul-de-sac and is a relatively quiet area of Soho after midnight when the Nellie Dean and Toucan pubs, plus Pizza Express and the Piano Bar close. The only noise in the immediate area in the early hours of morning appears to emanate from Vanity Bar & Club, and besides these premises there is nothing else to attract passing trade on the street.

One objection to the renewal of this licence is the continued failure of the club’s management to monitor and dissuade pedicabs from gathering outside. Following a meeting at WCC on 06 February 2018 the management agreed to talk to pedicab drivers and ask them not to congregate in Carlisle Street. To this end, they met with local residents and worked towards eliminating the problem but to no avail. Since the summer, pedicabs have gathered in Carlisle Street from about 2am onwards, with drivers talking, laughing, and generally disturbing residents as they await customers departing Vanity Bar, with no apparent approaches by premises staff.

Another objection to this licence renewal concerns the noise nuisance. Although only the basement has been soundproofed, the club also allows sporadic bursts of dancing on the ground and first floors, whenever customers require dancer entertainment, thus intermittently disturbing residents until the premises close. From a previous hearing, we understand that condition 21 appended to the licence states: “No noise or vibration shall emanate from the

premises in to adjacent residential premises.” This is clearly not happening as residents are being regularly disturbed during the premises’ hours of operation.

#### Licensing policy

This area has been identified by the Westminster City Council (2.4.1 of the Statement of Licensing Policy, as amended) as under stress because the cumulative effect of the concentration of late night and drink led premises and night cafes has led to serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses.

The policies in relation to the stress areas are directed at the global and cumulative effects of licences on the area as a whole (2.4.5 of the policy). The policies are intended to be strict and will only be overridden in genuinely exceptional circumstances (2.4.2 of the policy). The growth in the entertainment industry in Soho has led to a marked deterioration in the quality of life and well-being of local residents and it has jeopardised the sustainability of the community. Soho has a substantial residential community and many of these residents suffer from problems such as, but not limited to, high levels of noise nuisance, problems with waste, urinating and defecating in the streets, threats to public safety, anti-social behaviour, crime and disorder and the change in character of historic areas.

For the reasons I have set out, we believe that, without attention to the points raised above, this renewal application will fail to promote the licensing objectives of prevention of public nuisance, and prevention of crime and disorder in the West End Cumulative Impact Area.

Please let me know if any proposals are made regarding this application, particularly in respect of the use of effective noise limiters within the premises and deterring pedicab drivers from congregating outside during opening hours.

Objection 4

Received – 28 December 2018

I strongly object to the renewal of a licence for another year for the above as requested by them.

They are regularly open until as late as 5.30 am when my cleaner arrives - I attach a photo at 4.33am on the 7th of December ( have plenty more ) - more of a problem than the ignoring your stricture of closing at 3.00am ( I believe ) is the fact that the pedal taxi cabs congregate outside Vanity, and below my bedroom - up to 7 at a time waiting for late leavers. They play music and shout at one another throughout the night making it impossible for me to sleep.

You might understand why I would strongly object to yet another year of this!!

PS Could you please confirm that you have received this objection. ( I am far from optimistic that anything will be done, but need to vent my continued annoyance. )







City of Westminster  
64 Victoria Street, London,  
SW1E 6QP

Schedule 12  
Part A

WARD: West End  
UPRN: 010033531502

Premises licence

Regulation 33, 34

Premises licence  
number:

15/03179/LIPDPS

Original Reference:

05/03985/LIPCV

**Part 1 – Premises details**

**Postal address of premises:**

Vanity Bar And Nightclub  
Basement To First Floor  
4 Carlisle Street  
London  
W1D 3BJ

**Telephone Number:** Not Supplied

**Where the licence is time limited, the dates:**

Not applicable

**Licensable activities authorised by the licence:**

Performance of Dance  
Performance of Live Music  
Playing of Recorded Music  
Anything of a similar description to Live Music, Recorded Music or Performance of Dance  
Late Night Refreshment  
Private Entertainment consisting of dancing, music or other entertainment of a like kind for  
consideration and with a view to profit  
Sale by Retail of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

**Performance of Dance**

Monday to Thursday: 09:00 to 23:30  
Friday to Saturday: 09:00 to 02:00  
Sunday: 09:00 to 23:00

**Performance of Live Music**

Monday to Thursday: 09:00 to 23:30  
Friday to Saturday: 09:00 to 02:00  
Sunday: 09:00 to 23:00

**Playing of Recorded Music**

Unrestricted

**Anything of a similar description to Live Music, Recorded Music or Performance of Dance**

Monday to Thursday: 09:00 to 23:30  
Friday to Saturday: 09:00 to 02:00  
Sunday: 09:00 to 23:00

**Late Night Refreshment**

Monday to Saturday: 23:00 to 03:30  
Sunday: 23:00 to 01:00

**Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit**

Unrestricted

**Sale by Retail of Alcohol**

Monday to Saturday: 10:00 to 03:00  
Sunday: 12:00 to 00:30

*For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1 & 3*

**The opening hours of the premises:**

Monday to Saturday: 09:00 to 03:30  
Sunday: 09:00 to 01:00

**Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:**

Alcohol is supplied for consumption both on and off the Premises.

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:**

Nags Head Limited  
17-19 Whitechapel Road  
London  
E1 1DU  
Electronic Mail : [REDACTED]

**Registered number of holder, for example company number, charity number (where applicable)**

06251735

**Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:**

**Name:** [REDACTED]

*Please note: It is the policy of the Licensing Authority not to display the address details of a designated premises supervisor.*

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:**

**Licence Number:** BAS/PM/005409  
**Licensing Authority:** Basildon District Council

**Date:** 26 October 2015

**This licence has been authorised by Mr Yiannis Chrysanthou on behalf of the Director - Public Protection and Licensing.**

## Annex 1 – Mandatory conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
7. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

- 8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
  - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

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

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

Where -

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

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

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

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

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

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

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

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

9. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

**Conditions reproducing the effect of conditions subject to which the relevant existing licenses have effect.**

**Conditions relating to regulated entertainment:**

10. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).
11. The entertainment provided at the premises shall be of the type commonly known as discotheque, karaoke and striptease.
12. Only activities which have previously been agreed by the council shall take place.
13. The basement door going onto the street shall be kept closed at all times, except for emergency use.
14. All doors giving access/egress to the premises shall not be fixed open after 23:00.

#### **Conditions for Sale of Alcohol**

15. Substantial food and suitable beverages other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
16. There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.

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

17. Alcohol shall not be sold, supplied or consumed in or taken from the premises except during permitted hours.
  - (a) Subject to the following paragraphs, the permitted hours on weekdays shall commence at 10.00 (12.00 on Christmas Day and Good Friday) and extend until 03.00 on the morning following, except that -
    - (i) the permitted hours shall end at 00.00 midnight on any day on which music and dancing is not provided after midnight; and
    - (ii) on any day that music and dancing end between 00.00 midnight and 03.00, the permitted hours shall end when the music and dancing end;
  - (b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect-
    - (i) with the substitution of references to 04.00 for references to 03.00.
  - (c) Except on Sundays immediately before bank holidays (apart from Easter Sunday), the permitted hours on Sundays shall commence at 12.00 and extend until 00.30 on the morning following, except that-

- (i) the permitted hours shall end at 00.00 midnight on any Sunday on which music and dancing is not provided after midnight;
  - (ii) where music and dancing end between 00.00 midnight on any Sunday and 00.30, the permitted hours on that Sunday shall end when the music and dancing end.
- (d) On Sundays immediately before bank holidays (other than Easter Sunday), the permitted hours shall commence at 12.00 and extend until 03.00 on the morning following, except that-
- (i) the permitted hours shall end at 00.00 midnight on any Sunday on which music and dancing is not provided after 00.00 midnight;
  - (ii) where music and dancing end between 00.00 midnight on any Sunday and 03.00, the permitted hours on that Sunday shall end when the music and dancing end.
  - (iii) The terminal hour for late night refreshment shall extend to 30 minutes after the end of permitted hours for the sale of alcohol set out in d(i) and (ii) above.
- (e) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00.00 on New Year's Eve.

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of her Majesty's naval, military or air forces;
- (g) the taking of alcohol from the premises by a person residing there;
- (h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;



- (i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

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

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

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

- 19. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):
  - (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
  - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
  - (c) to take all other reasonable precautions for the safety of the children.
- 20. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.

## **Annex 2 – Conditions consistent with the operating Schedule**

21. No Noise or vibration shall emanate from the premises in to adjacent residential premises.

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

22. The licensee will adopt a street management plan to be agreed with the Environmental Health Officer. Such plan to include the following:
  - Ordering taxis from inside the premises
  - Encouraging patrons waiting for taxis to remain inside the premises
  - Asking taxi drivers to turn off their engines whilst waiting
  - Control of smokers
  - Control of patrons leaving the premises.
23. At least one Personal Licence Holder shall be present during the whole time alcohol is sold, supplied or consumed.
24. The sale of alcohol shall be ancillary to the use of the premises for either i) music and dancing and substantial refreshment or ii) Relevant Entertainment and substantial refreshment.
25. A noise limiter 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, Premises Management 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 by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. 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. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
26. Where the premises is used for Licensable Activities other than Relevant Entertainment, SIA registered security staff are to be employed on a 1:50 ratio (staff/customers).
27. 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.
28. Except where Relevant Entertainment is provided The number of persons accommodated (excluding staff) shall not exceed:  
  
Basement - 70,  
Ground Floor - 80,  
First Floor - 25.
29. 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.

30. 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.
31. All windows and external doors shall be kept closed at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
32. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 7 persons at any one time.
33. 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.
34. 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.
35. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
36. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
37. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
38. 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.
39. 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.
40. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
41. 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 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
  - i. pyrotechnics including fire works
  - ii. firearms
  - iii. lasers
  - iv. explosives and highly flammable substances.
  - v. real flame.
  - vi. strobe lighting.

42. Works:

a. Applying to the basement only:

- i. Licensable activity is not to take place until Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
- ii. Before this area opens 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.

b. Applying to the ground floor only:

- i. Licensable activity is not to take place until Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
- ii. Before this area opens 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.

c. Applying to the first floor/mezzanine only:

- i. Licensable activity is not to take place until Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the licence.
- ii. Before this area opens 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.

**Annex 4 – Plans**

Attached



City of Westminster  
64 Victoria Street, London,  
SW1E 6QP

Schedule 12  
Part B

WARD: West End  
UPRN: 010033531502

Premises licence  
summary

Regulation 33, 34

Premises licence  
number:

15/03179/LIPDPS

Part 1 – Premises details

**Postal address of premises:**

Vanity Bar And Nightclub  
Basement To First Floor  
4 Carlisle Street  
London  
W1D 3BJ

---

**Telephone Number:** Not Supplied

**Where the licence is time limited, the dates:**

Not applicable

**Licensable activities authorised by the licence:**

Performance of Dance  
Performance of Live Music  
Playing of Recorded Music  
Anything of a similar description to Live Music, Recorded Music or Performance of Dance  
Late Night Refreshment  
Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit  
Sale by Retail of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

**Performance of Dance**

Monday to Thursday:	09:00 to 23:30
Friday to Saturday:	09:00 to 02:00
Sunday:	09:00 to 23:00

**Performance of Live Music**

Monday to Thursday: 09:00 to 23:30  
Friday to Saturday: 09:00 to 02:00  
Sunday: 09:00 to 23:00

**Playing of Recorded Music**

Unrestricted

**Anything of a similar description to Live Music, Recorded Music or Performance of Dance**

Monday to Thursday: 09:00 to 23:30  
Friday to Saturday: 09:00 to 02:00  
Sunday: 09:00 to 23:00

**Late Night Refreshment**

Monday to Saturday: 23:00 to 03:30  
Sunday: 23:00 to 01:00

**Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit**

Unrestricted

**Sale by Retail of Alcohol**

Monday to Saturday: 10:00 to 03:00  
Sunday: 12:00 to 00:30

*For times authorised for Christmas, New Year and Good Friday see conditions at Annex 1 & 3*

**The opening hours of the premises:**

Monday to Saturday: 09:00 to 03:30  
Sunday: 09:00 to 01:00

**Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:**

Alcohol is supplied for consumption both on and off the Premises.

**Name and (registered) address of holder of premises licence:**

Nags Head Limited  
17-19 Whitechapel Road  
London  
E1 1DU



**Registered number of holder, for example company number, charity number (where applicable)**

06251735

**Name of designated premises supervisor where the premises licence authorises for the supply of alcohol:**

**Name:**

██████████

**State whether access to the premises by children is restricted or prohibited:**

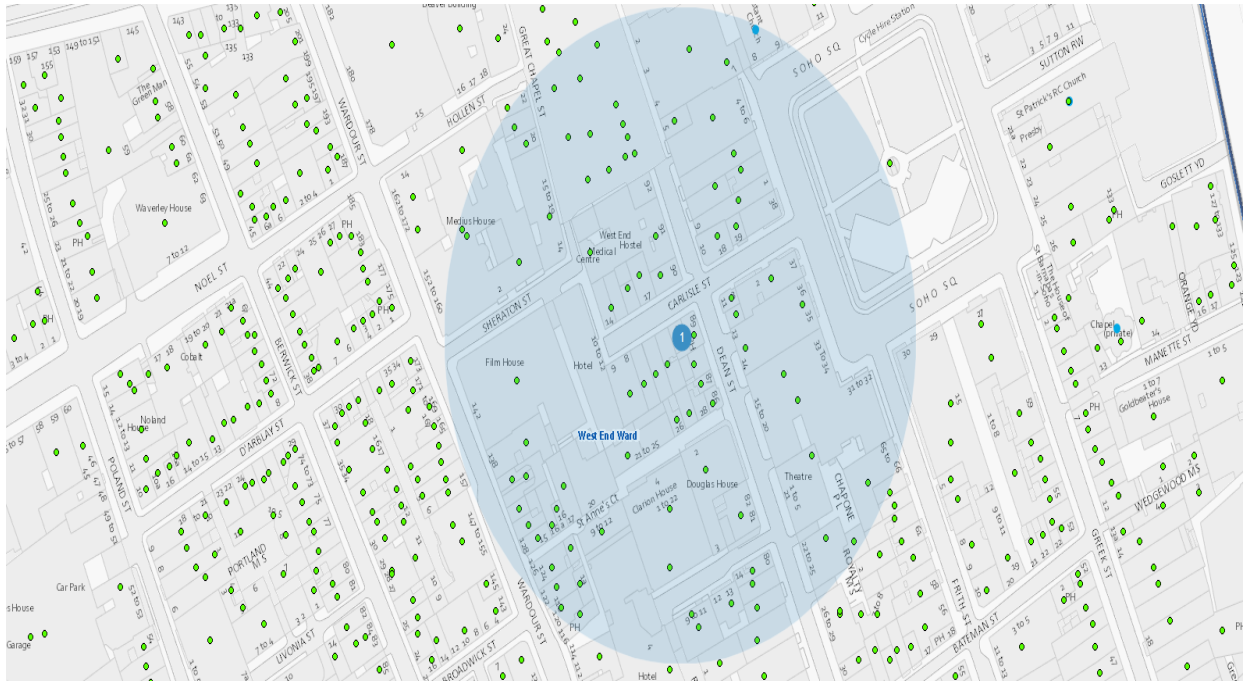
Restricted

**Date:** 26 October 2015

**This licence has been authorised by Mr Yiannis Chrysanthou on behalf of the Director - Public Protection and Licensing.**

**Map of locality**

**Appendix F1**



0 = Sex establishment

1 = Place of Worship

Item No:	
Date:	28 March 2019
Licensing Ref No:	18/15982/LIPN - New Premises Licence
Title of Report:	Basement And Ground Floor 47 Margaret Street London W1W 8SB
Report of:	Director of Public Protection and Licensing
Wards involved:	West End
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Kevin Jackaman Senior Licensing Officer
Contact details	Telephone: 0207 641 8094 Email: kjackaman@westminster.gov.uk

## 1. Application

1-A Applicant and premises			
<b>Application Type:</b>	New Premises Licence, Licensing Act 2003		
<b>Application received date:</b>	15 December 2018		
<b>Applicant:</b>	Mr Byungsung Kim		
<b>Premises address:</b>	Basement And Ground Floor 47 Margaret Street London W1W 8SB	<b>Ward:</b>	West End
		<b>Cumulative Impact Area:</b>	None
<b>Premises description:</b>	According to the application form the premises intend to trade as a basement and ground floor restaurant with ancillary bar. The applicant is seeking to provide late night refreshment and the supply of alcohol at the premises.		
<b>Premises licence history:</b>	This is a new premises licence and therefore no history exists.		
<b>Applicant submissions:</b>	The premises will consist of 8 tables on the ground floor and 7 tables in the basement		
<b>Additional information</b>	The consultation period for the application was extended from 18 February 2019 to 3 March 2019 due to the applicant failing to advertise the application in a local newspaper within the required 10 working days from submission		

1-B Proposed licensable activities and hours							
<b>Late Night Refreshment:</b>				<b>Indoors, outdoors or both</b>			Indoors
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	23:00	23:00	23:00	23:00	23:00	23:00	
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	
<b>Seasonal variations/ Non-standard timings:</b>		None					

<b>Sale by retail of alcohol</b>				<b>On or off sales or both:</b>			On the premises
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	11:00	11:00	11:00	11:00	11:00	11:00	
<b>End:</b>	23:30	23:30	23:30	23:30	00:00	00:00	
<b>Seasonal variations/ Non-standard timings:</b>		None					

Hours premises are open to the public							
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	11:00	11:00	11:00	11:00	11:00	11:00	
<b>End:</b>	00:00	00:00	00:00	00:00	00:00	00:00	
<b>Seasonal variations/ Non-standard timings:</b>		None					

## 2. Representations

2-A Responsible Authorities	
<b>Responsible Authority:</b>	Metropolitan Police Service
<b>Representative:</b>	Adam Deweltz
<b>Received:</b>	14 February
<p>47 Margaret Street, W1 - 18/15982/LIPN</p> <p>With reference to the above, I am writing to inform you that the Metropolitan Police, as a Responsible Authority, will be making a representation against this application.</p> <p>It is our belief that if granted the application would undermine the Licensing Objectives in relation to The Prevention of Crime and Disorder.</p> <p>There are no conditions contained within the operating schedule and the hours sought for the supply of alcohol go beyond those of Westminster Core.</p> <p><b>Following agreement of additional conditions and a reduction in hours Monday to Thursday, the Metropolitan Police representation was withdrawn on 25 February 2019</b></p>	
<b>Responsible Authority:</b>	Environmental Health Service
<b>Representative:</b>	Anil Drayan
<b>Received:</b>	22 February 2019
<p>I refer to the application for a new premises licence for the above premises</p> <p><b>The following plans have been submitted in support of the application:</b></p> <ul style="list-style-type: none"> <li>• Basement plans, Drg. Ref 2/2, dated 12.01.19</li> <li>• Ground floor plans, Drg. Ref 1/2, dated 12.01.19</li> </ul> <p><b>The applicant is seeking the following licensable activities:</b></p> <ol style="list-style-type: none"> <li>1. Supply of alcohol 'on' the premises from 11:00 to 00:00 hours Monday to Saturday</li> <li>2. Late Night Refreshment from 23:00 to 00:00 hours Monday to Saturday.</li> </ol> <p><b>I wish to make the following representations based on the plans and operating schedule submitted:</b></p> <ol style="list-style-type: none"> <li>1. The supply of alcohol and for the hours requested may have the effect of increasing public nuisance in the area.</li> <li>2. The provision of late night refreshment may have the effect of increasing public nuisance in the area.</li> </ol> <p><b>Environmental health also makes the following further comments:</b></p> <ul style="list-style-type: none"> <li>• The applicant has provided some undertakings in the operating schedule but these will need to be converted into enforceable conditions.</li> <li>• It is unclear if the premises have undergone refurbishment for the proposed use. Environmental Health will need to inspect it prior to use for licensing activities under the Public Safety objective.</li> </ul>	

- In addition the kitchen plant and equipment will need to be assessed for odour and noise for the potential for causing Public Nuisance
- The applicant is also advised that for any proposed capacity at the premises Environmental Health recommends that the provision of sanitary accommodation is in line with guidance under British Standard 6465 as amended.

The applicant is therefore requested to contact the undersigned to discuss all of the above issues and arrange a site visit. Environmental Health may then propose additional conditions to allay its concerns including setting an appropriate capacity at the premises.

**Following a site visit on 15<sup>th</sup> March 2019, the Environmental Health Service made the following further comments:-**

I refer to the application for a new premises licence for the above premises. Further to my memo dated 22 February 2019.

**Site Visit:**

Following a site visit to the premises on 15 March 2019 Environmental Health advised the applicant the following works need to be carried out:

- make the second W.C available for the public to use.
- storage under stairwell must be removed to prevent it being a fire hazard.
- emergency escape route signage to stair must be made less confusing
- provide mechanical ventilation to kitchen rather than relying on an open window (this will prevent pest ingress)
- must register as a new food business (forms available on the Council's website)

Although not necessarily a licensing issue the applicant was also advised to check with the Planning Department that the use is consistent with planning legislation (*premises currently designated as an A1 Use but operation under the Licence appears to make this an A3 Use premises. Applicant additionally advised that if a planning change of use is required then a 'full height' or a 'recirculation' kitchen extract ventilation system will be needed.*)

**Conditions:**

Environmental Health advise the following conditions – these include undertakings made by the applicant in the operating schedule which have been converted into enforceable conditions (please note these are in addition to those agreed by the applicant with the Police.)

Please note proposed condition 1 above offered by the applicant in the operating schedule is considered to be unnecessary by Environmental Health for the type of operations at this premises. (I have discussed this with the Police and they also agree that it is not a condition they would require for these premises at this location.)

Please also note even if the applicant agrees to all of the above and if the application proceeds for determination to Licensing Sub-Committee Environmental Health is likely to wait to withdraw its representations at the Committee hearing as it would first wish to be party to any discussions held at Committee.

<b>2-B Other Persons</b>	
<b>Name:</b>	[REDACTED]
<b>Address and/or Residents Association:</b>	[REDACTED] [REDACTED] [REDACTED]
<b>Received:</b>	30 January 2019
We are based on 1st floor of the premises and want to ensure that this application will not include loud music as we run a wellness charity that has a peaceful and relaxed environment on 1st floor. We are open daytime and evenings	
<b>Name:</b>	[REDACTED]
<b>Address and/or Residents Association:</b>	Fitzrovia Neighbourhood Association [REDACTED] [REDACTED] [REDACTED]
<b>Received:</b>	27 February 2019
We would like to see the licensed activities restricted to core hours and that MC 66 is attached to any licence granted to ensure that it is run as a restaurant and not a bar. For the late night refreshment we would like to have a condition that forbids the use of any delivery service that involves the use of motor scooters or motor bikes by the applicant or any third party delivery service, for example, Uber or Deliveroo. We would also like to see the applicant offer to commit to not using these types of delivery vehicles at any time ie. before the late night refreshment hours. We would also like to see conditions restricting inward deliveries and rubbish removal to between the hours of 8am to 9pm.	

### 3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
<b>Policy HRS1 applies</b>	<p>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies</p> <p><u>For premises for the supply of alcohol for consumption on the premises:</u> Monday to Thursday: 10:00 to 23:30 Friday and Saturday: 10:00 to midnight Sundays immediately prior to Bank Holidays: Midday to midnight Other Sundays: Midday to 22:30</p> <p><u>For premises for the supply of alcohol for consumption off the premises:</u> Monday to Saturday: 08:00 to 23:00 Sundays: 10:00 to 22:30</p>
<b>Policy PB1 applies</b>	Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.

#### 4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

#### 4. Appendices

<b>Appendix 1</b>	Premises plans
<b>Appendix 2</b>	Applicant supporting documents
<b>Appendix 3</b>	Premises history
<b>Appendix 4</b>	Proposed conditions
<b>Appendix 5</b>	Residential map and list of premises in the vicinity

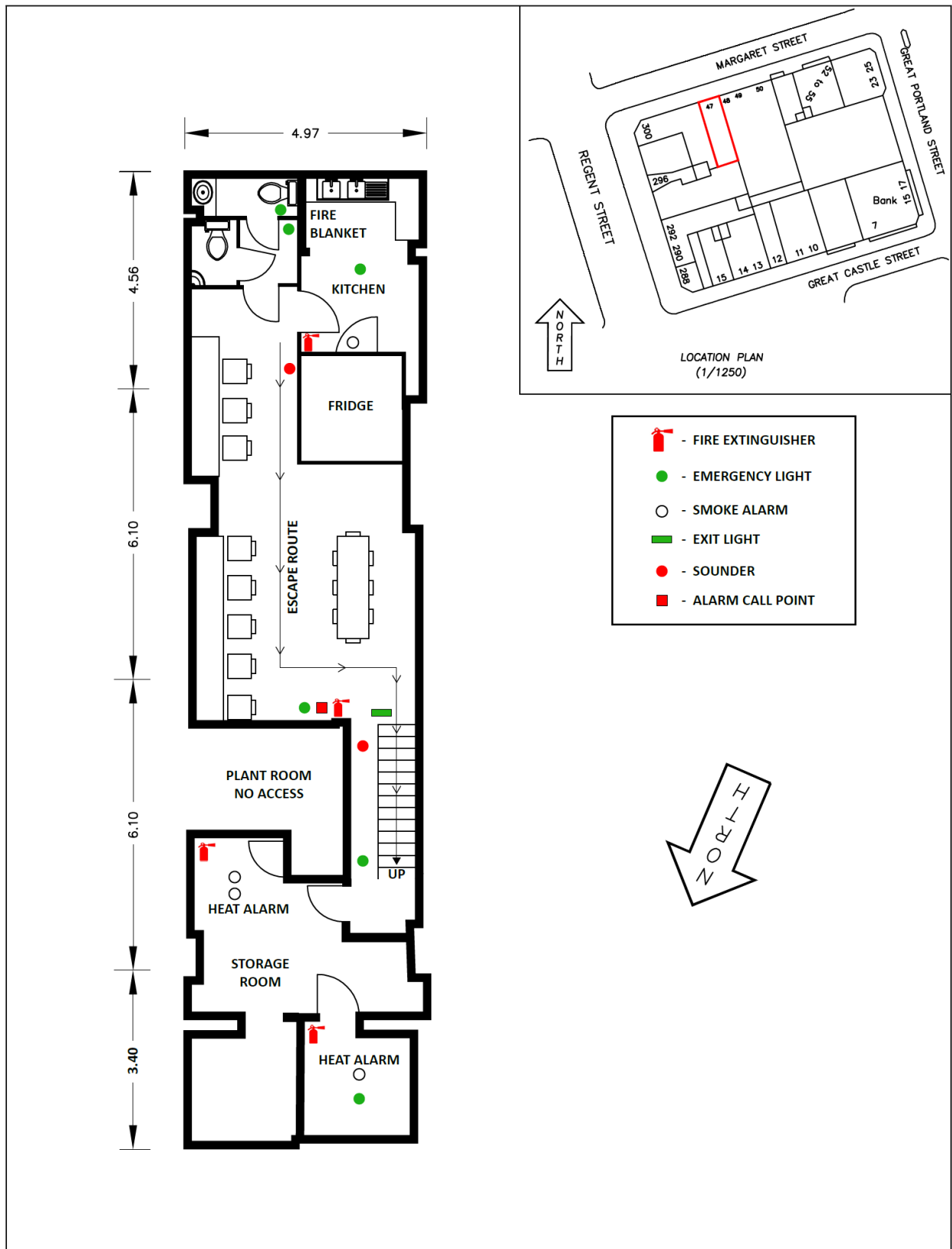
<b>Report author:</b>	Kevin Jackaman Senior Licensing Officer
<b>Contact:</b>	Telephone: 0207 641 8094 Email: kjackaman@westminster.gov.uk



**If you have any queries about this report or wish to inspect one of the background papers please contact the report author.**

**Background Documents – Local Government (Access to Information) Act 1972**

<b>1</b>	Licensing Act 2003	N/A
<b>2</b>	City of Westminster Statement of Licensing Policy	7 January 2016
<b>3</b>	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2019
<b>4</b>	Metropolitan Police Service Representation	14 February 2019 (withdrawn 25 February 2019)
<b>5</b>	Environmental Health Service Representation	22 February 2019
<b>6</b>	Interested Party Representation (1)	30 January 2019
<b>7</b>	Interested Party Representation (2)	27 February 2019

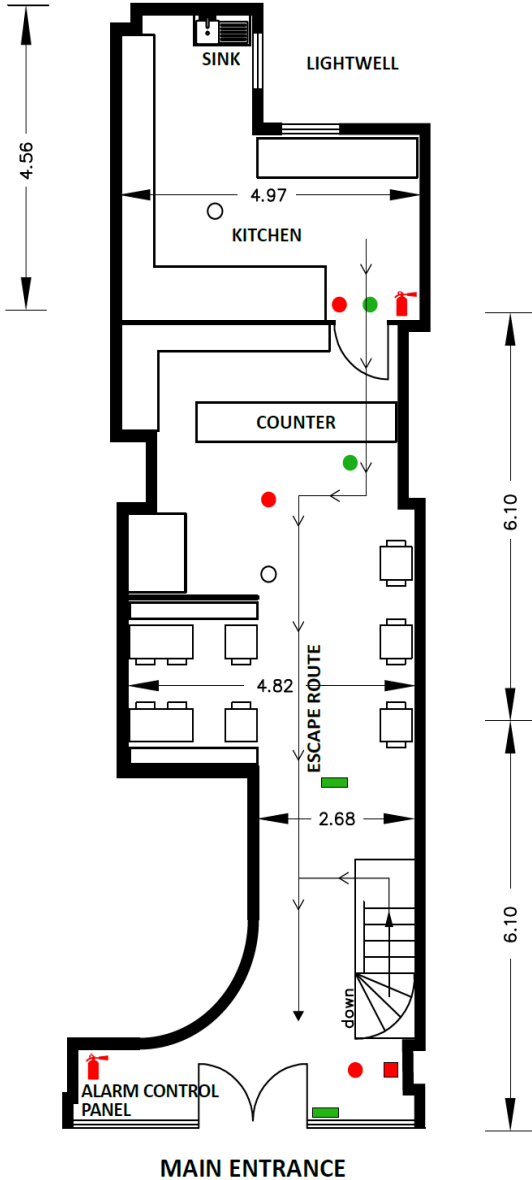
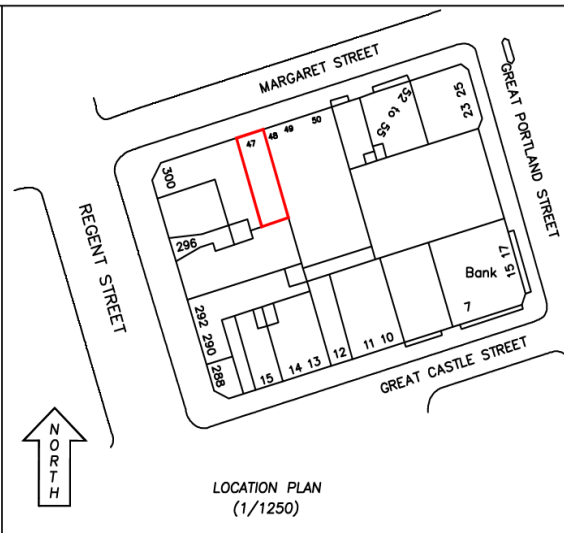


**GRYPHON SURVEYS**  
 Hanover House  
 78-82 High Street  
 Brentwood, Essex CM14 4AP  
 Telephone: 01277-212794  
 Fax: 01277-214928  
 e-mail: admin@gryphonsurveys.co.uk  
 www.gryphonsurveys.co.uk

Title:  
 47 MARGARET STREET  
 LONDON W1  
 BASEMENT EXISTING

drawn	LR
date	12.01.19
scale	1:100@A4
checked	

Drg. Ref.
2/2



**GRYPHON SURVEYS**  
 Hanover House  
 78-82 High Street  
 Brentwood, Essex CM14 4AP  
 Telephone: 01277-212794  
 Fax: 01277-214928  
 e-mail: admin@gryphonsurveys.co.uk  
 www.gryphonsurveys.co.uk

Title:  
 47 MARGARET STREET  
 LONDON W1  
 GROUND FLOOR EXISTING

drawn	LR
date	12.01.19
scale	1:100@A4
checked	

Drg. Ref.
1/2

**Applicant Supporting Documents**

**Appendix 2**

None submitted

There is no licence or appeal history for the premises.

## CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

### Mandatory Conditions

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

less in a manner which carries a significant risk of undermining a licensing objective;

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

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

- 8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -
- $$P = D + (D \times V)$$
- Where -
- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

#### **Conditions consistent with the operating schedule**

9. We will be hiring Bouncers and security for the premise.
10. Alcohol will not be sold to those who are already intoxicated.



11. Alcohol will not be allowed to be taken out of premises.
12. Alcohol will be served in the basement floor, the doors will closed during main serving hours.

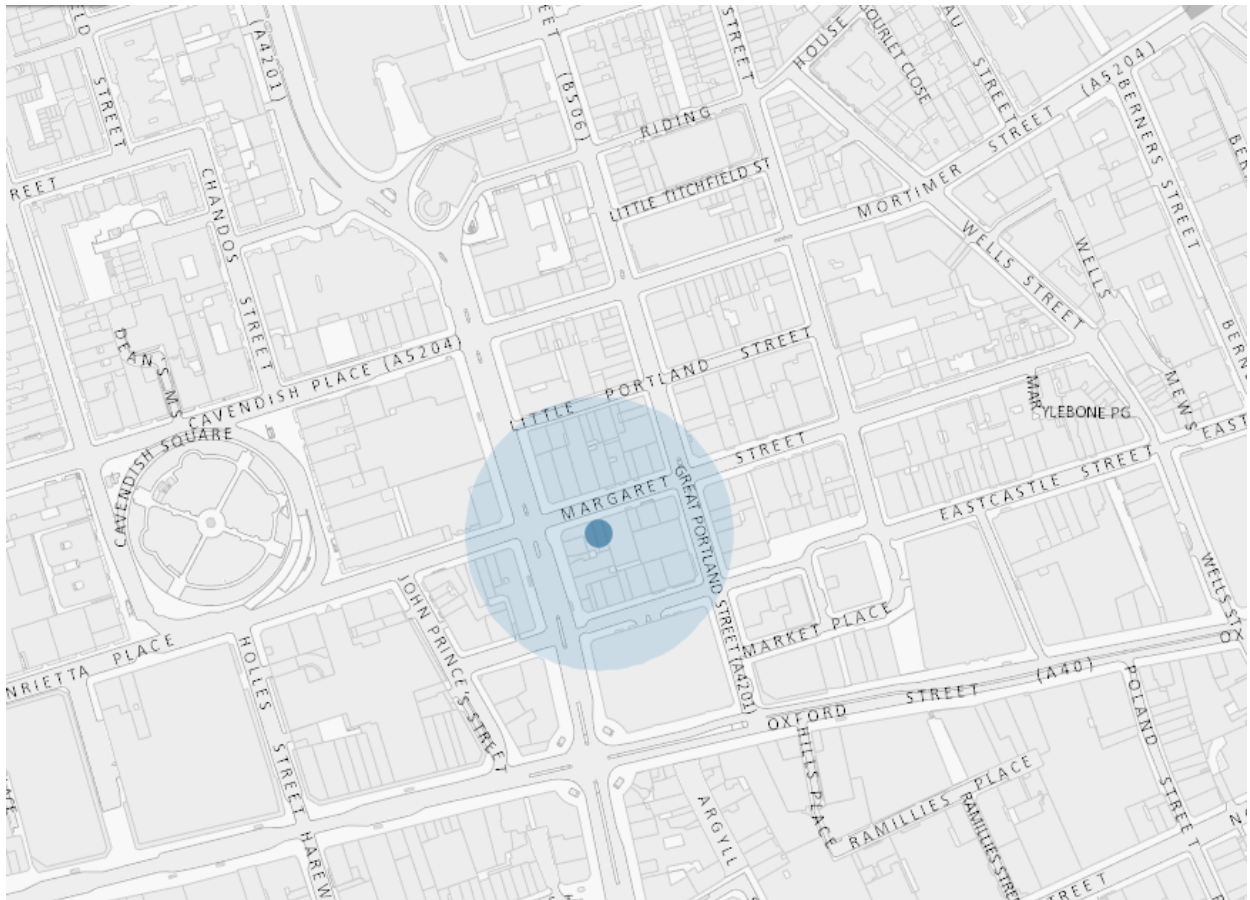
**Conditions proposed by the Police and agreed with the applicant so as to form part of the operating schedule**

13. The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
14. The supply of alcohol shall be by waiter or waitress service only.
15. 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.
16. 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.
17. Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
18. 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.

**Conditions proposed by the Environmental Health Service**

19. A minimum of one SIA licensed door supervisors shall be on duty at the premises at all times whilst alcohol is on sale at the premises.
20. The consumption of alcohol at the premises shall be limited to the basement only and the capacity in the basement shall not exceed 30 patrons at any one time.
21. 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.

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.
23. All windows and external doors shall be kept closed after 19:00 hours except for the immediate access and egress of persons.
24. 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.
25. 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.
26. 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.
27. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
28. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
29. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 hours and 08:00 hours on the following day or alternatively can be as specified on the Council's website for Commercial Waste collection times for the street.
30. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.



Resident count: 5

**Licensed premises within 75 metres of 47 Margaret Street, London, W1W 8SB**

Licence Number	Trading Name	Address	Premises Type	Time Period
17/14674/LIPDPS	Beat	Basement 48 Margaret Street London W1W 8SD	Night clubs and discos	Monday to Tuesday; 09:00 - 03:30   Wednesday; 09:00 - 00:30   Thursday to Saturday; 09:00 - 06:30   Sunday; 09:00 - 03:00

12/05097/LIPT	Cameo / Bootleggers Club	48 - 50 Margaret Street London W1W 8SD	Night clubs and discos	Monday to Tuesday; 09:00 - 03:30   Wednesday; 09:00 - 06:30   Thursday; 09:00 - 03:30   Friday to Saturday; 09:00 - 06:30   Sunday; 09:00 - 03:00
18/09248/LIPDPS	Hotel Chocolat	294 Regent Street London W1B 3AP	Shop	Monday to Sunday; 08:00 - 23:00
18/08453/LIPCH	Benitos Hat	Ground Floor And Basement 12 Great Castle Street London W1W 8LR	Restaurant	Monday to Saturday; 10:00 - 00:30   Sunday; 12:00 - 00:00
18/00650/LIPDPS	Vapiano	19 - 21 Great Portland Street London W1W 8QB	Restaurant	Monday to Saturday; 09:00 - 03:30   Sunday; 11:00 - 01:00
19/00863/LIPDPS	Cock Tavern Public House	27 Great Portland Street London W1W 8QE	Public house or pub restaurant	Monday to Saturday; 10:00 - 23:30   Sunday; 12:00 - 23:00
14/03122/LIPN	Cookery School	15B Little Portland Street London W1W 8BW	Educational	Monday to Thursday; 08:00 - 23:30   Friday to Saturday; 08:00 - 00:00   Sunday; 08:00 - 22:30
16/06144/LIPT	McDonald's	310 - 312 Regent Street London W1B 3AU	Restaurant	Tuesday to Saturday; 05:00 - 01:00   Sunday to Monday; 05:00 - 00:00
17/06674/LIPDPS	Leon	275 Regent Street London W1B 2HB	Restaurant	Monday to Sunday; 10:00 - 22:30
17/14893/LIPVM	All Bar One	Marcol House 289-293 Regent Street London W1B 2HJ	Restaurant	Not Recorded; XXXX - XXXX
15/06753/LIPCH	Pink Lady	17 Little Portland Street London W1W 8BP	Club or institution	Monday to Saturday; 09:00 - 05:30   Sunday; 12:00 - 23:00

18/12281/LIPCH	The American Diner	35 Great Portland Street London W1W 8QQ	Restaurant	Monday to Saturday; 10:00 - 01:30   Sunday; 12:00 - 00:30
17/08198/LIPDPS	Kintan	21-22 Great Castle Street London W1G 0HY	Not Recorded	Monday to Saturday; 08:00 - 00:00   Sunday; 08:00 - 23:00
16/09296/LIPT	Match Bar	First Floor 37 - 38 Margaret Street London W1G 0JF	Wine bar	Monday to Saturday; 10:00 - 00:30   Sunday; 12:00 - 00:00
19/01318/LIPT	Jazz Suite	Ground Floor 37-38 Margaret Street London W1G 0JF	Night clubs and discos	Monday to Sunday; 10:00 - 03:00

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Item No:	
Date:	28 March 2019
Licensing Ref No:	19/00705/LIPN - New Premises Licence
Title of Report:	48 Albemarle Street London W1S 4JP
Report of:	Director of Public Protection and Licensing
Wards involved:	West End
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Kevin Jackaman Senior Licensing Officer
Contact details	Telephone: 0207 641 8094 Email: kjackaman@westminster.gov.uk

## 1. Application

1-A Applicant and premises																						
<b>Application Type:</b>	New Premises Licence, Licensing Act 2003																					
<b>Application received date:</b>	18 January 2019																					
<b>Applicant:</b>	Tizzola Properties Ltd																					
<b>Premises address:</b>	48 Albemarle Street London W1S 4JP	<b>Ward:</b>	West End Ward																			
		<b>Cumulative Impact Area:</b>	None																			
<b>Premises description:</b>	According to the application form, the application is for a 'shadow licence' of Gazelle, 48 Albemarle Street, on exactly the same terms as licence number 17/07479/LIPN.																					
<b>Premises licence history:</b>	A premises licence is currently in existence at the premises under reference 17/07479/LIPN. A copy of this licence is attached as <b>Appendix 4</b> .																					
	<p>In summary, this premises licence permits the following licensable activities and operating hours:</p> <p><b>Exhibition of a Film</b></p> <table> <tr> <td>Monday to Wednesday:</td> <td>10:00 to 23:30</td> </tr> <tr> <td>Thursday to Saturday:</td> <td>10:00 to 00:00</td> </tr> <tr> <td>Sunday:</td> <td>12:00 to 23:00</td> </tr> </table> <p><b>Late Night refreshment</b></p> <table> <tr> <td>Monday to Wednesday:</td> <td>23:00 to 23:30</td> </tr> <tr> <td>Thursday to Saturday:</td> <td>23:00 to 00:00</td> </tr> </table> <p><b>Sale by Retail of Alcohol (On Sales)</b></p> <table> <tr> <td>Monday to Wednesday:</td> <td>10:00 to 23:30</td> </tr> <tr> <td>Thursday to Saturday:</td> <td>10:00 to 00:00</td> </tr> <tr> <td>Sunday:</td> <td>12:00 to 22:30</td> </tr> </table> <p><b>Sale by Retail of Alcohol (Off Sales)</b></p> <table> <tr> <td>Monday to Saturday</td> <td>10:00 to 23:00</td> </tr> <tr> <td>Sunday</td> <td>12:00 to 22:30</td> </tr> </table>			Monday to Wednesday:	10:00 to 23:30	Thursday to Saturday:	10:00 to 00:00	Sunday:	12:00 to 23:00	Monday to Wednesday:	23:00 to 23:30	Thursday to Saturday:	23:00 to 00:00	Monday to Wednesday:	10:00 to 23:30	Thursday to Saturday:	10:00 to 00:00	Sunday:	12:00 to 22:30	Monday to Saturday	10:00 to 23:00	Sunday
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Monday to Saturday	10:00 to 23:00																					
Sunday	12:00 to 22:30																					
<b>Applicant submissions:</b>	Further submissions from the applicant appear at <b>Appendix 3</b> .																					

1-B Proposed licensable activities and hours							
<b>Exhibition of a Film:</b>				<b>Indoors, outdoors or both</b>			Indoors
<b>Day:</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thur</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	12:00
<b>End:</b>	23:30	23:30	23:30	00:00	00:00	00:00	23:00
<b>Seasonal variations/ Non-standard timings:</b>	Sundays before Bank holidays until 00:00. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. An additional hour from the end of permitted hours on the morning following Valentine's Day, Christmas Eve and Boxing Day.						



1-B Proposed licensable activities and hours							
Late Night Refreshment:				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
<b>Start:</b>	23:00	23:00	23:00	23:00	23:00	23:00	
<b>End:</b>	23:30	23:30	23:30	00:00	00:00	00:00	
<b>Seasonal variations/ Non-standard timings:</b>		Sunday immediately before bank holidays from 23:00 to 00:00; From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. An additional hour from the end of permitted hours on the morning following Valentine's Day, Christmas Eve and Boxing Day.					

Sale by retail of alcohol				On or off sales or both:			On the premises
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	12:00
<b>End:</b>	23:30	23:30	23:30	00:00	00:00	00:00	22:30
<b>Seasonal variations/ Non-standard timings:</b>		From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. An additional hour from the end of permitted hours on the morning following Valentine's Day, Christmas Eve and Boxing Day.  Sundays before Bank Holidays 12:00 - 00:00					

Sale by retail of alcohol				On or off sales or both:			Off the premises
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
<b>Start:</b>	10:00	10:00	10:00	10:00	10:00	10:00	12:00
<b>End:</b>	23:00	23:00	23:00	23:00	23:00	23:00	22:30
<b>Seasonal variations/ Non-standard timings:</b>		None					

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
<b>Start:</b>	08:00	08:00	08:00	08:00	08:00	08:00	12:00
<b>End:</b>	00:00	00:00	00:00	00:30	00:30	00:30	23:00
<b>Seasonal variations/ Non-standard timings:</b>		From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. An additional hour from the end of permitted hours on the morning following Valentine's Day, Christmas Eve and Boxing Day.  Sundays before bank holidays 12:00 - 00:00.					

## 2. Representations

2-A Responsible Authorities	
<b>Responsible Authority:</b>	Environmental Health Service
<b>Representative:</b>	Ian Watson
<b>Received:</b>	13 February 2019 ( <i>Withdrawn</i> )

I refer to the application for a New Premises Licence for the above premises.

The applicant has submitted floor plans of the premises.

This representation is based on the plans and operating schedule submitted.

The applicant is seeking the following

1. To provide for the Supply of Alcohol 'On' and 'off' the premises Monday to Wednesday 10.00 – 23.30 hours, Thursday and Saturday between 10.00 and 00.00 hours and Sunday between 12.00 to 22.30 hours. New Year's Eve to New Year's Day. Sundays before Bank Holiday 12.00 to 00.00 hours.
2. To provide Late Night Refreshment 'Indoors' Monday to Wednesday 23.00 – 23.30 hours, Thursday and Saturday between 23.00 and 00.00 hours. New Year's Eve to New Year's Day. Sundays before Bank Holiday 23.00 to 00.00 hours.
3. To provide regulated entertainment 'indoors' comprising
  - FilmsMonday to Saturday between 09.00 and 03.30 hours and Sunday between 09.00 to 00.00 hours.

I wish to make the following representation

1. The hours requested for the Supply of Alcohol will have the likely effect of causing an increase in Public Nuisance within the area.
2. The hours requested to permit the provision of late night refreshment will have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the area.
3. The hours requested to permit the provision of regulated entertainment will have the likely effect of causing an increase in Public Nuisance within the area.

The applicant has provided additional information with the application which is being addressed.

**Following assessment of the application, on the basis that no additional hours, activities or conditions were being sought, the Environment Health representation was withdrawn on 1 March 2019**

2-B Other Persons	
<b>Name:</b>	Gazzelle Bar Limited
<b>Address and/or Residents Association:</b>	TLT Solicitors 20 Gresham Street London EC2V 7JE
<b>Received:</b>	15 February 2019
<p>We write on behalf of The Gazelle Bar Ltd, the holders of a premises licence at 48 Albemarle Street, London W1S 4JP.</p> <p>We supply this letter in connection with the "shadow" licence application submitted by Thomas &amp; Thomas Partners on behalf of Tizzola Properties Ltd.</p> <p>We consider that this application should be rejected entirely and if not, it should be refused by your Licensing Sub-Committee as being contrary to the Licensing Objectives.</p> <p>We will start by explaining why the application is so fundamentally flawed that is invalid and that there is therefore no application for you to consider. However, because the defects could potentially be remedied by withdrawal and making a subsequent application we will deal with the application as if it were valid in the first instance and set out why it should be refused as to grant the application would be contrary to all four Licensing Objectives.</p> <p>An application for a licence must be in the prescribed form (s17 of the Licensing Act 2003). This application should be rejected because it is not in the prescribed form, which requires the Applicant to formally declare that he/she understands that (page 16):-</p> <p>"It is an offence, liable on conviction to a fine up to a level 5 on the standard scale, under Section 158 of the Licencing Act 2003, to make a false statement in or in connection with this application."</p> <p>The prescribed form provides tick boxes at the end of the form to remind the Applicant of the essential documents which are required.</p> <p>"I have attached a scanned copy of the consent form completed by the proposed premises supervisor. "</p> <p>Despite ticking this box there is no copy consent form scanned or otherwise. The prescribed form also requires acknowledgement by the Applicant that:"I have enclosed (sic) the plan of the premises. "</p> <p>Whilst this box is ticked, no plan is enclosed (or scanned).</p> <p>The next declaration explains why this is important and why this application should be rejected.</p> <p>"I understand that if I do not comply with the above requirement my application will be rejected"</p> <p>That box is also ticked. This application should be rejected.</p> <p>Abuse of process</p> <p>Should the committee not be with us we now set out why the application should be refused on the basis that the application for a "shadow" licence is an anomaly of the Licensing Act 2003 and that it should also be refused because it would be contrary to all four Licensing Objectives.</p> <p>The Applicant is reminded that it is a criminal offence to make a false statement and requires</p>	

acknowledgement of this with a tick box.

"I/we understand that it is an offence, liable on conviction to a fine of up to level 5 on the standard scale, under Section 158 of the Licensing Act 2003 to make a false statement in or in connection with this application. "

The prescribed form also requires "please attach a proof of right to work" (for the DPS). This box is rightly not ticked because there is no DPS.

The next tick box (but one) requires the complier of the form to acknowledge "Ticking this box indicates you have read and understood the above declaration. " And later the Applicant confirms that "The DPS named in this application form is entitled to work in the UK, (and is not subject to conditions preventing him or her from doing work relating to licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)."

The Applicant wrongly confirms that this is true, however there is no DPS and there is no right to work.

We now refer to page 13 of the application where the details of the DPS are given. The difficulties that the agent has in completing this section demonstrate one of the reasons why an application for a "shadow" licence is an abuse of process and is abhorrent to the Licensing Act 2003.

The electronic prescribed form is set up so the complier cannot make a mistake and any deviation has to be intentional. This is achieved by the method that unless there is an entry in a box the complier is not able to continue to the next box or download the form as a proper application.

At page 13 of the application the complier enters details which he or she knows is false in order to give the impression that the application is bona fide.

The complier is then required to:

"please print the 'Consent of Individual to being specified as premises supervision' form (shown on page 19 and 20), and have the person specified above sign and confirm the details given. "

As mentioned earlier the complier is required to make a declaration that the form is uploaded and that the DPS is entitled to work in the UK and that the complier has seen a copy of the proof of right to work. They haven't.

At page 6 the prescribed form asks "what Licensable Activities do you intend to carry on from the premises?" This application for a shadow licence cannot have an intention to carry on a licensable activity from the premises- The Applicant is a company registered in the BV Islands and is effectively applying for the licence as a Landlord in the conveyancing sense, so will consent to someone else providing Licensable Activities.

Part 3 Operating Schedules (page 5).

The Applicant has not completed the box concerning when it wants the premises licence to start, the Applicant doesn't know when it wants it to start (see later for the importance of this fact.)

The form requires the Applicant to give a "General description of premises". The application does not reveal a description of the premises but merely recites that it wants the application to be for a "shadow licence" of Gazelle and gives details of that. The description of the premises is designed to give members of the public an idea of what the premises is going to be like. An informed member of the public would not understand what a "shadow licence". A "shadow licence" is not a term of art and one could not even look up what this means in a dictionary.

The next reason why this application for a "shadow licence" is an abuse of process is that the Applicant has no present intention to use the licence him/herself. We now turn to why an application for this sort is an abuse of process and not in the public interest.

The purpose of a shadow licence is to have a licence ready to bring into force immediately without having to apply for a new licence and to avoid the notice period and potential objections. What it does is it denies members of the public a chance have a say in whether a licence should be granted at the relevant time. Equally importantly, it denies the Licensing Authority an opportunity to consider whether a new licence should be granted at the relevant time and in those circumstances it must be contrary to the Licensing Objectives.

There are two circumstances when a shadow licence would be activated if it was granted.

A premises licence remains in force until it is either revoked or surrendered. There are a number of reasons why a licence is revoked but in this case the applicant is asking for a duplicate of the licence held by its tenant. The Act provides for a way that that licence can be transferred to the Landlord (Section 42 Licensing Act 2003) but that requires the consent of the existing licensee to be attached or "if that is not practicable a statement of the reasons for the failure to provide the licence. "The Landlord can rely upon this section and get the licence transferred if he has the consent of the Tenant. In the circumstances of a dispute between the Landlord and Tenant, the Licensing Authority has discretion to waive the requirement of producing the consent of the Licensee in accordance with Section 44 (6) Licensing Act 2003.

"The applicant (has to) show(s) to the Authorities satisfaction —  
That he has taken al/ reasonable steps to obtain that consent; and  
(a) That if the application was granted he would be in a position to use the premises for the licensable activity or activities authorised by the premises licence.  
This application for a shadow licence takes away that decision from the Licensing Authority. Westminster as Licensing Authority have in the past required the Applicant for the transfer and the Licensee to resolve their dispute, in the High Court if necessary. Westminster as Licensing Authority may think there is a good reason for waiving the necessity to have the consent but it should be Westminster and not the Landlord of the Licensee that should make that decision. Not to retain that discretion appears to us to be an abuse of process.

The other alternative is that the licence is revoked. The revocation of a licence is the last resort for a Licensing Authority and will be a decision that is not taken lightly. Granting a "shadow" licence will allow the Landlord to effectively overturn any revocation and in an extreme case the Landlord could activate the licence and allow a Licensee to continue to trade under the authority of the "shadow" licence. This undermines the Licensing Objective of the Prevention of Crime and Disorder. We say that this is an abuse of process. The Licensing Act 2003 lays down methods to activate or reactivate a licence but they all require the consent of the Licensing Authority where it can exercise its discretion. It must be contrary to the public interest to allow a Landlord to deprive the Licensing Authority from the exercise of its discretion. We trust that the above is clear, please do not hesitate to contact us if you have any queries.

We would be grateful if we could be kept abreast of the Licensing Authority's decision in this matter and offered the opportunity to attend any Sub-Committee hearing in the event that the Licensing Authority are not minded to refuse this application outright as they should.

### 3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
<b>Policy HRS1 applies</b>	<p>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies</p> <p><u>For premises for the supply of alcohol for consumption on the premises:</u> Monday to Thursday: 10:00 to 23:30 Friday and Saturday: 10:00 to midnight Sundays immediately prior to Bank Holidays: Midday to midnight Other Sundays: Midday to 22:30</p> <p><u>For premises for the supply of alcohol for consumption off the premises:</u> Monday to Saturday: 08:00 to 23:00 Sundays: 10:00 to 22:30</p>
<b>Policy PB1 applies</b>	Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.

### 4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

## 5. Appendices

<b>Appendix 1</b>	Premises Licence 19/00705/LIPN
<b>Appendix 2</b>	Premises Plan
<b>Appendix 3</b>	Applicant supporting documents
<b>Appendix 4</b>	Interested Party supporting documents
<b>Appendix 5</b>	Premises history
<b>Appendix 6</b>	Proposed conditions
<b>Appendix 7</b>	Residential map and list of premises in the vicinity

<b>Report author:</b>	Kevin Jackaman Senior Licensing Officer
<b>Contact:</b>	Telephone: 0207 641 8094 Email: kjackaman@westminster.gov.uk

**If you have any queries about this report or wish to inspect one of the background papers please contact the report author.**

### **Background Documents – Local Government (Access to Information) Act 1972**

<b>1</b>	Licensing Act 2003	N/A
<b>2</b>	City of Westminster Statement of Licensing Policy	7 <sup>th</sup> January 2016
<b>3</b>	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
<b>4</b>	Environmental Health Representation	13 February 2019 (withdrawn 1 March 2019)
<b>5</b>	Interested Party Representation	15 February 2019
<b>6</b>	Applicants Supporting Documents	25 February 2019
<b>7</b>	Interested Party Supporting Documents	15 March 2019



Schedule 12  
Part A

WARD: West End  
UPRN: 100023473387

## City of Westminster

64 Victoria Street, London, SW1E 6QP

Premises licence

Regulation 33, 34

Premises licence number:

17/07479/LIPN

Original Reference:

17/07479/LIPN

### Part 1 – Premises details

#### Postal address of premises:

48 Albemarle Street  
London  
W1S 4JP

#### Telephone Number:

#### Where the licence is time limited, the dates:

Not applicable

#### Licensable activities authorised by the licence:

Exhibition of a Film  
Late Night Refreshment  
Sale by Retail of Alcohol

#### The times the licence authorises the carrying out of licensable activities:

##### Exhibition of a Film

Monday to Wednesday:	10:00 to 23:30
Thursday to Saturday:	10:00 to 00:00
Sunday:	12:00 to 23:00
Sundays before Bank Holidays:	12:00 to 00:00

##### Non-standard Timings:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour from the end of permitted hours on the morning following Valentine's Day, Christmas Eve and Boxing Day.

##### Late Night Refreshment

Monday to Wednesday:	23:00 to 23:30
Thursday to Saturday:	23:00 to 00:00
Sundays before Bank Holidays:	23:00 to 00:00

##### Non-standard Timings:

Sunday immediately before bank holidays from 23:00 to 00:00



From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour from the end of permitted hours on the morning following Valentine's Day, Christmas Eve and Boxing Day.

**Sale by Retail of Alcohol**

Monday to Wednesday:	10:00 to 23:30 (on sales)
Thursday to Saturday:	10:00 to 00:00 (on sales)
Sunday:	12:00 to 22:30 (on sales)

Monday to Saturday	10:00 to 23:00 (off sales)
Sunday	12:00 to 22:30 (off sales)

Sundays before Bank Holidays:	12:00 to 00:00
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Non-standard Timings:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour from the end of permitted hours on the morning following Valentine's Day, Christmas Eve and Boxing Day.

**The opening hours of the premises:**

Monday to Wednesday:	08:00 to 00:00
Thursday to Saturday:	08:00 to 00:30
Sunday:	08:00 to 23:00
Sundays before Bank Holidays:	12:00 to 00:00

**Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:**

Alcohol is supplied for consumption both on and off the Premises.

**Part 2**

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:**

The Gazelle Bar Ltd  
Unit 26 Regent Studios  
8 Andrews Road  
London  
E8 4QN

**Registered number of holder, for example company number, charity number (where applicable)**

10261076

**Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:**

**Name:** Simon Conigliaro

*Please note: It is the policy of the Licensing Authority not to display the address details of a designated premises supervisor.*

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:**

**Licence Number:** LBWANDS/01745  
**Licensing Authority:** London Borough Of Wandsworth

**Date:** 19<sup>th</sup> January 2018

**This licence has been authorised by Miss Yolanda Wade on behalf of the Director - Public Protection and Licensing.**

## Annex 1 – 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.

## Annex 2 – Conditions consistent with the operating Schedule

9. Substantial food and non-intoxicating beverages shall be available throughout the trading day in all parts of the premises where alcohol is supplied for consumption on the premises and until 30 minutes prior to closing.
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 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.
12. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
13. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 hours and 07.00 hours on the following day
14. No deliveries to the premises shall take place between 23:00 hours and 07:00 hours on the following day
15. A direct telephone number for the manager at the premises shall be publically made available at all times the premises is open. This telephone number will be made available to residents and businesses in the vicinity
16. 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.
17. All relevant staff will receive refresher training on relevant alcohol laws and the licence holder's policy on challenging for ID. Such training to take place at least twice a year. Records will be maintained at the premises containing information about the training of any person who is authorised to make a sale of alcohol, including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on reasonable request to a police officer or a relevant officer of a responsible authority.
18. 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.
19. 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.
- 19 The supply of alcohol shall be by waiter or waitress service to seated customers only with the exception of:
- (a) Those customers seated at the bar counter who may be served direct by the bar staff; and
- (b) A maximum of fifteen (15) customers permitted to stand whilst waiting for a table.
- 20 The maximum number of persons permitted on the premises at any one time (excluding staff) shall not exceed:
- a) First floor - 60 persons
- b) Second floor - 60 persons
- 21 There shall be no sales of alcohol for consumption "off" the premises after 23:00 hours.
- 22 All sales of alcohol for consumption "off" the premises shall be in sealed containers only and shall not be consumed "on" the premises.
- 23 There shall be no sales of hot food or hot drinks for consumption "off" the premises after 23:00
- 24 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
- 25 Loudspeakers shall not be located in the entrance lobby or outside the premises building
- 26 All windows shall be kept closed after 23:00 hours or at any time when regulated entertainment takes place
- 27 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly
- 28 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
- 29 The edges of the treads of steps and stairways shall be maintained so as to be conspicuous
- 30 During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business
- 31 No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours
- 32 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
- 33 Licensable activity is not to take place until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this licence by the licensing authority.

- 34 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



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

None

**Annex 4 – Plans**

Attached



**City of Westminster**  
64 Victoria Street, London, SW1E 6QP

Schedule 12  
Part B

WARD: West End  
UPRN: 100023473387

Premises licence  
summary

Regulation 33, 34

Premises licence number:

17/07479/LIPN

**Part 1 – Premises details**

**Postal address of premises:**

48 Albemarle Street  
London  
W1S 4JP

**Telephone Number:**

**Where the licence is time limited, the dates:**

Not applicable

**Licensable activities authorised by the licence:**

Exhibition of a Film  
Late Night Refreshment  
Sale by Retail of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

**Exhibition of a Film**

Monday to Wednesday:	10:00 to 23:30
Thursday to Saturday:	10:00 to 00:00
Sunday:	12:00 to 23:00
Sundays before Bank Holidays:	12:00 to 00:00

Non-standard Timings:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour from the end of permitted hours on the morning following Valentine's Day, Christmas Eve and Boxing Day.

**Late Night Refreshment**

Monday to Wednesday:	23:00 to 23:30
Thursday to Saturday:	23:00 to 00:00
Sundays before Bank Holidays:	23:00 to 00:00

Non-standard Timings:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour from the end of permitted hours on the morning following Valentine's Day, Christmas Eve and Boxing Day.

**Sale by Retail of Alcohol**

Monday to Wednesday:	10:00 to 23:30 (on sales)
Thursday to Saturday:	10:00 to 00:00 (on sales)
Sunday:	12:00 to 22:30 (on sales)

Monday to Saturday	10:00 to 23:00 (off sales)
Sunday	12:00 to 22:30 (off sales)

Sundays before Bank Holidays:	12:00 to 00:00
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Non-standard Timings:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

An additional hour from the end of permitted hours on the morning following Valentine's Day, Christmas Eve and Boxing Day.

**The opening hours of the premises:**

Monday to Wednesday:	08:00 to 00:00
Thursday to Saturday:	08:00 to 00:30
Sunday:	08:00 to 23:00
Sundays before Bank Holidays:	12:00 to 00:00

**Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:**

Alcohol is supplied for consumption both on and off the Premises.

**Name and (registered) address of holder of premises licence:**

The Gazelle Bar Ltd  
Unit 26 Regent Studios  
8 Andrews Road  
London  
E8 4QN

**Registered number of holder, for example company number, charity number (where applicable)**

10261076

**Name of designated premises supervisor where the premises licence authorises for the supply of alcohol:**

**Name:** Simon Conigliaro

**State whether access to the premises by children is restricted or prohibited:**

Restricted

**Date:** 19<sup>th</sup> January 2018

**This licence has been authorised by Miss Yolanda Wade on behalf of the Director -  
Public Protection and Licensing.**









Thomas & Thomas  
Partners LLP

Your ref: 19/00705/LPN  
Our ref: AT/TIZ.1.1

38a Monmouth Street  
London WC2H 9EP  
tel: 020 7042 0410  
fax: 020 7379 6618

Licensing Service  
City of Westminster  
64 Victoria Street  
London SW1E 6QP

25 February 2019

Dear Sirs

**19/00705/LPN Premises Licence 48 Albermarle Street London W1S 4JP**

We write further to our email of 20<sup>th</sup> February 2019, and now respond in full on behalf the applicant Tizzola Properties Ltd to the representation received from TLT on behalf of Gazelle Bar Ltd.

It is submitted, from the outset, that the representation is frivolous and vexatious; wrong in law and has no reference to any of the four licensing objectives.

**Application not in the prescribed form:**

Solicitors on behalf of The Gazelle Bar Ltd make a number of points. Our client takes issue with all of these.

Firstly, it is said that because boxes in the application form were ticked indicating that a copy of the consent form of the DPS, together with a plan of the premises, were enclosed with the application (but were not in fact enclosed), that this somehow invalidates the application.

With respect, this is disingenuous. The way that the on-line application process is configured on the portal is such that it is impossible to progress through the application form unless these boxes are ticked.

Nevertheless, it was clear in the application itself that this was an application for a shadow licence in exactly the same terms as the primary licence.

The application form makes it abundantly clear that the applicant would seek to rely upon the plan attached to the existing licence, and whilst it is agreed that no plan was in fact attached, it is clear beyond doubt that reference is made to the existing plan. It is for that reason that the box was ticked.

In the same way, although the box referring to the consent of the Designated Premises Supervisor ("DPS") was ticked (otherwise the on-line process could proceed no further), it was made patently clear in the application itself that this was an application for a shadow licence and that there was to be no DPS.

A similar point is taken in respect of the "proof of right to work" declaration. Gazelle Bar Ltd make this submission under what it terms "abuse of process". In our submission, this falls under the same heading as the points addressed above.

They complain that the box stating that *"the DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to licensable activity) and I have seen a copy of his or her proof of entitlement to work **if appropriate**"* (our emphasis) has been ticked.

Two points arise in response. The first is that the application process cannot be completed without this box being ticked. The second point is that it was made clear in the application form itself that there was to be no DPS.

The words "if appropriate" mean, in our submission, appropriate to these circumstances. In other words, if there is to be no DPS then there is no requirement to have been satisfied of his right to work.

A similar point is made under the "abuse of process" heading, but which more correctly falls under his "invalid application" heading.

This relates to the complaint in relation to an intention to carry out licensable activities at the premises. It is wrongfully and unfairly said that "an applicant for a shadow licence cannot have an intention to carry on a licensable activity from the premises".

In *R (OTA Extreme Oyster) v Guildford Borough Council [2013] EWHC 2174 (Admin)* Turner J made it clear that there is nothing unlawful in a landlord making an application for a shadow licence which mirrors the primary licence. The wording of section 16(1)(a) of the Licensing Act 2003 ("LA2003") should be given a wide interpretation and would cover a landlord who "carries" on a business at the premises by virtue of the fact that he is in receipt of rent, or who seeks to protect his position in the event of the insolvency of the tenant. It should be remembered that in *Extreme Oyster* the landlord had no present intention to use the premises themselves (one of Guildford Borough Council's complaints).

It matters not that the applicant has not completed the box indicating when it wants the licence to start. A shadow licence has immediate effect and entitles the holder to protect its interests as against an insolvent tenant, or one who has placed the primary licence in jeopardy by surrendering it or mismanaging the premises in such a way as to occasion a review.

Similarly, with respect to the operating schedule the applicant has fully recited what the premises are by way of reference to the existing licence. A member of the public can easily access WCC's website for details of the existing licence.

These points are technical (and technically incorrect) and wholly without merit.

Similar points were taken in *R (on the application of D&D Bar Services Ltd) v Romford Magistrates Court [2014] EWHC 344 (Admin)* by a claimant who failed to satisfy the Administrative Court that an application for review of a licence was somehow invalid because the grounds for review were not stated in the notice and because the notice on the premises was in the wrong font size. Judge Blackett said this in response to those submissions:

*Mr Kolvin (for the claimant) suggested that Regulations which are mandatory make compliance easier, so that there can be no doubt that unless they are complied with to the absolute letter, then the process is invalid. That may be so, but in my view it could never have been the intention of Parliament that minor errors on a notice or advertisement for a licensing review should make any subsequent consideration of the licence void. Such an approach would lead to absurd consequences. It is clear that there must be substantial compliance with Regulations 38(1) (a) and 39 but the process should not be frustrated by minor errors. Mr Kolvin's suggestion that there has been a total failure to comply with a significant part of a requirement does not reflect the reality of what occurred. District Judge Lucie considered the errors in the notice to be "minor irregularities." In the context of this case that is an entirely reasonable conclusion with which I agree and he was right to follow the approach in R v Soneji [2006] 1 AC 340 (HL) and R v Secretary of State for the Home Department ex parte Jeyanthan [2000] 1 WLR 354. At paragraph 26 of his judgment he said:*

*"It appears to me that it would not be in the overall interests of justice to quash the decision of the committee as a result of the irregularities. Had any party been able to show substantial prejudice or injustice then the decision may have been different. This is not a case, in my judgement, where non-compliance anywhere near approaches the degree or status that would go to the jurisdiction of the committee.*

*I agree entirely with the District Judge's approach."*

In the light of the above, how can it possibly be said that there has not been substantial compliance in Tizzola Properties Ltd's application? Who has been prejudiced? What injustice is being alleged or apparent?

**Abuse of process:**

There a number of submissions under this heading, which have no foundation in law.

They firstly complain that a shadow licence "denies members of the public a chance to have a say in whether a licence should be granted at the relevant time". In asserting this they ignore entirely the legitimacy of the shadow licence regime as sanctioned by The Administrative Court in the **Extreme Oyster** case. There is an opportunity for members of the public and responsible authorities to object to the shadow licence at the time that the application is made (as was the case in Extreme Oyster).

Moreover, if the primary licence is reviewed, then as a matter of practice WCC's officers and the police invariably review the shadow licence at the same time to inquire as to what steps the shadow licence holder took by way of due diligence to ensure that the primary licence was being run correctly and

whether the shadow licence itself should be allowed to continue, and whether it can be said that the landlord was promoting the licensing objectives. It can hardly be said that the review process is in any way undermined by a shadow licence being in place. It cannot be said that in some way the shadow licence has "*deprive(d) the Licensing Authority from (sic) the exercise of its discretion*".

If the complaint is that the old tenant leaves (for whatever reason) and refuses to consent to a transfer of the primary licence and the landlord operates the shadow licence, then it is equally open to the responsible authorities (and residents) to review the shadow licence if there is any concern about any new operation.

In the event of the insolvency of the tenant, then the licence lapses under section 27 LA2003, but can be resurrected under section 50 LA2003 if an application for transfer of the licence is made within 28 days of insolvency. Guildford Borough Council unsuccessfully took the point in *Extreme Oyster* that these transfer provisions in the event of insolvency negated one of the reasons given by the landlord as to why he would wish to have a shadow licence. Turner J dismissed this argument by the Borough Council. There is nothing in the legislation that prevents a shadow licence being operated in place of a transfer of the primary licence. Indeed, it makes sound sense. Very often the landlord is only informed of the insolvency of the tenant late in the day, and after the 28 day period has elapsed.

For all of the reasons above, the representation on behalf of The Gazelle Bar Ltd is ill conceived; vexatious and frivolous; and has no foundation in law or indeed relevant or undermining of any of the licensing objectives.

Yours faithfully,



**Thomas & Thomas Partners LLP**  
tel: 020 7042 0412  
email: athomas@tandtp.com

TLT LLP

20 Gresham Street  
 London EC2V 7JE  
 T +44 (0)333 006 0300  
 F +44 (0)333 006 0311  
 DX 431 London Chancery Lane

www.TLTsolicitors.com

Our ref 303L/LE06/101267/000007

Your ref c/o [REDACTED]



Licensing Sub-Committee (2)  
 Rooms 18.01 to 18.03  
 Westminster City Council  
 18<sup>th</sup> floor, City Hall  
 64 Victoria Street  
 LONDON SW1E 6QP

By email only to [REDACTED]

Direct tel +44 (0)333 006 1358

Date 15 March 2019

Direct fax +44 (0)333 006 0011

Email luke.elford@tltsolicitors.com

Dear Councillors Mitchell, Wilkinson and Toki

#### Licensing Act 2003

**Our client: The Gazelle Bar Ltd**

**19/00705/LIPN - Application for a new premises licence by Tizzola Properties Ltd**

We act for The Gazelle Bar Ltd ("Gazelle"), the holder of a Premises Licence at 48 Albemarle Street, London (ref: 17/07479/LIPN) ("the Gazelle Licence"). We enclose a copy of the Premises Licence for ease of reference. We write further to our letter of 15 February 2019. We enclose a copy of our letter for ease of reference.

#### Defective Application

We mentioned in our letter of 15 February that the Applicant's application is defective, why it is defective, and why it should be refused in its entirety on that basis. Whether or not the application is refused is not a matter of discretion. We thought it would be helpful if we explain why.

Section 17 of the Licensing Act 2003 sets the requirements for an application for a Premises Licence.

Section 17(1) requires that an application is made to the relevant Licensing Authority. There is no issue there, Westminster City Council are the relevant Licensing Authority for the purposes of Section 17(1).

Section 17(3) provides that an application under section 17 **must** also be accompanied by:

- (a) an operating schedule;
- (b) **by a plan of the premises to which the application relates, in the prescribed form,**  
and
- (c) **if the licensable activities to which the application relates ('the relevant licensable activities') include the supply of alcohol, by a form of consent in the**

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**prescribed form given by the individual whom the applicant wishes to have specified in the premises licence as a premises supervisor.**

Section 17(3)(c) is crucial and the Applicant's application was not and is still not accompanied by a form given by the individual whom the Applicant wishes to have specified in the premises licence as the premises supervisor.

If you would kindly turn to page 6 of the Applicant's application, a copy of which we enclose for ease of reference, you will see that under the question "What licensable activities do you intend to carry on from the premises?" that the Applicant has ticked films, provision of late night refreshment and **supply of alcohol.**

If you would kindly now turn to page 13 of the Applicant's application you will see that in box M the Applicant has asked to supply alcohol both on and off the premises from 10:00 until 23:30 Monday to Wednesday, from 10:00 until 00:00 Thursday to Saturday and from 12:00 until 22:30 on Sundays.

Beneath box M there is a box that asks the applicant to "state the name and the details of the individual whom you wish to specify on the licence as the premises supervisor." That box has been filled in as follows:

*Title:* Mr  
*Surname:* N/a (Shadow Licence)  
*First name(s):* -  
*Date of Birth:* 17/01/2019  
*Address:* -  
*Postcode:* -  
*Personal Licence number (if known)* -  
*Issuing licensing authority (if known)*

There is then a statement as follows:

**Please print the 'Consent of individual to being specified as premises supervisor' form (shown on pages 19 and 20), and have the person specified above sign and confirm the details given.**

Box M and the name and details of the individual to be specified as premises supervisor directly relate to section 17(3)(c) of the Licensing Act 2003.

We submit that because the Licensing Act 2003 provides that an application for a premises licence **must** (section 17(3)), where the application includes the supply of alcohol, be accompanied **by a form of consent in the prescribed form given by the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor** – that the Applicant's application should be rejected outright.

There is no way around section 17(3)(c), it is a requirement of the Licensing Act 2003 and cannot be overridden or circumnavigated.

We have corresponded with your Senior Licensing Officer, Mr Kevin Jackaman, on this point and in the interests of transparency, we enclose our email correspondence with him for your information.

Mr Jackaman's email of 27 February 2019 (timed 15:55) does not deal with the point raised above at all. You will see that we responded on the same date (timed 16:19) specifically raising the point about section 17(3)(c). Mr Jackaman responded on 1 March and we have copied the salient points of his email below:

*With regards to your comments regarding the DPS consent, it is the Licensing Authorities [sic] view that the legislation requires the details of the DPS to be included if the licensable activities include the supply of alcohol.*

Put simply, the licensable activities the Applicant has applied for **include** the supply of alcohol. The Applicant has ticked the relevant box at page 6 and has completed box M at page 13. The Applicant has tried, and failed, to give the details of the person to be specified as the premises supervisor. They can't, as there isn't one.

*...it is unlawful to sell alcohol if there is no DPS. For example, A [sic] premises licence holder might have an existing DPS who resigns with immediate effect. That resignation will prevent any alcohol being sold until a new DPS is appointed and there is a process for achieving that without delay in section 38 of the 2003 Act. In the meantime, however, the licence holder is in the same position that a new applicant will be in who has not identified a DPS.*

With respect to Mr Jackaman's understanding of the Licensing Act 2003, these are two different points and we appear to be at crossed purposes. We accept entirely that it is unlawful to continue to sell alcohol without a designated premises supervisor and where the premises licence holder is faced with a situation where his or her designated premises supervisor resigns, he or she must find another personal licence holder to take on that role and that an application to appoint a new designated premises supervisor can be made immediately with interim effect. We are saying that it is unlawful for the Licensing Authority to accept or consider an application for a premises licence that includes, as a licensable activity, the supply of alcohol where the Applicant has not complied with section 17(3)(c).

*It is the Licensing Authorities [sic] view that there is no need to identify a DPS when making a new application **if** the applicant is able to indicate that it wants the licence but is not yet in a position to identify who the DPS will be. The applicant will not be able to sell alcohol until a DPS has been appointed. The holder of the shadow licence may also submit (as is the case of this application [sic]) that there is no need for a DPS if they do not intend to make use of the shadow licence.*

Mr Jackaman makes a number of points here and we will deal with them in turn.

Mr Jackaman's first point is that it is the Licensing Authority's view that there is no need to identify a designated premises supervisor **if** the applicant is able to indicate that it wants the licence but it is not yet in a position to identify who the designated premises supervisor will be. We do not know whether this is the Licensing Authority's view or Mr Jackaman's personal view, but with the utmost of respect and in relation to section 17(3)(c) it is incorrect. If the applicant is



applying for the supply of alcohol (as the Applicant) is here then the application must be accompanied by a form of consent signed by a prospective premises supervisor.

Mr Jackaman then states that the applicant will not be able to sell alcohol until a DPS is appointed. This is irrelevant given that the application must be accompanied by a form of consent signed by a prospective premises supervisor.

Finally, Mr Jackaman goes on to say that the holder of a shadow licence may also submit (as is the case of this application) [sic] that there is no need for a DPS is they do not intend to make use of the shadow licence. First, if you kindly turn to page 3 of the Applicant's application you will see that the Applicant has ticked two boxes, that the Applicant is applying for a premises licence as b) a person other than an individual (in this case a limited company) and the box that says:

***I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities.***

The Applicant clearly intends to make use of the premises licence otherwise it would not have applied for it in the first place.

Second, there is no such thing as a "shadow" licence. There is case law as the Applicant's solicitor points out in his letter of 25 February 2019 that makes reference to "shadow licences" but "shadow licence" is simply a term given to premises licence held by a second entity for a premises where there is already a licence in place. For the avoidance of doubt we take no issue with the fact that a Licensing Authority can grant more than one premises licence for a premises or part thereof – section 11 Licensing Act 2003. The word "shadow" does not appear in the Licensing Act 2003, not even once.

Finally, for the reasons outlined above we do not accept that it is permissible to accept an application that does not comply with section 17(3)(c) even if there is no intention to make use of the licence immediately.

We trust that makes the position clear in relation to the Applicant's failure to specify an individual whom is wishes to appoint premises supervisor and the Applicant's failure to supply a form of consent for that person. This application is invalid.

It is fair to say that we also believe the application is defective and should therefore be rejected by virtue of the Applicant's failure to enclose a plan of the premises in the prescribed form. We do not propose to repeat all the reasons why that is the case but we thought it would be helpful just to deal with the points raised by Mr Jackaman in his email of 27 February 2019 (timed 15:55).

At paragraph 3 of his email, Mr Jackaman states:

*...it does think that a plan should be included with the application form as this is required in accordance with section 17(3)(b) of the Licensing Act 2003, however, it was submitted that the plan currently attached to the premises licence was not changing and a copy of the existing licence was plan [sic] available on the licensing register... the position would have been different if no plan had been attached and there had been no reference to a plan.*

Section 17(3)(b) is abundantly clear in relation to the fact that a plan of the premises in the prescribed form must be provided with the application. With respect, Section 17(3)(b) does not say that the application must be accompanied by a plan in the prescribed form but that you



don't have to supply one if it can be downloaded from the internet. We fully appreciate that the officer may be taking a pragmatic attitude to the Applicant's failures but by so doing, he is trying to find a way around the requirements of the Licensing Act 2003, which is unlawful.

Supposing for a minute that the Licensing Authority's position is correct, which of course we say it isn't, then allowing the Applicant to simply say that the Applicant's licence shall mirror the Gazelle licence would produce some very odd results indeed. What if, for example, Gazelle decided to submit a minor variation to change the layout of the plans appended to the Gazelle licence. Would the plans submitted as part of the Applicant's application be automatically updated to reflect the newly submitted plans? Would the Applicant's licence be granted on the basis of plans that were out of date and incorrect? Would the Applicant be required to submit a minor variation of its own to bring its plans in line with the Gazelle licence?

What if the changes were more substantial and required a variation application? No discourtesy is intended by this line of questioning, it is merely to show the nonsense achieved by submitting an application that does not comply with the requirements of the Licensing Act 2003.

We might add that had the Applicant's solicitor taken the time to print off the plans from the licensing register and submit them then this defect could have been avoided very simply indeed.

We trust that makes the position clear in relation to the Applicant's failure to provide a plan of the premises in the prescribed form. This application is invalid and should not be considered by the Licensing Sub-Committee.

If the Licensing Sub-Committee determines that the Applicant's application is valid and that they wish to hear the application then we wish to make the following points concerning the background to this application and, in the event the Licensing Sub-Committee are minded to grant the application, the imposition of an appropriate and proportionate condition to the Applicant's premises licence.

#### **Background**

We acted for Gazelle in obtaining the Gazelle Licence. We also acted for Gazelle in the negotiation of its lease of the premises from Tizzola Properties Limited ("the Applicant").

During the negotiation of the lease between Gazelle and the Applicant there was much discussion about whether the Applicant apply for a Premises Licence or whether the Premises Licence would be applied for by Gazelle. The lease was negotiated on the basis that Gazelle would apply for a Premises Licence. A clause was also inserted into the lease prohibiting the Applicant from making any application for a Premises Licence. The clause is as follows:

##### **7.5 Premises Licence**

The Landlord shall not (and shall not authorise any other person to) make an application for a Premises Licence for the Property.

This application is made in breach of an express provision of the lease between Gazelle and the Applicant

We have pointed this out to the Applicant via the Applicant's solicitors, Thomas & Thomas Partners and have invited the Applicant to withdraw their application. The Applicant has thus far



refused to do so and Gazelle are considering legal action in relation to the wilful breach of clause 7.5 by the Applicant.

**Appropriate and proportionate conditions**

If the Licensing Sub-Committee is against us on the validity of the application and if the Licensing Sub-Committee decides that granting the Applicant a premises licence will not undermine the Licensing Objectives then we ask that the Licensing Sub-Committee impose two additional conditions (the Applicant has requested that the Licensing Sub-Committee attach all of the conditions of the Gazelle Licence) to any premises licence granted to the Applicant. Those conditions are as follows:

- Premises Licence number 19/00705/LIPN shall have no effect until such time as premises licence number 17/07479/LIPN (or such subsequent number the licence is given) has been surrendered and rendered incapable of resurrection; and
- The licensable activities authorised by this licence can only be carried on at the premises by Tizzola Properties Ltd.

Our first suggested condition means that the Applicant's premises licence cannot be used until such time as the Gazelle Licence is no more. We feel this is a suitable compromise as it offers the Applicant a licence, which they crave and Gazelle protection from its licence being overridden by the Applicant.

Our second suggested condition ties the Applicant to any premises licence that is granted inexorably. This is a condition that Westminster City Council has imposed before. Simply put, we say that if the Applicant is so keen to hold a licence as a responsible landlord then it will have no objection to this condition.

**Conclusion**

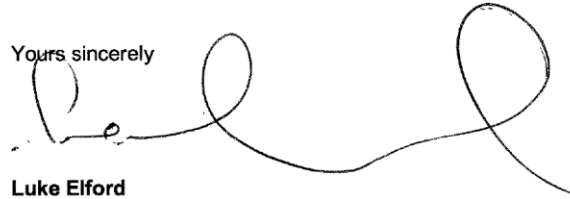
First, this application is defective and should be refused on that basis alone. There is no discretion in the matter. It is unlawful to do otherwise and places the Council in a very difficult position indeed.

There should be no second, but if you are not with us on refusing the application entirely then we will look to develop the reasons why to grant this licence would undermine the Licensing Objectives orally before you at the Committee hearing.

It follows that if there no second there would be no third, but if you are still not with us as to why you should refuse to grant this Applicant a shadow licence and you are minded to grant the licence we simply ask that you impose the two appropriate and proportionate conditions identified above.

We thank you for taking the time to read this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Luke Elford', with a long, sweeping horizontal line extending to the right.

**Luke Elford**  
**Associate**  
for TLT LLP

cc Mr Kevin Jackaman - Senior Licensing Officer  
Mr Alun Thomas - Solicitor for the Applicant

## Luke Elford

---

**From:** Luke Elford  
**Sent:** 06 March 2019 09:38  
**To:** 'Jackaman, Kevin: WCC'  
**Subject:** RE: 19/00705/LIPN - 48 Albemarle Street London W1S 4JP [TLT-TLT.FID5729692]

Thanks for the heads up Kevin

Kind regards

Luke Elford  
Associate  
for TLT LLP  
D: [REDACTED]  
M: [REDACTED]  
[LinkedIn](#) | [Twitter](#) | [Aspiring Solicitors](#)  
[www.TLTsolicitors.com](http://www.TLTsolicitors.com)

**From:** Jackaman, Kevin: WCC [mailto:kjackaman@westminster.gov.uk]  
**Sent:** 06 March 2019 09:03  
**To:** Luke Elford  
**Subject:** RE: 19/00705/LIPN - 48 Albemarle Street London W1S 4JP

Dear Luke

Further to my previous email. Please note that due to listing issues, the hearing of this matter has now been listed for 28<sup>th</sup> March.

Please date that this is a provisional date and formal notification will be sent out as soon as the date is confirmed.

Kind regards

Kevin

**From:** Jackaman, Kevin: WCC  
**Sent:** 01 March 2019 09:06  
**To:** 'Luke Elford' <Luke.Elford@TLTsolicitors.com>  
**Subject:** RE: 19/00705/LIPN - 48 Albemarle Street London W1S 4JP

Dear Luke

With regards to your comments regarding the DPS consent, it is the Licensing Authorities view that the legislation requires the details of the DPS to be included if the licensable activities include the supply of alcohol.

However, it is unlawful to sell alcohol if there is no DPS. For example, A premises licence holder might have an existing DPS who resigns with immediate effect. That resignation will prevent any alcohol being sold until a new DPS is appointed and there is a process for achieving that without delay in section 38 of the 2003 Act. In the meantime, however, the licence holder is in the same position that a new applicant will be in who has not identified a DPS.

It is the Licensing Authorities view that there is no need to identify a DPS when making a new application **if** the applicant is able to indicate that it wants the licence but is not yet in a position to identify who the DPS will be. The

applicant will not be able to sell alcohol until a DPS has been appointed. The holder of a shadow licence may also submit (as is the case of this application) that there is no need for a DPS if they do not intend to make use of the shadow licence.

With regards to the hearing date, please note that this matter has been provisionally listed for 21<sup>st</sup> March 2019.

Regards

Kevin

**From:** Luke Elford <[Luke.Elford@TLTsolicitors.com](mailto:Luke.Elford@TLTsolicitors.com)>  
**Sent:** 27 February 2019 16:19  
**To:** Jackaman, Kevin: WCC <[kjackaman@westminster.gov.uk](mailto:kjackaman@westminster.gov.uk)>  
**Subject:** Re: 19/00705/LIPN - 48 Albemarle Street London W1S 4JP

Dear Kevin

Thanks for this.

Further correspondence to follow of course but perhaps it would help if you asked your legal services whether or not an application without a DPS consent form (section 17 (3)(c))?

They appear to have ignored this rather fundamental flaw in the application and concentrated on the issue of plans. Of course, we do not accept their interpretation is correct.

It is also worth pointing out at this juncture that there is a specific clause in my clients agreement with the landlord that prohibits the very application the landlord has made.

Please let me have the legal advisers comments just as soon as you're able and we'll send you our dates to avoid for a hearing.

Kind regards

Luke Elford  
Associate  
for TLT LLP  
D: [REDACTED]  
M: [REDACTED]

----- Original Message -----

From: "Jackaman, Kevin: WCC" <[kjackaman@westminster.gov.uk](mailto:kjackaman@westminster.gov.uk)>  
Date: Wed, 27 Feb 2019, 15:55  
To: Luke Elford <[Luke.Elford@TLTsolicitors.com](mailto:Luke.Elford@TLTsolicitors.com)>  
Subject: 19/00705/LIPN - 48 Albemarle Street London W1S 4JP

Dear Luke

Further to your letter of 15<sup>th</sup> February 2019, I have now had the opportunity to speak with Legal and to obtain comments from the applicant., a copy of which I attach.

The Licensing Authority notes the submissions submitted on behalf of your client, The Gazelle Bar Ltd, and their assertion that the application by Thomas and Thomas on behalf of Tizzola Properties Ltd is invalid. These

submissions have been considered by Thomas and Thomas who have denied that their application is invalid and who have, in turn, submitted that the representation by The Gazelle Bar Ltd is frivolous and vexatious.

The Licensing authority does accept that there are some difficulties for an applicant making use of the on-line application form as there is no mechanism to provide an explanation as to why certain boxes are or are not being ticked. However, it also accepts that it would have been helpful if more detail had been included when completing the on-line form. By way of example, it does think that a plan should be included with the application form as this is required in accordance with section 17(3)(b) of the Licensing Act 2003, however, it was submitted that the plan currently attached to the premises licence was not changing and a copy of the existing licence was plan was available on the on licensing register. On that basis, the Licensing Authority does not believe that a member of the public searching the register would have been prejudiced, and for the reasons given by Thomas and Thomas, it does not accept that the application is invalid in that it did make reference to the same plan being used as is attached to the primary licence. The position would have been different if no plan had been attached and there had been no reference to a plan.

In respect of your point in respect of page 6 of the form which asks the applicant to state what licensable activities it intends to carry on from the premises, there is no statutory requirement for the applicant to actually carry on licensable activities. An applicant simply has to be a person who is carrying on or who proposes to carry on a business which involves the use of premises for licensable activities.

The Licensing Authority appreciates the concerns that have been expressed about the implications of granting a "shadow licence", though it acknowledges and accepts the legal submissions made by Thomas and Thomas regarding the Extreme Oyster case. In those circumstances, the Licensing Authority does not think that the representation submitted will carry a great deal of weight however it does not accept that the representation can be rejected on the basis that it is frivolous or vexatious.

The application will therefore be listed for a hearing before the Licensing Sub-Committee where both the applicant and The Gazelle Bar Ltd will be able to pursue their respective submissions once again.

You will of course be advised of the hearing date in due course.

Regards

Kevin.

**From:** Luke Elford <[Luke.Elford@TLTsolicitors.com](mailto:Luke.Elford@TLTsolicitors.com)>

**Sent:** 22 February 2019 10:32

**To:** Jackaman, Kevin: WCC <[kjackaman@westminster.gov.uk](mailto:kjackaman@westminster.gov.uk)>

**Subject:** RE: 19/00705/LIPN | Premises Licence - New | Open for Consultation | 48 Albemarle Street London W1S 4JP - Objection and letter concerning application [TLT-TLT.FID5729692]

Good morning Kevin

I was just wondering if there is any update on this please? Have legal come back to you?

Happy to chat it through.

Kind regards

Luke Elford

Associate

for TLT LLP

D: [REDACTED]

M: [REDACTED]

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**From:** Luke Elford  
**Sent:** 18 February 2019 12:50  
**To:** Jackaman, Kevin: WCC  
**Subject:** Re: 19/00705/LIPN | Premises Licence - New | Open for Consultation | 48 Albemarle Street London W1S 4JP - Objection and letter concerning application [TLT-TLT.FID5729692]

Thanks for acknowledging.

I look forward to hearing from you.

Kind regards

Luke Elford  
Associate  
for TLT LLP  
D: [REDACTED]  
M: [REDACTED]

----- Original Message -----

From: "Jackaman, Kevin: WCC" <kjackaman@westminster.gov.uk>  
Date: Mon, 18 Feb 2019, 12:48  
To: Luke Elford <Luke.Elford@TLTsolicitors.com>  
Subject: FW: 19/00705/LIPN | Premises Licence - New | Open for Consultation | 48 Albemarle Street London W1S 4JP - Objection and letter concerning application [TLT-TLT.FID5729692]

Dear Mr Elford

Thank you for your email and letter dated 15<sup>th</sup> February 2019, safe receipt of which I acknowledge.

I have forwarded your letter to the Council's legal advisors for their comments and will provide you with a substantive response in due course.

Regards

Kevin.

Kevin Jackaman  
Senior Licensing Officer  
Licensing Team  
Public Protection & Licensing Department  
Westminster City Council  
15th Floor  
64 Victoria Street  
London SW1E 6QP  
Direct Line: [REDACTED]  
Call Centre (for general queries): 0207 641 6500  
Email: kjackaman@westminster.gov.uk  
Web: [www.westminster.gov.uk](http://www.westminster.gov.uk)

**From:** Luke Elford <Luke.Elford@TLTsolicitors.com>  
**Sent:** 15 February 2019 15:46

**To:** Licensing: WCC <[Licensing@westminster.gov.uk](mailto:Licensing@westminster.gov.uk)>  
**Subject:** 19/00705/LIPN | Premises Licence - New | Open for Consultation | 48 Albemarle Street London W1S 4JP - Objection and letter concerning application [TLT-TLT.FID5729692]

Dear Licensing Team

Please find attached my letter of today's date.

I would be grateful if you would pass this to the case officer (Kevin Jackaman) and confirm safe receipt.

I will be sending a copy of the letter to the Applicant's solicitors in due course.

Kind regards

Luke Elford

Associate

for TLT LLP

D: [REDACTED]

M: [REDACTED]

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There is no licence or appeal history for the premises.

## CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

### Mandatory Conditions

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

less in a manner which carries a significant risk of undermining a licensing objective;

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

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

- 8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -
- $$P = D + (D \times V)$$
- Where -
- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

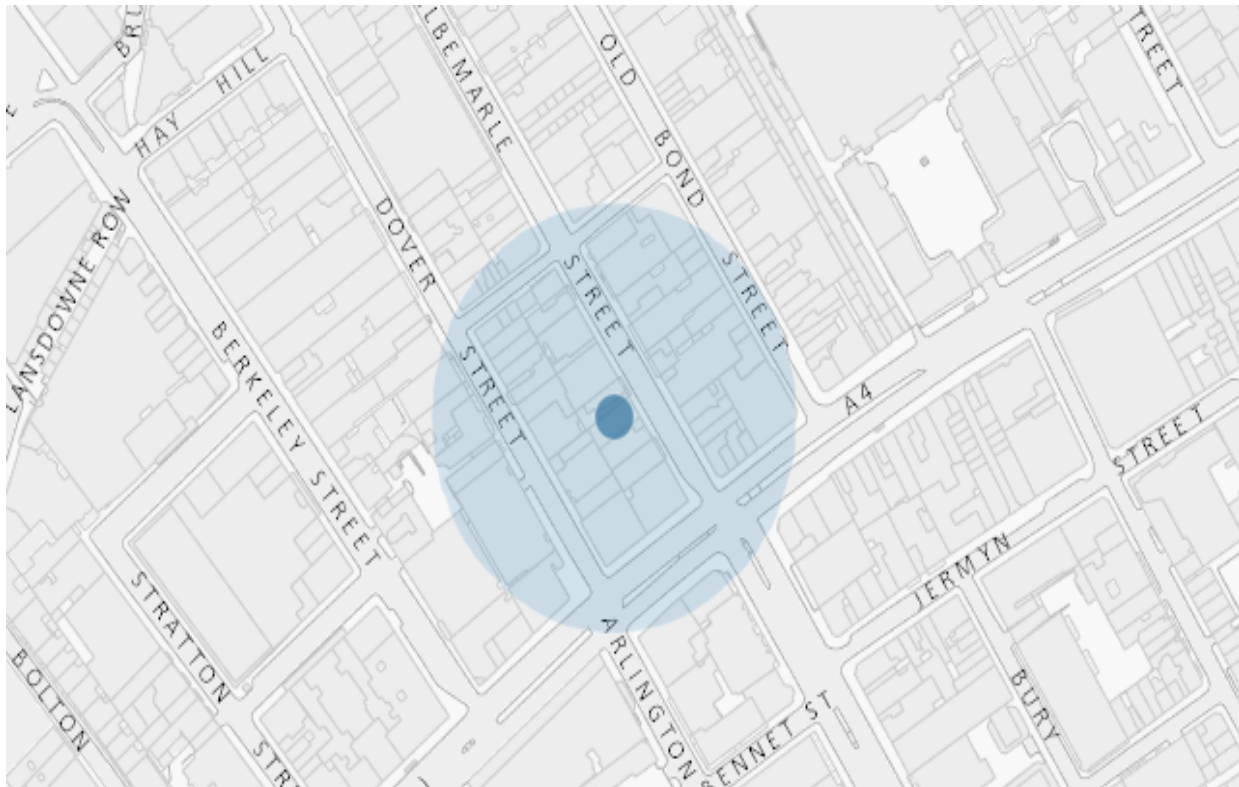
## Conditions consistent with the operating schedule

9. Substantial food and non-intoxicating beverages shall be available throughout the trading day in all parts of the premises where alcohol is supplied for consumption on the premises and until 30 minutes prior to closing.
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 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.
12. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times
13. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 hours and 07.00 hours on the following day
14. No deliveries to the premises shall take place between 23:00 hours and 07:00 hours on the following day
15. A direct telephone number for the manager at the premises shall be publically made available at all times the premises is open. This telephone number will be made available to residents and businesses in the vicinity
16. 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.
17. All relevant staff will receive refresher training on relevant alcohol laws and the licence holder's policy on challenging for ID. Such training to take place at least twice a year. Records will be maintained at the premises containing information about the training of any person who is authorised to make a sale of alcohol, including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on reasonable request to a police officer or a relevant officer of a responsible authority.
18. 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.
19. 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.
- 19 The supply of alcohol shall be by waiter or waitress service to seated customers only with the exception of:
- (a) Those customers seated at the bar counter who may be served direct by the bar staff; and
  - (b) A maximum of fifteen (15) customers permitted to stand whilst waiting for a table.
- 20 The maximum number of persons permitted on the premises at any one time (excluding staff) shall not exceed:
- a) First floor - 60 persons
  - b) Second floor - 60 persons
- 21 There shall be no sales of alcohol for consumption "off" the premises after 23:00 hours.
- 22 All sales of alcohol for consumption "off" the premises shall be in sealed containers only and shall not be consumed "on" the premises.
- 23 There shall be no sales of hot food or hot drinks for consumption "off" the premises after 23:00
- 24 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
- 25 Loudspeakers shall not be located in the entrance lobby or outside the premises building
- 26 All windows shall be kept closed after 23:00 hours or at any time when regulated entertainment takes place
- 27 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly
- 28 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
- 29 The edges of the treads of steps and stairways shall be maintained so as to be conspicuous
- 30 During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business
- 31 No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours
- 32 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

- 33 Licensable activity is not to take place until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this licence by the licensing authority.
- 34 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





Resident Count: 34

**Licensed premises within 75 metres of 48 Albemarle Street London, W1S 4JP**

Licence Number	Trading Name	Address	Premises Type	Time Period
17/07479/LIPN	Not Recorded	48 Albemarle Street London W1S 4JP	Restaurant	Monday to Wednesday; 08:00 - 00:00   Thursday to Saturday; 08:00 - 00:30   Sunday; 08:00 - 23:00   Sundays before Bank Holidays; 12:00 - 00:00
18/14106/LIPDPS	Mnky Hse	8 Dover Street London W1S 4LF	Not Recorded	Monday to Saturday; 09:00 - 04:00   Sunday; 09:00 - 00:30
18/01431/LIPDPS	The Clarence Public House	4 Dover Street London W1S 4LB	Public house or pub restaurant	Monday to Saturday; 07:00 - 00:30   Sunday; 07:00 - 23:30

14/07481/LIPDPS	Pescatori	11 - 12 Dover Street London W1S 4LH	Restaurant	Monday to Saturday; 10:00 - 00:30   Sunday; 23:00 - 00:00
09/03331/LIPD	Thresher Wine Shop	12 Dover Street London W1S 4LL	Shop	Monday to Saturday; 08:00 - 23:00   Sunday; 10:00 - 22:30
17/06029/LIPN	The Grand	67 - 68A Piccadilly London W1J 0HJ	Not Recorded	Monday to Sunday; 07:00 - 23:30
18/07496/LIPVM	Mahiki	1 Dover Street London W1S 4LA	Restaurant	Monday to Saturday; 09:00 - 03:30   Sunday; 09:00 - 00:30
17/02892/LIPV	Gymkhana Restaurants	Basement And Ground Floor 42 Albemarle Street London W1S 4JH	Restaurant	Monday to Saturday; 10:00 - 02:30   Sunday; 10:00 - 01:30
15/04806/LIPDPS	Caffe Concerto	61 Piccadilly London W1J 0DY	Cafe	Monday to Sunday; 07:00 - 23:30
14/09521/LIPVM	Mayfair Club	Basement 49-50 Dover Street London W1J 8DJ	Night clubs and discos	Monday to Saturday; 09:00 - 06:00   Sunday; 09:00 - 05:00
18/09996/LIPDPS	The Kings Head	The Kings Head 10 Stafford Street London W1S 4RX	Public house or pub restaurant	Monday to Thursday; 07:00 - 00:30   Friday to Saturday; 07:00 - 01:30   Sunday; 07:00 - 00:30
17/00492/LIPN	Stafford Food News & Wine	Stafford House 5 Stafford Street London W1S 4RR	Food store	Monday to Sunday; 07:00 - 23:00
09/06623/LIPN	Le Petit Cafe	5A Stafford Street London W1S 4RR	Cafe	Monday to Friday; 06:00 - 20:00   Saturday; 08:00 - 20:00
18/08858/LIPDPS	Caviar House Restaurant	Ground Floor 161 Piccadilly London W1J 9EA	Restaurant	Monday to Saturday; 10:00 - 23:30   Sunday; 10:00 - 23:00

15/07336/LIPV	Caviar House Restaurant	Ground Floor 161 Piccadilly London W1J 9EA	Restaurant	Monday to Saturday; 10:00 - 23:30   Sunday; 10:00 - 23:00
12/11096/LIPN	The Arts Club	Basement To First Floor 40 Dover Street London W1S 4NP	Club or institution	Monday to Saturday; 08:30 - 03:30   Monday to Sunday; 00:00 - 00:00   Sunday; 08:30 - 00:00
18/15970/LIPV	The Arts Club	Basement To First Floor 40 Dover Street London W1S 4NP	Club or institution	Monday to Sunday; 00:00 - 00:00
12/07557/LIPDPS	The Arts Club	Basement To First Floor 40 Dover Street London W1S 4NP	Club or institution	Monday to Sunday; 00:00 - 00:00   Monday to Sunday; 08:30 - 03:30
17/05517/LIPVM	The Arts Club	Basement To First Floor 40 Dover Street London W1S 4NP	Club or institution	Monday to Sunday; 00:00 - 00:00
18/03417/LIPDPS	Whisky Shop	70 Piccadilly London W1J 8HP	Shop	Monday to Saturday; 08:00 - 23:00   Sunday; 10:00 - 22:30
18/00868/LIPDPS	Babbo Restaurant Limited	Ground Floor Cardinal House 39 - 40 Albemarle Street London W1S 4JQ	Restaurant	Monday to Saturday; 10:00 - 01:30   Sunday; 12:00 - 00:00
15/03326/LIPN	Aura	48-49 St James's Street London SW1A 1JT	Night clubs and discos	Monday to Saturday; 09:00 - 03:30   Sunday; 09:00 - 03:00   Sundays before Bank Holidays; 09:00 - 03:30

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