



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (4)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 27th June, 2019**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Karen Scarborough (Chairman), Peter Freeman and Shamim Talukder

#### 1 MEMBERSHIP

1.1 There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

#### 1 BUNS AND BUNS, 5 THE MARKET COVENT GARDEN, LONDON, WC2E 8RA

### LICENSING SUB-COMMITTEE No. 4

*Thursday 27th June 2019*

Membership: Councillor Karen Scarborough (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder

Legal Adviser: Barry Panto

Policy Adviser: Aaron Hardy

Committee Officer: Tristan Fieldsend

Presenting Officer: Michelle Steward

Relevant Representations: Environmental Health, Licensing Authority, the Covent Garden Area Trust and the Covent Garden Community Association

Present: Mr Gary Grant (Counsel, representing the Applicant), Mr Andrew Wong (Solicitor, representing the Applicant), Mr Alex Zibi and Mr Ozgur Karakas (representing the applicant company), Mr Ian Watson (Environmental Health) and Ms Angela Seaward (Licensing Authority)

**Buns and Buns, Unit 5C The Market, Covent Garden, London, WC2E 8RA (“The Premises”)  
19/04945/LIPN**

**1. Sale by Retail of Alcohol – On and Off Sales**

Monday to Sunday: 10:00 to 01:00

**Seasonal Variations / Non-Standard Timings:**

All licensable activities shall be extended from the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.

Amendments to application advised at hearing:

The Sub-Committee was advised by the applicant that the proposed Sunday hours for the sale by retail of alcohol had been reduced to between 10:00 to 00:00.

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

The Sub-Committee considered an application by Cgunit1 Ltd (“The Applicant”) for a new premises licence in respect of Buns and Buns, Unit 5C The Market, Covent Garden, London, WC2E 8RA.

The Licensing Officer introduced the application and confirmed that the applicant had reduced the proposed hours for licensable activities on Sundays to a terminal hour of 00:00 with the Sunday closing time also reduced to 00:30 hours.

Mr Grant, representing the applicant, explained that the ethos of the Premises was to provide fine/casual dining in relaxed surroundings. Customers would be served relatively quickly but with food of a very high standard. The Premises had been operating in Covent Garden since September 2018 and the Sub-Committee was advised that during this period it had established a very good reputation. The application had been submitted in order to capture some of the post-theatre crowd which were currently having to be turned away due to the Premises current closing hour. It was recognised that the Premises was located in a Cumulative Impact Area (CIA), but it was suggested that the proposals would not attract further people into the area and was just seeking to cater for those already within the locality. The application would simply provide a more diverse offer to those people seeking something to eat following a theatre performance. The Sub-Committee was advised that the Premises was operated by a very experienced management team.

Mr Grant advised that the Premises was located over two floors. The ground floor element was based in the piazza area of Covent Garden and had a retractable roof for when the weather was inclement. Under the current licence the basement area was permitted a standalone bar to operate to 20:30 hours for a maximum of 15 people. The application before the Sub-Committee

proposed to remove this drink-led element from the licence as it wanted to operate solely as a restaurant. In exchange it was asked that an additional one hour in the evening and thirty minutes in the morning be permitted for licensable activities. It was explained that the provision for films and recorded music had been applied for but the Sub-Committee was reassured that the full model restaurant condition would apply throughout the Premises. The provision of films and recorded music would be limited to the basement area and had been applied for to cater for private dining events or parties. It would allow customers to bring their own playlists of music or show home movies or corporate presentations depending on the event. To ensure there was adequate noise control over the basement floor conditions had been offered, including a noise limiter condition and the Council's model no noise nuisance condition.

Mr Grant advised that no residential objections had been received to the application and that the conditions proposed by the Covent Garden Community Association (CGCA) in their representation, including the implementation of a dispersal policy, had all been accepted by the applicant. The representation received by the Covent Garden Area Trust (CGAT) was acknowledged but whether it related to the licensing objectives was a matter for the Sub-Committee to decide. A supporting letter had also been received from Capco who managed the Covent Garden Market. The letter advised how Capco was sensitive to the operation of the various premises in the area and Buns and Buns had been a welcome addition to the Market. As such Capco was happy for the Premises to remain open for the longer proposed hours and was confident that this would have no negative impact on the Market or the surrounding area.

Mr Grant concluded that the application would not attract people into the area but would simply provide a more diverse offer to those people already in the vicinity. The proposals were likely to have the effect of preventing people from moving around the CIA and with the restrictive conditions in place likely to actually reduce any potential cumulative impact. The Sub-Committee was also advised that if it was minded to grant the application the Premises current licence would be surrendered.

Ms Seaward, representing the Licensing Authority, confirmed that their representation was maintained as the Premises was located in a CIA and as such policies CIP1 and RNT2 had to be considered. It was acknowledged that the Council's restaurant model condition had been offered by the applicant but the proposed hours for licensable activities were outside core hours and therefore the applicant had to demonstrate that the application would not add to cumulative impact in the local area. Ms Seaward also requested that if the Sub-Committee was minded to grant the application model condition 62 be imposed on the licence requiring the applicant to surrender their current licence.

Mr Watson, representing Environmental Health, addressed the Sub-Committee and responded to the representation received from CGAT over concerns raised that noise emanating from the Premises would affect the nearby street performers. The Sub-Committee was advised that the external area of the Premises was surrounded by a high glass perimeter boundary which could be fully enclosed by the retractable roof. This, in addition to recorded music being

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|                  | <p>limited to the basement area, would limit any potential noise outbreak from the Premises. Also, appropriate conditions would be imposed on the Premises to ensure there was adequate noise control in place. The current licence permitted the use of a basement bar, but the proposals would remove this provision and replace it with more substantial seating. It was recognised that the conditions proposed by the CGCA had been accepted by the applicant and that the proposed Sunday hours had also been reduced. Mr Watson confirmed that the capacity of the Premises had not yet been confirmed but Mr Grant advised that this could be conditioned to a maximum of 158, excluding staff, as was permitted on the current licence.</p> <p>In response to a question from the Council’s Legal Adviser the applicant confirmed that the Premises address on the licence should read Unit 5C The Market, Covent Garden.</p> <p>After careful consideration the Sub-Committee agreed to grant the application. It was recognised that the Premises was located in a CIA and was seeking hours beyond the Council’s core hours policy. However, the Sub-Committee had regard to the fact that the application would ensure that the Premises operated as a restaurant only with the model restaurant condition requiring the supply of alcohol to be customers seated, taking substantial table meals only. The bar element permitted in the basement would be removed following the applicant’s agreement to surrender the current licence therefore ensuring there would no longer be any drink-led element to the establishment. The Premises was seeking to attract the post-theatre crowd and the Sub-Committee therefore was assured that it would not be attracting further people into the CIA. The Sub-Committee was satisfied that despite the increase in hours the application had the potential to reduce cumulative impact in a busy location. Concerns raised with regard to potential noise disturbance, especially to street performers, were considered closely. It was noted however that any regulated entertainment would be restricted to the basement and suitable conditions would be placed on the licence preventing any noise nuisance emanating from the Premises. Further conditions to be imposed, which included the implementation of a dispersal policy, had been agreed with the CGCA, and all provided reassurance that the operation would not create any nuisance in Covent Garden or the surrounding area. Particular regard was given to the letter of support from Capco who carefully managed the Covent Garden Market. This letter expressed their full support for the application and had commented on the positive impact the Premises had made so far on the site.</p> <p>Having taken into account all the evidence (with consideration being given to the representations received from the CGCA and the CGAT) the Sub-Committee was satisfied that the application was suitable for the local area and had addressed the concerns raised. The applicant had demonstrated that the application was appropriate, and the nature of the operation and the conditions proposed would ensure it did not add to cumulative impact and promoted the licensing objectives.</p> |
| <p><b>2.</b></p> | <p><b>Late Night Refreshment – Indoors and Outdoors</b></p> <p>Monday to Sunday: 23:00 to 01:00</p>  |

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|           | <p><b>Seasonal Variations / Non-Standard Timings:</b></p> <p>All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>   |
|           | <p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised by the applicant that the proposed Sunday hours permitting late night refreshment had been reduced to between 23:00 to 00:00.</p>   |
|           | <p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application (see reasons for decision in Section 1).</p>  |
| <b>3.</b> | <p><b>Films and Recorded Music – Indoors and Outdoors</b></p> <p>Monday to Sunday: 10:00 to 01:00</p> <p><b>Seasonal Variations / Non-Standard Timings:</b></p> <p>All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> |
|           | <p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised by the applicant that the proposed Sunday hours for the provision of films and recorded music had been reduced to between 10:00 to 00:00.</p>   |
|           | <p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application (see reasons for decision in Section 1).</p>  |
| <b>4.</b> | <p><b>Hours Premises are Open to the Public</b></p> <p>Monday to Sunday: 07:00 to 01:30</p> <p><b>Seasonal Variations / Non-Standard Timings:</b></p> <p>All licensable activities shall be extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>           |
|           | <p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was advised by the applicant that the proposed Sunday opening hours had been reduced to between 07:00 to 00:30.</p>   |

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|  | <p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application (see reasons for decision in Section 1).</p> |

### **Conditions attached to the Licence**

#### **Mandatory Conditions**

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

- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these

measures are available.

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

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

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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



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

- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by the Licensing Authority as appropriate.

### **Conditions Consistent with the Operating Schedule**

10. The premises shall only operate as a restaurant:
- (i) in which customers are shown to their table,
  - (ii) where the supply of alcohol is by waiter or waitress service only,
  - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery (except chopsticks),
  - (iv) which do not provide any take away service of food or drink for immediate consumption,
  - (v) which do not provide any take away service of food or drink after 23.00, and
  - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed, and resealed bottles of wine supplied ancillary to their meal.

11. During the hours of operation, 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.
12. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
13. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and to leave the area quietly.

14. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before collection times.
15. Loudspeakers shall not be located in the entrance lobby or outside the premise building.
16. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
17. The premises licence holder shall ensure that any patrons smoking outside the premises do so on an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
18. A direct telephone number for the manager at the premises shall be publically available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
19. 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.
20. 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, 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 Services 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.
21. No fumes, steam or odours shall be emitted from the licenced premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
22. 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.
23. A staff member from the premises who is conversant with the operation of the

CCTV shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.

24. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police, which will record the following:
  - a) All crimes reported to the venue;
  - b) All ejections of patrons;
  - c) Any complaints received concerning crime and disorder;
  - d) Any incidents of disorder;
  - e) All seizures of drugs or offensive weapons;
  - f) Any refusal of sale of alcohol.
25. There shall be no striptease or nudity and all persons shall be decently attired at all times unless the premises are operating under the provisions of a Sexual Entertainment Licence.
26. A challenge 21 proof of age scheme shall be operated at the premise 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.
27. 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.
28. 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.
29. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
30. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
31. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
32. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
33. No licensable activities shall take place at the premises until the Environmental Health Consultation Team has determined the capacity of the premises and the Licensing Authority has replaced this condition on the licence with a condition detailing the capacity so determined. The overall capacity shall not exceed 158 persons, excluding staff.
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 there are minor changes to the premises layout during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

35. 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.
36. There shall be a dispersal policy in place for the premises that will be reviewed at regular intervals.
37. After 23:00 hours customers will be advised as to the closest transport links and will be guided away from residential roads where possible as they make their way from the premises.
38. Regulated entertainment (e.g. films and recorded music) shall be restricted to the basement.
39. No licensable activities shall take place at the premises until premises licence 18/08034/LIPVM (or such other number subsequently issued for the premises) has been surrendered and is incapable of resurrection.

## **2 ZEBRANO, 18 GREEK STREET, LONDON, W1D 4DS**

### **LICENSING SUB-COMMITTEE No. 4**

*Thursday 27<sup>th</sup> June 2019*

Membership: Councillor Karen Scarborough (Chairman), Councillor Peter Freeman and Councillor Shamim Talukder

Legal Adviser: Barry Panto  
Policy Adviser: Aaron Hardy  
Committee Officer: Tristan Fieldsend  
Presenting Officer: Michelle Steward

Relevant Representations: The Licensing Authority

Present: Mr Jack Spiegler (Solicitor, representing the Applicant), Mr Don Cameron (Applicant) and Ms Karyn Abbot and Miss Daisy Gadd (Licensing Authority)

**Zebrano, 18 Greek Street, London, W1D 4DS ("The Premises")  
19/03852/LIPV**

**1. Layout Alteration**

Introduction of a terrace at the rear of the premises building as shown on the

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|  | plans appended to the application.   |
|  | <p>Amendments to application advised at hearing:</p> <p>None.</p>  |
|  | <p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Zebrano Bars &amp; Clubs Ltd for a variation of a premises licence in respect of Zebrano, 18 Greek Street, London, W1D 4DS.</p> <p>The Licensing Officer introduced the application and confirmed that Environmental Health and the Police had withdrawn their representations following the agreement of conditions with the applicant.</p> <p>Mr Spiegler, representing the applicant, explained that the application was seeking authorisation to change the layout of the Premises. The variation to the licence would not amend any of the licensable activities currently permitted or the current capacity limit at the Premises. The proposed new layout would introduce a new upper terrace at the rear of the Premises on the first floor with a maximum capacity of 20 persons. This would be in addition to the current lower terrace situated on the upper ground floor which had a maximum capacity of 30 persons. The overall capacity of the Premises would remain at 211 persons. As part of this proposal a terrace management plan would be implemented to ensure there was adequate control over the area. The key objectives of the new layout were to provide customers with an attractive alfresco area and secondly to reduce the pressure of street smoking in the local area. Greek Street was a busy location with many late-night licensed premises and this application would ease pressure on this area as smokers at the Premises would now be able to use the terrace instead. The terrace was not overlooked by any residential properties and therefore the Sub-Committee was advised that the application would reduce cumulative impact in the local area. As part of the proposals a welfare room would also be introduced which could be used by customers in need of assistance and also be available for use by the Soho Angels.</p> <p>The Sub-Committee was advised by Mr Spiegler that Environmental Health and the Police had withdrawn their representations following the agreement of conditions with the applicant. It was noted that the Police had requested a slight change to the proposed terrace management plan which would require SIA supervisors to wear high visibility clothing and the applicant was content to amend it accordingly. The Licensing Authority had maintained their representation on policy grounds as the Premises was located within a Cumulative Impact Area (CIA) and therefore policy PB2 had to be considered. Mr Spiegler suggested that this policy would not have to be applied however as there were no proposed changes to the opening hours or the licensable activities permitted at the Premises. The application could be considered an exception to policy as the proposals would have a positive impact on the local area by reducing the number of smokers on the public highway providing them with a safer, more controlled environment to smoke. In addition, the introduction of a</p> |

welfare room and the fact there would be no increase in the Premises capacity, or hours, would ensure the application was suitable for the local area. In response to a question from the Sub-Committee Mr Spiegler confirmed that even with the introduction of the terrace the capacity of the Premises would not change and would continue to be restricted to 211.

For the record it was noted that, prior to the hearing, the applicant had submitted an amended ground floor plan of the Premises to show the area hatched in red referred to in condition 19 below.

Ms Abbot, representing the Licensing Authority, confirmed that their representation was maintained as the Premises was located in a CIA and policy PB2 had to be considered due to its operation as a bar. Following discussions with the applicant it was noted that an appropriate terrace management plan had been developed. The Licensing Authority was encouraged by this but had maintained its representation so that the Sub-Committee could decide if the application was likely to add to cumulative impact.

The Council's Legal Adviser advised that clarification was required on the capacity limits proposed on the different floors of the Premises to ensure there was no confusion. Therefore, it was suggested that if the Sub-Committee was minded to grant the application, proposed condition 21 be amended so that the capacity limits would read: Basement 60, Ground Floor 211, Upper Ground Floor Internal Area 50, Lower Terrace on the Upper Ground Floor 30, Upper Terrace on the First Floor 20. The applicant advised that he was satisfied for this condition to be amended accordingly and would submit updated plans to the Licensing Authority. In response to a question from the Sub-Committee the applicant also confirmed that a condition could be added to the licence requiring the terrace to be operated in accordance with the agreed terrace management plan. Following further discussions, the applicant also agreed for an additional SIA condition to be added to the licence as well as the proposed condition relating to the restaurant area being reworded to make it more appropriate.

After careful consideration the Sub-Committee agreed to grant the application. It was recognised that the Premises was located within a CIA however the proposals were considered appropriate and were likely to reduce cumulative impact in the local area. The terraces were not overlooked by any residential properties as evidenced by the fact no residential representations had been received. A thorough terrace management plan had been developed by the applicant and it was considered that this would introduce a proportionate level of control over the area. The introduction of the terrace was also likely to have the effect of reducing pressure outside the Premises where smokers often congregated in a busy location. No changes to the capacity of the Premises, or to its licensable activities, were proposed. It was acknowledged that Environmental Health and the Police had withdrawn their representations following the agreement of conditions. These conditions were considered appropriate and proportionate and were restrictive enough to ensure the changes to the Premises layout would not add to cumulative impact. Therefore, it was considered that the application was suitable for the local area and ultimately promoted the licensing objectives. The Sub-Committee therefore granted the application accordingly.

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| <b>2.</b>  | <p><b>Conditions being Varied, Added or Removed</b></p> <p><u>Condition to be Varied:</u></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><u>Current 21:</u></p> <p>The number of persons accommodated (excluding staff) shall not exceed 60 in the basement, 211 on the ground floor and 50 on the first floor with the overall number of persons accommodated (excluding staff) shall not exceed 211 persons at any one time.</p> </td> <td style="width: 50%; vertical-align: top;"> <p><u>Proposed Variation:</u></p> <p>The number of persons accommodated (excluding staff) shall not exceed:</p> <ul style="list-style-type: none"> <li>- Basement – 60</li> <li>- Ground Floor – 211</li> <li>- First Floor – 50</li> <li>- Terrace Area [To be agreed with Environmental Health Consultation Team] Provided that the overall number of persons accommodated (excluding staff) shall not exceed 211 persons at any one time.</li> </ul> </td> </tr> </table> | <p><u>Current 21:</u></p> <p>The number of persons accommodated (excluding staff) shall not exceed 60 in the basement, 211 on the ground floor and 50 on the first floor with the overall number of persons accommodated (excluding staff) shall not exceed 211 persons at any one time.</p> | <p><u>Proposed Variation:</u></p> <p>The number of persons accommodated (excluding staff) shall not exceed:</p> <ul style="list-style-type: none"> <li>- Basement – 60</li> <li>- Ground Floor – 211</li> <li>- First Floor – 50</li> <li>- Terrace Area [To be agreed with Environmental Health Consultation Team] Provided that the overall number of persons accommodated (excluding staff) shall not exceed 211 persons at any one time.</li> </ul> |
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|  | <p>Amendments to application advised at hearing:</p> <p>To ensure clarity the applicant agreed for condition 21 to be amended to read:</p> <p>The number of persons accommodated (excluding staff) shall not exceed:</p> <ul style="list-style-type: none"> <li>- Basement – 60</li> <li>- Ground Floor – 211</li> <li>- Upper Ground Floor Internal Area – 50</li> <li>- Lower Terrace on the Upper Ground Floor – 30</li> <li>- Upper Terrace on the First Floor – 20</li> </ul>  |  |   |
|  | <p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application; see the reasons for the decision in Section 1.</p>   |  |   |

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| <b>Conditions attached to the Licence</b>   |
| <p><b><u>Mandatory Conditions</u></b></p> <ol style="list-style-type: none"> <li>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</li> <li>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.</li> </ol> |

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 the 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 Consistent with the Operating Schedule**

10. This licence is subject to all the former Rules of Management for Places of Public Entertainment licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25

October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.

11. 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 New Year's Eve where no regulated entertainment takes on New Year's Day).
12. Notwithstanding the provisions of Rules of Management No. 6 the premises may remain open for the purposes of this licence from 23.00 on each of the days Monday to Saturday to 03.30 on the day following.
13. All waste is collected from within the premises and not from the public highway.
14. The highway in the vicinity of the premises is swept at regular intervals whilst customers are queuing to enter the premises and also at the close of business and litter and sweeping collected, stored and disposed of in accordance with the approved refuse storage and disposal arrangements.
15. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
16. No unauthorised advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) is inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or is distributed on street to the public, that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services.
17. 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.
18. No payment shall be made by or on behalf of the licensees to any person for bringing customers into the premises.
19. The sale of alcohol for consumption in the area hatched red on the ground floor of the premises shall only be to a person seated and taking a table meal in that area and for consumption by such a person as ancillary to that table meal.
20. After 23.00 on Mondays to Fridays the sale of alcohol shall at all times be ancillary to the provision of music and dancing and substantial refreshment. The sale of alcohol shall cease when music and dancing ends or is not provided.
21. The terminal hour for late night refreshment on New Year's Eve is extended to 05.00 on New Year's Day.
22. The overall number of persons accommodated (excluding staff) in the whole

of the premise shall not exceed 211 at any one time with the following local restrictions:

Basement – 60

Ground floor – 211

Upper ground floor internal area – 50

Lower Terrace on the Upper Ground Floor – 30

Upper Terrace on the First Floor – 20

23. 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. Viewings of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period.
24. 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.
25. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
  - a) all crimes reported to the venue
  - b) all ejection of patrons
  - c) any complaints received
  - d) all incidents of disorder
  - e) any faults in the CCTV system or searching equipment or scanning equipment
  - f) any refusal of the sale of alcohol
  - g) any visit by a relevant authority or emergency service
26. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
27. All door supervisors working outside the premises, or supervising or controlling queues and the smoking area, shall wear yellow high visibility jackets, vests or tabards.
28. A sound limiting device must be located in a separate and remote lockable cabinet from the volume control must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service's Community Protection

Department so as to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of the officers of the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the applicant only and shall not be accessed by any other person. The limiter shall not be altered without prior agreement with the Environmental Health Service.

29. 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.
30. Any additional sound generating equipment shall not be used on the premises without being routed through the sound limiter device.
31. All glassware used within the premises after 22.00 shall be polycarbonate, save for:
  - a) wine glasses
  - b) champagne bottles and glasses
  - c) spirit bottles
32. Staff shall promptly clear empty champagne, wine and spirit bottles.
33. All management and security staff employed at the premises shall receive regular crime scene preservation training.
34. Staff shall monitor and supervise the terrace areas and institute suitable methods of controlled entry to these areas at any time they are at capacity. From 9.00 pm until close on Thursday, Friday and Saturday the staff shall include a minimum of two SIA registered door supervisors who shall be on duty to supervise the terrace areas, first floor areas and corridors.
35. There shall be no regulated entertainment on the terraces.
36. No licensable activities shall be provided on the upper terrace after 00:00 hours and there shall be no customers on the upper terrace after 00:30 hours
37. No licensable activities shall take place on the terraces until these areas have 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.
38. Before the terraces open to the public under the licence, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the work carried out. Where minor layout changes have occurred during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
39. The upper and lower terraces will be operated in accordance with the terrace management plan, a copy of which will be provided to the Licensing Authority.

A copy of the most recent terrace management plan must be retained at the premises and produced for immediate inspection at the request of any officer authorised by the Licensing Authority or a Police Officer.

The Meeting ended at 11.50 am

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

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