



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (6)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** held on **Thursday 16th January, 2020**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Maggie Carman, Peter Freeman and Karen Scarborough (Chairman)

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1 FLESH & BUNS, 29 - 33 BERNERS STREET, LONDON, W1T 3LR

LICENSING SUB-COMMITTEE No. 6

Thursday 16th January 2020

Membership: Councillor Karen Scarborough (Chairman), Councillor Peter Freeman and Councillor Maggie Carman

Legal Adviser: Barry Panto

Committee Officer: Artemis Kassi

Policy Officer: Aaron Hardy

Presenting Officer: Kevin Jackaman

Relevant Representations: Environmental Health, 3 local residents from Berners Mansions and the Head Lessee of Berners Mansions.

Present: Jack Spiegler (Solicitor, representing the Applicant), Steven Hill and Emilie Reynall (Bone Daddies Ltd), Anil Drayan (Environmental Health), Robert Sutherland (Solicitor, representing Berners MM Ltd, the Head Lessee for

Berners Mansions) and Michael Poole and David Offenbach, local residents living in Berners Mansions.

Flesh & Buns, 29-33 Berners Street, London, W1T 3LR ("the Premises") 19/14111/LIPV	
1.	<p>Sale by Retail of Alcohol – On and Off Sales</p> <p>Monday to Thursday: 10:00 to 23:30 Friday to Saturday: 10:00 to 00:00 Sunday: 12:00 to 22:30</p> <p>The proposed variation is to include off sales of alcohol so as to extend the existing sale of alcohol for consumption on the premises to the external seating area on the basis that the consumption of alcohol in that external area will also be ancillary to a substantial table meal.</p> <p>The applicant has also proposed that an additional condition be added to the licence as follows:</p> <p>The supply of alcohol for consumption off the premises shall only be to persons seated in the designated external seating area.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Bone Daddies Ltd ("the Applicant") for a variation of the premises licence in respect of Flesh & Buns, 29-33 Berners Street, London, W1T 3LR.</p> <p>The Presenting Officer introduced the application to vary the licence. Kevin Jackaman advised the Sub-Committee that the Applicant was seeking to authorise the sale of alcohol for consumption off the premises and that it was proposed to add a licence condition to allow the supply of alcohol for off-premises consumption in a designated seating area external to the restaurant. Mr Jackaman also advised that representations had been received from the Environmental Health Services and four resident objections (including a representation from David Offenbach, a local resident living in Berners Mansions, whose representation was not included in the agenda papers but was circulated to all those present). The Sub-Committee noted that the premises were located in the West End Ward, which was not in a Cumulative Impact Area.</p> <p>Mr Jack Spiegler, Solicitor, representing the Applicant, advised that this was an application for a variation in premises licence to allow off-sales to a maximum of</p>

<p>six persons seated outside the restaurant consistent with Planning and Highways consent. The Sub-Committee heard that those consents authorised service to the six persons seated in the designated outside area until 21:00, with closure of that area at 21:30.</p> <p>Mr Spiegler advised that the Applicant had offered the condition “The supply of alcohol for consumption off the premises shall only be to persons seated in the designated external seating area.” Mr Spiegler also advised the Sub-Committee that the Applicant was in agreement with the additional conditions i and ii proposed by the Environmental Health Consultation Team in a memo dated 10th January 2020 and had a suggested amendment for condition iii to tie in with condition 31 of the Licence. Mr Spiegler also stated that there had been meetings between the Applicant and residents. He referred to a single recorded complaint relating to a lunchtime offer promotion which had been more popular than anticipated.</p> <p>Mr Spiegler, in summary, advised the Sub-Committee that the Applicant had nine restaurants, five of which were located in Westminster. Mr Spiegler stated that Mr Steve Hill intended for the restaurants to be operated without complaint. The Sub-Committee heard that the Highways licence would expire in May, the Planning consent in September.</p> <p>Anil Drayan, representing the Environmental Health Service, apologised to the Sub-Committee for the late submission of his memorandum and indicated that Environmental Health had visited the premises. Mr Drayan advised that the wording in the suggested additional conditions reflected the necessity to be mindful of local residents. He further advised that in the absence of an amendment to the existing wording for condition 9, there existed the potential for the use of the external area to become a drink-led operation. Mr Drayan outlined wording to apply to the external designated seating area, so that condition 9 of the Licence would now read, “The premises, including the designated external seating area, shall only operate as a restaurant”, and condition 9(vi) “...where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises or in the designated external seating area 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”.</p> <p>Michael Poole addressed the Sub-Committee and advised that he resided in Flat 2, Berners Mansions. The Sub-Committee heard that there were four representations from residents, and a further representation from the community company on behalf of all residents of Berners Mansions. Mr Poole advised the restaurant had opened in September 2018, replacing entirely office premises. He mentioned that in his opinion there had been poor adherence to key conditions of the Licence and further that this was replicated with the introduction of the tables and chairs. He recognised that this was a central London location but observed that Berners Street was quiet in the evenings in contrast to daytime from Monday to Friday. Mr Poole also observed that according to the Planning consent, the correct layout required one table to be positioned in the smoking area (south of the entrance to the premises) but that smoking was not permitted at the tables. Mr Poole stated that supervision was</p>
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	<p>inadequate and that this had led to a formal complaint about the nuisance relating to the offer promotion.</p> <p>The statement from Mr Poole objecting to the application appeared at page 5 of the agenda papers.</p> <p>David Offenbach addressed the Sub-Committee and advised that he resided in Flat 1, Berners Mansions. Mr Offenbach advised the Sub-Committee that the application would lead to loss of residential amenity through the resulting nuisance. He particularly mentioned the size of the operation, customers congregating outside Berners Mansions, the loss of the designated smoking area, nuisance caused by smoking at the tables, noise from glassware at the tables, the track record of management and failures in supervision of the area by restaurant staff.</p> <p>Robert Sutherland, solicitor, representing Berners Mansions Management Ltd, addressed the Sub-Committee. Mr Sutherland commented that licensing is based on trust but that trust between the parties was being broken down. He observed that as recently as 7th December, the positioning of the tables in the external designated area was incorrect, that residents were having to police compliance whereas the licence holders should have been taking responsibility. Mr Sutherland particularly mentioned that the purpose of the conditions was to keep smoking away from residents and referred to the poor signage (in the photograph at page 34 in the agenda papers).</p> <p>Robert Sutherland submitted that the Applicant should have come to the Sub-Committee with clean hands and that if the Applicant had adhered to their operational management plan, there would have been no hearing. Mr Sutherland advised the Sub-Committee that the time for trust from the residents had passed.</p> <p>The statement on behalf of Berners Mansions Management Ltd objecting to the application appeared at page 7 of the agenda papers.</p> <p>Anil Drayan reflected that Environmental Health did not want conditions to operate in such minutiae but wanted people to manage operations so as to promote the licensing objectives. Mr Drayan stated that Environmental Health did acknowledge the residents' objections and also noted that the existing Licence limited the number of people smoking to eight. He observed that it was only before the Sub-Committee that the Applicant had stated that it would be using the area as a restaurant. Mr Drayan also reiterated that there could not be any smoking at the tables and that glassware had to be left on the tables. He also accepted the residents' contention that Berners Street was a quiet street, though considered that it was a busy street until around 9:30 pm. The Sub-Committee discussed the changing nature of areas in central London, including in and around Berners Street.</p> <p>Steven Hill stated that from the restaurant's point of view, the purpose of the tables was to provide a street presence and commented that six covers meant that the table area would not be busy or high frequency. Mr Hill stated that issues of trust, smoking and confidence were important. He advised that there</p>
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	<p>was signage and that this did not match the wording of the Licence condition as a standard sign had been purchased. He also apologised about the nuisance resulting from the queue during the offer promotion and advised the Sub-Committee that he had made himself available to the residents. Mr Hill also observed that a public bin and smoking area was closer to Berners Mansions than the restaurant.</p> <p>The Sub-Committee reflected on the licensing process and observed that it was essential for any residents to log complaints, otherwise the Council had no register of the complaints' history. Anil Drayan affirmed the importance of reporting, stating that alleged breaches should be reported when they impact on the licensing objectives.</p> <p>The Sub-Committee encouraged the parties to build better relationships and advised that residents could have recourse to a review of the licence if any of the licensing objectives were being undermined. That could include any nuisance that might be caused by the use of the external tables and chairs, especially as the licence was being varied to allow alcohol to be consumed from the external seating area in which those tables and chairs were placed. The Sub-Committee further considered whether in granting the application condition 32 posed potential for conflict with compliance of the Planning permission which permitted a maximum of three tables and six chairs. Condition 32 effectively required the external area south of the premises entrance to be used as the designated smoking area but this was an area identified in the planning permission as an area to be used for tables and chairs and that also meant that no smoking would be permitted from that area.</p> <p>Following legal advice, the Sub-Committee decided that condition 32 on the existing licence was maintained and that it was for the Applicant to manage the premises in order not to be in conflict with either the planning permission or the premises licence. Barry Panto, the legal adviser to the Sub-Committee, suggested that one way to resolve or avoid any such conflict might be to remove one table and two chairs from the designated smoking area. The Sub-Committee also considered the conditions advocated by Environmental Health and applied these (as amended) to the licence.</p> <p>The Sub-Committee once again mentioned that residents did have potential recourse in terms of seeking a review of the Licence if the provision of any of the licensable activities caused a public nuisance. The Sub-Committee also noted that the tables and chairs licence would need to be renewed in May and the Planning Permission in September. In granting the application, the Sub-Committee referred to Licence condition 32 and the potential for conflict with Planning, noting that placing a table and two chairs in the smoking area would potentially be in breach of condition 32. The Sub-Committee further noted that it was for the Applicant to manage its tables and chairs and ensure that there was no conflict between the use of the premises licence and the requirements of the planning permission.</p> <p>After taking into consideration all the evidence before it, the Sub-Committee decided to grant the application, subject to various conditions. The Sub-Committee further considered that the conditions on the licence were</p>
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	appropriate and would ensure that the licensing objectives were promoted. The Sub-Committee therefore granted the application accordingly.
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Conditions attached to the Licence	
Mandatory Conditions	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1)	The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
4. (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—
to	(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
sold	(i) drink a quantity of alcohol within a time limit (other than to drink alcohol 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;
of 24	(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;
of 24	(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.

6. (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.

6. (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 premises 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. (1) 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. (2) 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. (3) 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. (4) (i) Sub-paragraph 8. (4)(ii) below applies where the permitted price given
by Paragraph 8. (2)(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.

(ii) 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. The premises, including the designated external seating area, shall only
operate as a restaurant:

(i) in which customers are shown to their table;
(ii) where the supply of alcohol is by waiter or waitress service only;
(iii) which provide food in the form of substantial table meals that are
prepared on the premises and are served and consumed at the table using non

disposable crockery;

(iv) which do not provide any take away service of food or drink for immediate consumption (apart from consumption in the designated external seating area);

(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 or in the designated external seating area 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.

10. Notwithstanding condition 9, alcohol may be supplied and consumed prior to their meal in the bar area hatched on the plan, by up to a maximum at any one time of 25 persons dining at the premises.

11. 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.

12. There shall be no sales of hot food or hot drink for consumption off the premises after 23:00.

13. 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.

14. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

15. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

16. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

17. 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; and
- (h) any visit by a relevant authority or emergency service.

18. 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.

19. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

21. 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 sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.

22. 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.

23. Except for deliveries of dairy, bakery products, fruit and vegetables, no deliveries to the premises shall take place between 23:00 and 08:00 on the following day.

24. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 and 08:00 on the following day.

25. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

26. 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.

27. Loudspeakers shall not be located in the entrance lobby or outside the premises building.

28. The number of persons permitted within the premises at any one time (excluding staff) shall not exceed 220 persons.

29. Food delivery drivers shall be directed to access the premises at the rear in

Berners Mews and not on Berners Street. Food delivery drivers shall be directed not to leave engines running unnecessarily and not to disturb local residents.

30. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to eight (8) persons at any one time.

31. 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. The notices shall direct customers to the designated smoking area.

32. The premises licence holder shall designate a smoking area away from Berners Mansions, situated south of the Premises' entrance on Berners Street.

33. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.

34. There shall be no DJs employed at the premises.

35. 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.

36. All deliveries and waste collections shall take place at the rear in Berners Mews and not on Berners Street.

37. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by staff so as to ensure that there is no public nuisance or obstruction to the public highway. Any queue shall be formed away from Berners Mansions, to the south of the premises entrance on Berners Street.

38. The licence holder shall organise and publicise a meeting with residents of Berners Mansions six (6) weeks after the premises opens to members of the public. Thereafter the licence holder shall organise and publicise quarterly meetings with residents of Berners Mansions. The frequency of these meetings can be amended by agreement between resident representatives and the licence holder.

39. There shall be no external speakers at the premises.

40. The supply of alcohol for consumption off the premises shall only be to persons seated in the designated external seating area.

41. All outside tables and chairs are to be rendered unusable or removed by 21:30 each day.

42. There are to be up to a maximum of three tables and six chairs provided in the outside designated seating area.

43. A notice shall be displayed in the designated external seating area requesting patrons to respect the needs of local residents and to use the area quietly.

44. At closing time, a member of staff shall ensure that customers do not congregate outside and also leave the area quietly.

2 YEO DAIRY CAFÉ LIMITED, 20 QUEENSWAY LONDON, W2 3RX

LICENSING SUB-COMMITTEE No. 6

Thursday 16th January 2020

Membership: Councillor Karen Scarborough (Chairman), Councillor Maggie Carman and Councillor Peter Freeman

Legal Adviser: Barry Panto
Committee Officer: Artemis Kassi
Policy Officer: Aaron Hardy
Presenting Officer: Kevin Jackaman

Relevant Representations: Environmental Health Service, Licensing Authority and two Residents' Associations

Present: Charlotte Bowers (on behalf of the Applicant Company), David Inzani (solicitor, Poppleston Allen, representing the Applicant Company), Angela Seaward (Licensing Authority), Ian Watson (Environmental Health Service), John Zamit (Bayswater Residents' Association and South East Bayswater Residents' Association)

Yeo Valley Dairy Café Limited 20 Queensway, London, W2 3RX ("the Premises") 19/12450/LIPN
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1. Sale by Retail of Alcohol – On and Off Sales
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Monday to Saturday: 10:00 to 23:00 Sunday: 12:00 to 22:30
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Seasonal Variations / Non-Standard Timings:
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None.

Amendments to application advised at hearing:

None.

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

The Sub-Committee considered an application by Yeo Dairy Café ("the Applicant") for a new premises licence in respect of 20 Queensway, London W2 3RX.

The Presenting Officer, Mr Kevin Jackaman, introduced the application. He

	<p>advised that representations had been received from the Environmental Health Service, the Licensing Authority, residents' associations represented by Mr John Zamit and the Metropolitan Police Service. Mr Jackaman further advised that, following a reduction to the start time for the sale of alcohol, the Police had withdrawn this representation on 4th December. Mr Jackaman noted that further conditions had been proposed by the residents' associations and it was noted that these had been agreed by the applicant. The Sub-Committee noted that the premises were located in the Lancaster Gate ward in the Queensway Cumulative Impact Area.</p> <p>Mr David Inzani, representing the Applicant, advised that this was an application for a new premises licence. The Sub-Committee heard that the Applicant, a Somerset-based company focusing on organic produce, had taken a ten-year lease on the premises in Queensway in January 2019 and that the Applicant was using the premises' office space as its London office hub. Mr Inzani stated that the Applicant was seeking to permit the sale of alcohol (on and off the premises) between 10:00 to 23:00 from Monday to Saturday and between 12:00 to 22:30 on Sundays, with no seasonal variations.</p> <p>Mr Inzani advised the Sub-Committee that changes had been made to the original proposals to bring the application within core hours and further conditions covering nuisance, fumes, odours, deliveries, recycling and closure of windows and doors had been agreed with John Zamit, representing the residents' associations. Mr Inzani stated that, following the agreed amendments, there would be no vertical drinking, the sale of alcohol would be ancillary to the sale of substantial food throughout the entire Premises and the maximum seated capacity would be 30 persons.</p> <p>The Sub-Committee noted the amended set of conditions and the amended plan that had been submitted by the Applicant. An important aspect of the amendment was the removal of a hatched area on the plan and an amendment to condition 10 on page 80 of the report which would otherwise have allowed customers to consume alcohol in the hatched area without the need for that consumption to be ancillary to the sale of food, i.e., that would have permitted a drink-led element to the application that would have been contrary to policy.</p> <p>Mr Ian Watson, representing the Environmental Health Service, advised the Sub-Committee that the Environmental Health Service was satisfied with the application. Mr Watson explained to the Sub-Committee that the Premises were located on the ground floor of a residential block and that the Premises had previously been a convenience store possessing a licence with longer hours, with no associated noise nuisance. Mr Watson advised the Sub-Committee that, following a check, it appeared that the Applicant had been operating since May 2019, with no noise nuisance associated with the Applicant's operation of the premises. The Sub-Committee was further advised that the Environmental Health Service welcomed the more restrictive conditions which had been suggested by Mr Zamit and accepted by the Applicant. Mr Watson stated that the condition concerning maximum capacity needed to be satisfied, which for the Environmental Health Service's purposes would be 60 relating to the means of escape (excluding staff).</p>
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<p>Ms Angela Seaward, representing the Licensing Authority, advised the Sub-Committee of the Licensing Authority's original concerns but stated that, following mediation, PB2 no longer applied and the Licensing Authority was satisfied. Angela Seaward commented that the Applicant had worked well with the residents' associations and authorities. Ms Seaward further stated that the Licensing Authority's representations had been maintained on the basis that the Premises were within the Queensway Cumulative Impact Area to allow members to make their determination as to whether the granting of the application would add to cumulative impact.</p> <p>Mr John Zamit, representing the South East Bayswater Residents' Association (SEBRA) and the Bayswater Residents' Association (BRA), stated that the residents' associations had concerns relating to the Queensway stress area, as more premises wanted to sell alcohol, and also had concerns about the capacity of these Premises. Mr Zamit observed that, whilst this Applicant company was a good company, the concern was that a premises licence could be passed over to another licence holder, especially given the location in a residential block. Mr Zamit outlined areas of agreement between the parties, including agreed additional conditions relating to fumes and odours, deliveries, recycling and windows. Mr Zamit highlighted condition 17 on page 80 of the report (which he referred to as the "SEBRA clause") concerning alcohol off sales above 5.5% and requested that it should be amended to also make reference to premium beers in glass bottles or cans. The Sub-Committee heard that the residents' associations did still have concerns as their assent had been based on a capacity of 30 and a capacity of 60 had not been discussed with the residents' associations.</p> <p>The Sub-Committee invited the Environmental Health Service to clarify the capacity point. The Sub-Committee was advised that if the Premises had been a dedicated restaurant, the capacity would have been fixed differently; these premises constituted a convenience store with seating. Ian Watson stated that, given the transient nature of custom, the maximum seated capacity was 60 to allow for customers not seated at tables but entering the premises, queuing to purchase items and then leaving.</p> <p>John Zamit requested suitable wording to cover these concerns, to avoid the seated capacity becoming 60. Mr Zamit also referred to the hatched area in the application documentation and the A1/A3 permit. David Inzani advised the Sub-Committee that capacity in Westminster was set by fire regulations and reiterated Mr Watson's statement that the premises were partly retail, with internal and external seating. Mr Inzani emphasised that the Applicant had not proposed capacity on a set number of seats. The parties discussed the proposal for a "supper club" and the seating arrangements in the Premises, which were fixed. Mr Inzani mentioned that the Applicant did not want to restrict the numbers of seats during the supper club events.</p> <p>Mr Barry Panto, Legal Adviser to the Sub-Committee, advised the Sub-Committee of a potential condition to cover capacity, including Model Condition 90, which allowed scope for the Environmental Health Service to determine capacity and prevented any licensable events taking place at the Premises until capacity had been so determined. It was pointed out that such a condition had</p>
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	<p>already been included as condition 32 on page 81 of the report. Mr Zamit elaborated the concerns of the residents' associations and explained why the residents' associations would not find a potential maximum capacity of 60 to be acceptable. Mr Zamit proposed a compromise figure of 36 seated. Mr Inzani stated the Applicant's preference for 40.</p> <p>Mr Panto explored the potential re-wording of the proposed amendment to condition 10 at page 80 of the report. This was a key condition relating to the consumption of alcohol ancillary to the sale of food. Mr Panto asked whether it might be appropriate for the condition to require the consumption of alcohol to be ancillary to a substantial table meal rather than substantial food. Mr Inzani advised the Sub-Committee that the Premises were not a restaurant but a café and indicated that his preference was for the consumption to be ancillary to substantial food.</p> <p>After taking into consideration all the evidence before them, the Sub-Committee considered that the application was acceptable, subject to amended conditions as agreed between the parties and with capacity subject to determination by the Environmental Health Service. It was satisfied that the application, as amended, did not add to cumulative impact within the Queensway Cumulative Impact Area. The Sub-Committee further considered that the conditions on the licence were appropriate and would ensure that the licensing objectives were promoted. It concluded that the sale of alcohol for consumption on the premises would only have to be for consumption that was ancillary to substantial food rather than a substantial table meal. The Sub-Committee therefore granted the application accordingly.</p>
	<p>Amendments to application advised at hearing:</p> <p>None</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application (see reasons for decision in Section 1).</p>
2.	<p>Hours Premises are Open to the Public</p> <p>Monday to Saturday: 07:00 to 23:30 Sunday: 07:00 – 23:00</p> <p>Seasonal Variations / Non-Standard Timings:</p> <p>None.</p>
	<p>Amendments to application advised at hearing:</p> <p>None</p>

	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the application (see reasons for decision in Section 1).</p>
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Conditions attached to the Licence	
Mandatory Conditions	
<p>1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.</p> <p>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.</p> <p>3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.</p> <p>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.</p> <p>(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—</p> <p>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;</p> <p>(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</p> <p>(ii) drink as much alcohol as possible (whether within a time limit or otherwise);</p> <p>(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;</p> <p>(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;</p> <p>(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</p>	

condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

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

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

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

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

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

7. The responsible person must ensure that—

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

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

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

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

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

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

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

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

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

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

Where –

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Conditions consistent with the operating schedule

9. The supply of alcohol shall remain ancillary to the premises operating as a café/retail shop.
10. The sale of alcohol for consumption on the premises will be only be for consumption that is ancillary to substantial food.
11. The consumption of alcohol on the premises shall only be by persons seated.
12. A waiter/waitress service shall be provided.
13. 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.
14. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
15. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
16. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
17. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% Alcohol By Volume (ABV) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles or cans.
18. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
19. 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 unless they are seated in the designated external seating area detailed on the plans.
20. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
21. All tables and chairs shall be removed from the outside area by 23.00 hours each day.
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 system shall be on the premises at all times when the premise 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.
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. 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. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
27. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
28. No rubbish including bottles shall be removed or placed in an outside area between 23.00 hours to 07.00 hours Monday to Sunday.
29. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
30. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - a. all crimes reported to the venue;
 - b. all ejections of patrons;
 - c. any complaints received concerning crime and disorder;
 - d. any incidents of disorder;
 - e. all seizures of drugs or offensive weapons;
 - f. any faults in the CCTV system; and
 - g. any visit by a relevant authority or emergency service.
31. No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the Licensing Authority has replaced this condition on the licence with a condition detailing the capacity so determined.
32. 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.

33. No fumes, steam or odours shall be emitted from the licence premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
34. No deliveries to the premises shall take place between 20.00 and 07.00 hours on the following day except for deliveries of fresh goods and bread.
35. No collections of waste or recycling materials from the premises shall take place between 00.00 and 07.00 hours.
36. Windows and external doors shall be kept closed after 22.00 hours except for the immediate access and egress of persons.

3 THE GASLIGHT CLUB, 4 DUKE OF YORK STREET, LONDON, SW1Y 6LA

LICENSING SUB-COMMITTEE No. 6

Thursday 16th January 2020

Membership: Councillor Karen Scarborough (Chairman), Councillor Peter Freeman and Councillor Maggie Carman

Legal Adviser: Barry Panto
Committee Officer: Artemis Kassi
Policy Officer: Aaron Hardy
Presenting Officer: Kevin Jackaman

Objections: One anonymous objector

Present: Philip Kolvin QC (Counsel representing the Applicant, The Gaslight of St James's Limited), Suzanne Davies (Solicitor representing the Applicant company), Gary Nichols (General Manager for the Applicant), Paul Philpot (Operations Manager for the Applicant) and Nicola Richards (The Secrets Group)

The Gaslight Club, 4 Duke of York Street, London, SW1Y 6LA
("the Premises")
19/12275/LISEVR

1. Renewal of a Sexual Entertainment Venue Premises Licence

The application was to renew the sexual entertainment venue premises licence to provide relevant entertainment.

	<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 The Gaslight of St James's Limited ("the Applicant") to renew a sexual entertainment venue premises licence in respect of The Gaslight Club, 4 Duke of York Street, London SW1Y 6LA.</p> <p>The anonymous objector did not attend the hearing, but the members noted the details of the objection which were set out in full in the report.</p> <p>Mr Philip Kolvin QC addressed the Sub-Committee, advising the members that this was a renewal with no variations of a sexual entertainment venue premises licence for a long-standing sexual entertainment venue. Mr Kolvin stated that the venue entrance was a discreet doorway and that there was no evidence of negative impact on the locality. He observed that the venue had attracted almost no public objection. The one objection that had been made was a generic objection to the existence of any sexual entertainment venues.</p> <p>The Sub-Committee noted that the premises are situated in an area that is considered to be appropriate for SEVs and that no one, apart from the one anonymous objector, had raised any concerns about the suitability of the area. No problems had been identified with the operation of the premises which had been trading from its current venue for many years.</p> <p>The Sub-Committee also noted that there were no objections to the application from the police or the Environmental Health Service.</p> <p>The Sub-Committee has a duty to consider each application on its individual merits. After carefully weighing the evidence before it and the human rights considerations identified in the report, the Sub-Committee was of the view that there was no basis for refusing the application. It therefore decided to grant the the renewal application accordingly with the standard and special conditions that had previously been imposed on the licence.</p>

Conditions attached to the Licence	
Standard Conditions	
<p>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.</p> <p>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</p>	

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. All public areas of the premises shall be sufficiently illuminated to afford the licensee a clear view of the hostesses.

25. The maximum number of persons accommodated at any one time in the basement (excluding staff) shall not exceed 110 persons. After 2.30am the number of persons on the premises (excluding performers and staff) will be reduced from 110 to 70 save for any private pre-booked functions in respect of which the booking shall have been made at least 24 hours beforehand and the records relating to such booking shall be retained for a minimum period of 30 days following the function.

26. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.

27. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

28. Curtains and hangings shall be arranged so as not to obstruct emergency signs.

29. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

30. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.

31. All exit doors shall be available at all material times without the use of a key, code, card or similar means.

32. 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 ten (10) days' prior notice being given to the Licensing Authority, where consent has not previously been given:

- i. pyrotechnics including fireworks
- ii. firearms
- iii. lasers
- iv. explosives and highly flammable substances.
- v. real flame.
- vi. strobe lighting.

33. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

34. Customers will be encouraged to utilise the preferred taxi company of the licence holder and also to remain in the premises whilst awaiting arrival of their taxi.

35. No admission or re-admission to the premises shall be permitted, except for smokers, later than one hour before the terminal hour for the provision of Relevant Entertainment.

36. At times when a Temporary Event Notice is in force extending the permitted hours for licensable activities at these premises under the Licensing Act 2003, the hours for the provision of relevant entertainment (as defined in the Local Government (Miscellaneous Provisions) Act 1982) will be similarly extended without the need for a separate variation application in respect of this licence.

The Meeting ended at 2.00 pm

CHAIRMAN: _____

DATE _____