



City of Westminster

Committee Agenda

Title: **Licensing Sub-Committee (6)**

Meeting Date: **Thursday 20 April 2023**

Time: **10.00 am**

Venue: **Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP**

Members: **Councillors:**

Maggie Carman (Chair)
Concia Albert
Jacqui Wilkinson

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

Admission to the public gallery is via a visitor's pass which is available from the main ground floor reception at 64 Victoria Street from 9.30am.

If you have a disability and require any special assistance, please contact the Committee Officer (details listed below) in advance of the meeting.

An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter.

If you require further information, please contact the Committee Officer, Sarah Craddock, Committee and Councillor Co-ordinator.

Email: scraddock@westminster.gov.uk Tel: 0779098018
Corporate Website: www.westminster.gov.uk

Note for Members: Members are reminded that officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. Regarding Item 2, guidance on Declarations of Interests is included in the Code of Governance. If Members and Officers have any questions, they should contact the Director of Law before the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To report any changes to the membership.

2. DECLARATIONS OF INTEREST

To receive declarations by Members and Officers of the existence and nature of any pecuniary interests or any other significant interest in matters on this agenda.

Licensing Applications for Determination

1. 20-24 SHAFTESBURY AVENUE W1D 7EU

(Pages 1 - 102)

Ward CIA* SCZ**	Site Name & Address	Application Type	Licensing Reference No.
St James's * West End ** None	20-24 Shaftesbury Avenue W1D 7EU	Shadow Licence	23/00396/LIPSL
*Cumulative Impact Area ** Special Consideration Zone			

**2. ALBERTS SCHLOSS, 20-24 SHAFTESBURY AVENUE
W1D 7EU**

**(Pages 103 -
240)**

Ward CIA* SCZ**	Site Name & Address	Application Type	Licensing Reference No.
St James's * West End ** None	Alberts Schloss, 20-24 Shaftesbury Avenue W1D 7EU	Variation to the Premises Licence	23/00414/LIPV
*Cumulative Impact Area ** Special Consideration Zone			

**3. SOHO ORIGINAL ADULT STORE, 12 BREWER STREET,
W1F 0SF**

**(Pages 241 -
262)**

Ward	Site Name & Address	Application Type	Licensing Reference No.
West End Core CAZ North	Soho Original Adult Store, 12 Brewer St W1F 0SF	Variation of a Sex Establishment Licence	23/00824/LISEXV

**4. BASEMENT AND GROUND FLOOR, 10 GOLDEN SQUARE
W1F 9JA**

**(Pages 263 -
304)**

Ward CIA* SCZ**	Site Name & Address	Application Type	Licensing Reference No.
West End * West End ** None	Basement and Ground Floor, 10 Golden Square W1F 9JA	New Premises Licence	23/00796/LIPN
*Cumulative Impact Area ** Special Consideration Zone			

**Stuart Love
Chief Executive
12 April 2023**

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City of Westminster

Licensing Sub-Committee Report

Item No:	
Date:	20 April 2023
Licensing Ref No:	23/00396/LIPSL - New Premises Licence
Title of Report:	Shadow Licence 20-24 Shaftesbury Avenue London W1D 7EU
Report of:	Director of Public Protection and Licensing
Wards involved:	St James's
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Angela Lynch Senior Licensing Officer
Contact details	Telephone: 0207 641 6500 Email: aseaward@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	23 January 2023		
Applicant:	Trocadero (London) Hotel Limited		
Premises:	Shadow Licence		
Premises address:	20-24 Shaftesbury Avenue London W1D 7EU	Ward:	St James
		Cumulative Impact Area:	West End
		Special Consideration Zone:	None
Premises description:	The application seeks to apply for a shadow licence under the same terms as 22/04957/LIPDPS however the current issued licence is 23/00402/LIPT. A copy of the licence is attached as Appendix 4 .		
Premises licence history:	The premises has had the benefit of a premises licence since 2005. The current premises licence (23/00402/LIPT) can be viewed at Appendix 4 . The premises were also granted a new premises licence in June 2022 for the Rainforest café (22/02797/LIPN). A copy of the premises history can be found at Appendix 5 .		
Applicant submissions:	The applicant has provided the following submissions: <ul style="list-style-type: none"> • General description • Correspondence between the applicant and [REDACTED] • Pre-application advice report • Extreme Oyster / Star Oyster Limited and Guildford Borough Council A copy of the documents can be found at Appendix 2 .		
Applicant amendments:	None		

1-B Proposed licensable activities and hours							
Live Music:				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	09:00	09:00	09:00	09:00	09:00	09:00	09:00
End:	03:00	03:00	03:00	03:00	03:00	03:00	03:00
Seasonal variations/ Non-standard timings:	New Years Eve / New Years Day and commencement of British Summer Time as set out in the conditions.						

Playing of Recorded Music:				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	00:00	00:00	00:00	00:00	00:00	00:00	00:00
End:	00:00	00:00	00:00	00:00	00:00	00:00	00:00
Seasonal variations/ Non-standard timings:		None					

Performance of dance:				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	09:00	09:00	09:00	09:00	09:00	09:00	09:00
End:	03:00	03:00	03:00	03:00	03:00	03:00	03:00
Seasonal variations/ Non-standard timings:		New Years Eve / New Years Day and commencement of British Summer Time as set out in the conditions.					

Anything of a similar description to that falling within (e) (f) or (g):				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	09:00	09:00	09:00	09:00	09:00	09:00	09:00
End:	03:00	03:00	03:00	03:00	03:00	03:00	03:00
Seasonal variations/ Non-standard timings:		New Years Eve / New Years Day and commencement of British Summer Time as set out in the conditions.					

Late Night Refreshment:				Indoors, outdoors or both			Indoors
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	23:00	23:00	23:00	23:00	23:00	23:00	23:00
End:	03:30	03:30	03:30	03:30	03:30	03:30	03:00
Seasonal variations/ Non-standard timings:		New Years Eve / New Years Day and commencement of British Summer Time as set out in the conditions.					

Sale by retail of alcohol				On or off sales or both:			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	12:00
End:	03:00	03:00	03:00	03:00	03:00	03:00	22:30
Seasonal variations/ Non-standard timings:		New Years Eve / New Years Day and commencement of British Summer Time as set out in the conditions.					

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	09:00	09:00	09:00	09:00	09:00	09:00	09:00
End:	03:30	03:30	03:30	03:30	03:30	03:30	03:00
Seasonal variations/ Non-standard timings:		New Years Eve / New Years Day and commencement of British Summer Time as set out in the conditions.					
Adult Entertainment:		None					

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Licensing Authority
Representative:	Karyn Abbott
Received:	17 February 2023
<p>I write in relation to the application submitted for a new shadow licence for 20-24 Shaftesbury Avenue, London W1D 7EU.</p> <p>As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011, the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the four Licensing Objectives:</p> <ul style="list-style-type: none">• Public Nuisance• Prevention of Crime & Disorder• Public Safety• Protection of children from harm <p>The application seeks the following:</p> <p>Live Music Monday to Sunday 09:00 to 03:00</p> <p>Recorded Music Monday to Sunday 00:00 to 00:00</p> <p>Performance of Dance Monday to Sunday 09:00 to 03:00</p> <p>Anything of a similar description to that falling within (e), (f) or (g) Monday to Sunday 09:00 to 03:00</p> <p>Late Night Refreshment Monday to Saturday 23:00 to 03:30 Sunday 23:00 to 03:00</p> <p>Supply of Alcohol On and Off the Premises Monday to Saturday 10:00 to 03:00 Sunday 12:00 to 22:30</p> <p>Opening Hours to Public Monday to Saturday 09:00 to 03:30 Sunday 09:00 to 03:00</p> <p>The premises is located within the West End Cumulative Impact Area and as such various policy points must be considered, namely CIP1, HRS1 and RNT2.</p> <p>The application is made by the freeholder of the premises for a 'shadow' licence of 22/04957/LIPDPS.</p> <p>The Licensing Authority has reviewed the application against Licence number 22/04957/LIPDPS and has noted that the application has not been made on the exact terms and conditions as the current issued licence.</p>	

Within this application the applicant has proposed that Live Music on a Thursday states 09:00 to 09:00 on Friday. Please can the applicant confirm the proposed hours for Live Music on a Thursday?

The Licensing Authority also encourages the applicant to consider Westminster's model condition 97 below

The shadow licence will not take effect when the current licence is in operation, or it lapses, is surrendered or revoked.

Should the applicant consider amending the application to mirror the Live Music hours as per licence 22/04957/LIPDPS, and agree the condition above (MC97) it will allow the Licensing Authority to consider this application as a genuine application for a shadow licence.

The Licensing Authority looks forward to receiving further submissions from the applicant in due course.

Please accept this as a formal representation.

The Licensing Authority submitted further submission on 05 April 2023 which can be found at Appendix 3.

2-B Other Persons			
Name:		[REDACTED]	
Address and/or Residents Association:		[REDACTED] [REDACTED] [REDACTED] [REDACTED]	
Status:	Valid	In support or opposed:	Opposed
Received:	20 February 2023		

We write to make a relevant representation to the above application on behalf of [REDACTED]

About [REDACTED] is a charitable company limited by guarantee established in 1972. The Society is a recognised amenity group and was formed to make Soho a better place to live, work or visit by preserving and enhancing the area's existing diversity of character and uses, and by improving its facilities, amenities and environment.

Application summary Shadow Licence The premises currently trades as the Jungle Cave under premises licence number 22/04957/ LIPDPS. This application seeks a shadow licence on behalf of the applicant Trocadero (London) Hotel Limited.

Licence 22/04957/LIPDPS Alcohol: Monday - Saturday: 10:00 - 03:00. Sun: 12:00 - 22.30.

Late Night Refreshment: Mon - Sat:23:00 - 03:00. Sun: 23:00 - 03:00.

Performance of Dance/Live Music / Anything similar Performance: Monday - Sunday: 09:00 - 03:30

Recorded Music : unrestricted

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

Opening Hours : Monday - Saturday: 09:00 - 03:30 Sunday: 09:00 - 03:00

Capacity: Basement - 470, Sub-Basement 150. Total 620 On and Off sales

Representation We start by acknowledging the content of the document submitted by the applicant, we are aware of the High Court case they refer to which confirmed shadow licences may be granted, we are also aware of the reference to shadow licences in the Statement of Licensing Policy 2021 (D20) however, [REDACTED] objects to this application on the grounds set out below.

Shadow Licence Application We are surprised the applicant has submitted this application considering the fact that this licence was offered as one of the licences for surrender when Sky Bar and Lounge, Trocadero Hotel, Trocadero (London) Hotel Ltd and Tao Group Operating PLC applied for a 3am licence (21/06624/LIPN). On 11th November 2021 the Licensing Sub-Committee granted the 3am Registered Charity Number: 1146589 Company Number: 07899282 licence and the offer was accepted. This applicant Trocadero (London) Hotel Ltd stated an application for a midnight restaurant licence would be made to replace the current 3am licence, to date this application has not be submitted. The Sky Bar decision document makes reference to this agreement with Conditions 65 and 66 stating the following; 65: The applicants contend that this appellation can be treated as an exception to policy upon the basis of the following: (a) Premises Licence 15/02410/LIPT relating to 1-4 Leicester Square (which the first applicant previously offered to surrender when Licence 18/00656/LIPN was granted), together with Licence 18/00656/LIPN, will be surrendered subject to the grant of this application; (b)**Premises Licence 20/03425/LIPDPS relating to the Rainforest Cafe at 20-24 Shaftesbury Avenue will be surrendered by the first applicant, subject to the grant of the linked application described below (66a) and the satisfaction of works conditions relating to this application and the application described at 66(a);** (c) The capacity for the Piccadilly Institute stated within Premises Licences 19/09064/LIPN and 21/04481/LIPDPS shall be reduced by 380 as a result of the linked application described below 66b. 66: **To support the exception to policy argument, the below linked applications will be sub-mitted following the grant of this licence application: (a) New**

Premises Licence application for the Rainforest Café at 20-24 Shaftesbury Avenue authorising the use of the premises as a restaurant (with a holding bar) until midnight;

(b) Two minor variation applications to reduce the capacity of the Piccadilly Institute by 380 persons. Conditions 65 and 66 above to be removed upon satisfaction of the works conditions at 62 and 63 above, and to a works condition which will be incorporated in the application referred to at Condition 65 (b). The applicant agreed to submit a new premises licence application following the grant of licence 21/06624/LIPN and on this basis the application for a shadow licence should be refused.

Licensing Objectives and Cumulative Impact We also object on the grounds this licence will fail to promote the licensing objectives and the increase in cumulative impact in the West End Cumulative Impact Zone. We base this view on the findings of the Cumulative Impact Assessment 2020 where the large number of late night premises has increased crime and disorder, public nuisance and cumulative impact. The premises is situated in the same section of Shaftesbury Avenue with a number of other late night premises listed below. Rumba, 36, Shaftesbury Avenue. 3am, capacity 455 Ugly Coyote, 30, Shaftesbury Avenue. 3am, capacity 350 (new premises licence granted in 2022) Jungle Cave : 20-24, Shaftesbury Avenue. 3am, capacity 620 The Sky Bar, Trocadero Hotel: patrons will exit on Shaftesbury Avenue. 3am, capacity 1,000 The total number of patrons being dispersed onto this street at 3am will be **2,425**. The premises is also in very close proximity to Soho the late night entertainment district, with its **478** licensed premises a large proportion being late night (25%), **118** licensed with a terminal of 1am until 6am and a **capacity of 22,480**.

Residents There are real concerns amongst residents about the ever increasing numbers of alcohol establishments in the area. They have been subjected to anti-social behaviour that is beyond acceptable levels. They have had to endure vomiting in the street, people urinating in the street or through their letter boxes, abuse from people when reminded that their home is not a urinal, pedicabs playing unacceptably loud music into the early hours of the morning. We are concerned people leaving these premises will cause a noise nuisance to residents as they continue their night out in Soho, or as they make their way home. For residents, people at some point will walk down their street or pass nearby and with people who are usually highly intoxicated, this involves, shouting, screaming and fighting creating loud noise and disturbing residents sleep. A recent sleep survey conducted by [REDACTED] confirms that residents are disturbed by noise at night and it is having a negative impact. 87 people responded of which 78 are Soho residents with ages spread fairly evenly from 22 to 80, 59% having lived in Soho for more than 10 years. When asked about disturbed sleep; 24% of respondents have their sleep disturbed 7 nights a week, 16% 5 or 6 nights a week and 19% 3 or 4 nights a week. Furthermore, 64% of respondents agreed that noise nuisance from increased commercial activity at night is the most serious problem impacting Soho residents quality of life. 62% of respondents agreed that the council should not grant any extensions of hours for premises in Soho. 60% of respondents agreed that noise nuisance and sleep deprivation is adversely impacting my health and the health of the people they live with. 46% of respondents agreed that noise nuisance is so bad that they have considered moving away from Soho. The full survey can be found in **Appendix 1**.

Crime and Disorder The Cumulative Impact Assessment 2020 presents overwhelming evidence of the year on year increase in cumulative impact in the West End Zone 1, **it highlights the rate of crime as 10 - 13 times higher between 6pm - 6am compared to the borough average**. The level of crime, disorder and anti social behaviour continues to be a huge problem in Soho, the crime figures are high and increasing. The recent police crime report for December 2022 highlights Soho as having the highest number of robberies, overall knife crime and violence against the person compared to other areas within the cumulative impact zone. In Soho the majority of robberies take place at night, people are targeted as they leave venues, alongside the robberies and assaults, drug dealing is another problem with groups of dealers congregating to sell drugs to people out on the streets. There are more dealers in the area at night than during the day, this is directly linked to the large number of venues and people on the streets which creates the drugs market. Pickpockets also operate in the area, they are a part of a well organised criminal group who arrive in a van at night and disperse into Soho before re-turning to be driven away. It is well known that intoxicated people become victims of crime, their vulnerability being exploited by gangs or individuals

who are in the area late at night specifically to target them. We believe patrons leaving this bar at night will be at high risk of becoming victims of crime.

Cumulative Impact Policy CIP1 This area has been identified by the Westminster City Council as under stress because the cumulative effect of the concentration of late night and drink led premises and night cafes has led to serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses. The evidence presented in the Cumulative Impact Assessment 2020 is overwhelming, it describes the high level of cumulative impact in the West End Zone between 2017-2019. It concludes that, *'After consideration of the cumulative impact assessment it is the Licensing Authority's view that the number of premises licences in the West End, are such that it is likely granting further types of licences or varying existing licences would be inconsistent with the authority's duty to promote the licensing objectives. The granting of licences for certain types of operation that are likely to add to Cumulative Impact within these areas would not be consistent with the Licensing Authority's duty under the Licensing Act 2003.'* (p.19) **(Our emphasis)** This evidence supported further policy restrictions in the West End, however, the impact of COVID-19 resulted in the Licensing Authority deciding not to implement greater restrictions at this stage, but it may in the lifetime of the policy if footfall moves toward pre-March 2020 levels (D1). Soho and the area which surrounds it is fully open for business and thriving, our observation is Soho attracts more people now than at pre-COVID times. It is important to note the policies in relation to the cumulative impact zone are directed at the global and cumulative effects of licences on the area as a whole (D16. of the policy). D23. *'The proximity of residential accommodation is a general consideration with regard to the prevention of public nuisance.* It goes on, *'The nature of cumulative impact is that it is cumulative and affects not only the immediate vicinity of the premises, but the wider area; thus the number of people visiting the premises, the nature of licensable activities and the lateness of operations have an impact on an area as a whole, irrespective of whether or not there is residential accommodation in proximity to the premises.'* **(our emphasis)** The policy has a presumption to refuse applications within the West End Cumulative Impact Zone for pubs and bars, music and dance and fast food premises. **In summary** In our view this application should be refused on the basis of the agreement this licence would be surrendered following the grant of the Sky Bar 3am licence. This application for a new shadow licence will fail to promote the licensing objectives and increase cumulative impact in the West End Cumulative Impact Zone. We respectfully ask the Licensing Sub-Committee to refuse this application. Yours faithfully, Licensing Committee

Appendix 1 : [REDACTED] Sleep Survey Results Appendix 1 : [REDACTED] Sleep Survey Results [REDACTED] Sleep Survey Results - 31 October 2022 A recent sleep survey conducted by [REDACTED] confirms that residents are disturbed by noise at night and it is having a negative impact. 87 people responded of which 78 are Soho residents with ages spread fairly evenly from 22 to 80, 59% having lived in Soho for more than 10 years. 59% have lived in Soho more than 10 years 26% between 3 and 10 years 6% between 1 and 3 years and 9% have lived here less than a year 42% own their homes 20% are Soho Housing Association and the rest tenants with other landlords 10 respondents have children living at home with them 58% have double glazing 37% single glazing 5% have triple glazing 24% of respondents have their sleep disturbed 7 nights a week 16% of respondents have their sleep disturbed 5 or 6 nights a week 19% of respondents have their sleep disturbed 3 or 4 nights a week 19% of respondents have their sleep disturbed once or twice a week 20% do not have a problem with environmental noise pollution Topping the list in September was people drinking in the street with 54 mentions, then pedicabs with 51, waste collections at 48, construction noise 36 and car horns 33 and deliveries at 25. Other noise sources identified were air conditioning, motorbikes revving, building alarms and music from licensed venues. The most common identified problem at 42% of respondents was people drinking and shouting in the street. 64% of respondents agreed that noise nuisance from increased commercial activity at night is the most serious problem impacting Soho residents quality of life 46% of respondents agreed that noise nuisance is so bad that they have considered moving away from Soho 60% of respondents agreed that noise nuisance and sleep deprivation is adversely impacting my health and the health of the people they live with. 67%

of respondents agreed that the council should base its noise policy on the World Health Organisation guidelines 64% of respondents agreed that our ward councillors should make this their priority during the next four years 69% of respondents agreed that during the time I have lived in Soho noise pollution has got significantly worse 73% of respondents agreed that if noise limits are being exceeded the council should consider reviewing existing alcohol licences 72% of respondents agreed that the council should install electronic noise monitoring in Soho 56% of respondents agreed that the council should not grant additional premises licence for the sale of alcohol in Soho. 62% of respondents agreed that the council should not grant any extensions of hours for premises in Soho 68% of respondents agreed that the council should renew its noise strategy as a matter of urgency Many respondents made additional comments:- *I left Soho 4 years ago. After 20 years, the noise & air pollution finally broke me. Like the frog in the pan of water with the heat gradually turned up, it took me a while to realise that it wasn't me going soft, it was the significant degradation of the environment around me. Since moved out of my flat, several other tenants have moved in & swiftly out again citing sleep dis-ruption & excessive night noise as their reason for leaving. The flat is now used as an office rather than as residential. I am disappointed that another restaurant unit is going to be let on Hopkins Street by Shaftes-bury when the residents already have an enormous amount of noise from the existing restaur-ants. No doubt they will also want an alcohol license, which will increase the noise and disturb residents even more. As a disabled person working from home, I find it extremely exhausting not able to have rest at night, Screams and noise of drunk people every night, The Landlord WCC does not want to change the windows to a double glazing nor allow tenants to pay privately for windows to be upgraded. Noise at home, lack of sleep, and concentration in the day time. I have a hand held noise monitor, I recorded noise levels of 97db outside the pub at the corner of Broadwick and Berwick Streets. More consideration needs to be given to residents from councillors, people visiting the area and local businesses in particular those who serve alcohol and have late night licences. Decisions such as granting planning and licence applications should not be made by people who do not live in the area and are therefore not impacted by the decision making. Very difficult to get the local authority to understand and take complaints seriously. Officers often helpful but then the case goes to committee and they always seem to rule in favour of the commercial premises rather than residents. There is supposed to be a presumption to refuse new licences but in practice the council still lets new things through until after Midnight, which is far too late and has made a nonsense of the policy. There should be a quiet window of 11pm to 8am every day. 7am deliveries are far too early for a lot of people if they are noisy or use cages or refrigeration. [REDACTED] Regularly now (most nights) there are traffic jams in the street at 3am in the morning with cars picking up people leaving clubs. The cars frequently are using their horns. Last night they had their door open with music blaring. we have 2 motorbike stands close together. 1 in [REDACTED] and 1 in [REDACTED]. There is always at least one bike revving up at either 3am or really early like 530am This noise has changed and increased over the past 3-4 years. I am woken up most nights at about 3am. And i have double glazing and am on [a high] floor. Businesses take no responsibility for their customers drinking/eating and mainly shouting outside, including when they are queuing, and particularly when they are leaving. Post al fresco, there is a new attitude that anything goes on the streets and that includes contempt for the community who live here. The Council need to rethink this and put some major resource into enforcement. I've lived in Soho for 60 years... Born and bred.. It's never been this noisy! Early hours waste collections (including bottle smashing) also includes the food & beverage businesses putting their waste in the street and bottle bins at anti-social hours ahead of collec-tion times. Our local restaurants are not supposed to put bottles out between the hours of 23:00 and 07:00 but they frequently do. Frequently delivery trucks some with noisy refrigera-tion units are also delivering early hours. Also deliveries & pedicabs. Unfortunately my lack of sleep due to noise has caused serious health issues and I now cannot work and suffer anxiety and depression. I'm woken up on average 5 times per night and have considered suicide. Why I'm being denied sleep between the hours of 11pm and 7am astonishes me. The freeholders Shaftesbury Carnaby show a total disrespect to the effects that noise has on the residents of Soho.*

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy CIP1 applies	<p>It is the Licensing Authority’s policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment, other than applications to:</p> <ol style="list-style-type: none"> 1. Vary the hours within Core Hours under Policy HRS1, and/or 2. Vary the licence to reduce the overall capacity of the premises. <p>C. Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.</p> <p>D. For the purposes of this policy the premises types referred to in Clause A are defined within the relevant premises use policies within this statement</p>
Policy HRS1 applies	<p>A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:</p> <ol style="list-style-type: none"> 1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm. 2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation. 3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed. 4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises. 5. The proposed hours when any music, including incidental music, will be played. 6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises. 7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity. 8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night. 9. The capacity of the premises. 10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation. 11. The Licensing Authority will take into account the active measures proposed for a ‘winding down’ period including

arrangements for people to be collected from the premises to travel home safely.

12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.

13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.

14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.

C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:

1. **Casinos:** Up to 24 hours a day whilst casino gaming is permitted by a premises licence under the Gambling Act 2005.

2. **Cinemas, Cultural Venues and Live Sporting Premises:** Monday to Sunday: 9am to 12am

3. **Hotels:** Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am. For the sale of alcohol to guests for consumption in hotel/guest rooms only: Anytime up to 24 hours.

4. **Off licences:** Monday to Saturday: 8am to 11pm. Sunday: 9am to 10.30pm.

5. **Outdoor Spaces:** Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.

6. **Pubs and bars, Fast Food and Music and Dance venues:** Monday to Thursday: 10am to 11.30pm. Friday and Saturday: 10am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 12pm to 12am.

7. **Qualifying Clubs:** Monday to Thursday: 9am to 12am.. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.

8. **Restaurants:** Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.

9. **Sexual Entertainment Venues and Sex Cinemas:** Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.

D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.

<p>Policy PB1 applies</p>	<p>A. Applications outside the West End Cumulative Zone will generally be granted subject to:</p> <ol style="list-style-type: none"> 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The hours for licensable activities being within the council's Core Hours Policy HRS1. 3. The applicant has taken account of the Special Consideration Zones policy SCZ1 if the premises are located within a designated zone. 4. The application and operation of the venue meet the definition of a Public House or Bar in Clause D. <p>B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:</p> <ol style="list-style-type: none"> 1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1. 2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises. <p>C. The applications referred to in Clause B1 and B2 will generally be granted subject to:</p> <ol style="list-style-type: none"> 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1, and/or, 2. The application and operation of the venue continuing to meet the definition of a Public House or Bar in Clause D. <p>D. For the purposes of this policy a Public House or Bar is defined as a premises, or part of a premises that's primary use is the sale or supply of alcohol for consumption on those premises and/or for consumption off the premises for consumption outside the venue.</p>
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4. Equality Implications

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

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

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

5. Appendices

Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Licensing Authority further submissions
Appendix 4	Existing premises licence 23/00402/LIPT
Appendix 5	Premises history
Appendix 6	Proposed conditions
Appendix 7	Residential map and list of premises in the vicinity

Report author:	Angela Lynch Senior Licensing Officer
Contact:	Telephone: 0207 641 6500 Email: aseaward@westminster.gov.uk

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

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

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	1 st October 2021
3	Amended Guidance issued under section 182 of the Licensing Act 2003	December 2022
4	Licensing Authority representation	17 February 2023
5	Interested Party representation	20 February 2023

General Description:-

The applicant, Trocadero (London) Hotel Limited, is the landlord of the premises named Jungle Cave at 20-24 Shaftesbury Avenue, London, W1D 7EU. The applicant is applying for a shadow licence in relation to premises licence 22/04957/LIPDPS.

An application in this form is permitted in law. This is demonstrated by the decision in Extreme Oyster Limited and Star Oyster Limited v Guildford Borough Council, where the High Court confirmed that shadow licences may be granted by a licensing authority to landlords, if the application falls within the statutory framework in the Licensing Act 2003.

The court held that the landlord was entitled to apply for a shadow licence stating: "So long as the extent of the shadow licence application does not stray beyond the parameters of the premises used by the applicant as a business and that the matching categories of licensable activities are carried out."

The proposed application is on the same terms as the current premises licence, premises licence number 22/04957/LIPDPS, and all licensable activities and hours are the same. On this basis the proposed application is not extending the hours or licensable areas of the current premises licence. The shadow licence will not be traded by the Applicant; however we have appointed a DPS to complete the application.

The operating schedule will be the same as premises licence number 22/04957/LIPDPS which promotes all four of the licensing objectives. Attached to this application is our proposed operating schedule along with a copy of premises licence number 22/04957/LIPDPS.

The purpose of this application is to protect the landlord's proprietary interest in the premises by way of applying for the same activities and hours currently held by the tenant of the premises by way of premises licence number 22/04957/LIPDPS.

Correspondence between applicant and [REDACTED]

From: [REDACTED]
Sent: Monday, March 27, 2023 12:56 PM
To: Lisa Sharkey <L.Sharkey@popall.co.uk>
Cc: [REDACTED]
Subject: 20-24 Shaftesbury Avenue applications

Hi Lisa,

Further to our conversation just now regarding these applications, I think it would be helpful if you could confirm in writing the position with regard to the Albert's Schloss application and its relationship (or lack of) to the relevant Sky Bar licence condition, and the purpose of the shadow licence application i.e. why it mirrors the current licence for 20-24 SA, rather than the Albert Schloss application.

As discussed, I am away now until the end of the week so I have cc'd [REDACTED] [REDACTED]. If you can include her in your response that would be great, then she and I will discuss when I am back.

Kind regards,
Richard

Richard Brown
Licensing Advice Project
Citizens Advice Westminster

From: l.sharkey@popall.co.uk
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: 20-24 Shaftesbury Avenue applications PCX:000038000000247
Attachments: [image004.png](#)
[image001.png](#)
[image003.png](#)
[image002.png](#)

Dear [REDACTED],

I can confirm that the Albert's Schloss application and the operators of Albert's Schloss are in no way connected to the Sky Bar Licence.

What will happen if the variation application for Albert's Schloss is granted is that the existing premises licence for 20-24 Shaftesbury Avenue will be held and operated by the new operators. This licence will then no longer be available to offer by way of surrender to activate the 3 am licence for the Sky Bar.

The 3 am licence for the Sky Bar is currently dormant and is subject both to a works condition and a condition requiring the above licence to be surrendered. To activate that licence therefore, a full variation application will have to be submitted offering something of equal value to be surrendered in place of the licence. That application will then be determined upon its merits.

The shadow licence application for 20-24 Shaftesbury Avenue mirrors the current licence and not the licence (as varied) being applied for by Albert's Schloss. The reason being that if the variation application is granted then the licence becomes personal to Albert's Schloss and contains specific conditions regarding the type of entertainment being linked to Albert's Schloss. Further, the variation application alters the location of the licensed areas. If, for any reason,

Albert's Schloss did not complete the lease then landlord is left with a completely changed licence which is of no use to another operator. The shadow licence protects the landlord in this respect.

I hope this reassures you that these two applications for 20-24 Shaftesbury Avenue are not linked to the Sky Bar. The operators of Albert's Schloss are keen to complete the lease and start the building works. They were hoping to start works in April and the delay waiting for a hearing date is putting at risk the works as builders commit to other plans. This, as you will no doubt appreciate, has a financial impact. If you are now satisfied with the applications, then my clients would be most grateful if you would withdraw your objections at the earliest opportunity.

I very much look forward to hearing from you.

Regards
Lisa

From: [REDACTED]
To: jdonovan@westminster.gov.uk; l.sharkey@popall.co.uk; kabbott@westminster.gov.uk
Cc: [REDACTED]
Subject: 20-24, Shaftesbury Ave application

Dear Lisa,

Thank you for your email. We have carefully considered our position and [REDACTED] has decided to maintain its representations on each application. We believe that in the circumstances it is appropriate that the Sub-Committee determines whether to grant the applications.

In order to explain our position, we comment on each application as follows:

Albert's Schloss

We appreciate that if the variation application for Albert's Schloss is granted, then it is personal to them and the landlord could not then surrender it for the purposes of satisfying the relevant condition on the Sky Bar licence, unless the licence was transferred back to them at some point in the future. We believe that a surrender of the licence in those circumstances would satisfy the relevant condition of the Sky Bar licence. We consider that the only way to prevent this from happening is if the varied licence, if granted, cannot be offered for surrender in satisfaction of the relevant condition on the Sky Bar licence, although we wonder about the enforceability of such a condition. Perhaps WCC's legal department may have a view, and we will raise this at the hearing.

In any event, although we accept that if that licence is not/cannot be surrendered in satisfaction of the relevant condition on the Sky Bar licence and so the Sky Bar licence could not operate unless/until the relevant condition was amended in some other way, this relies on us, being aware of any such application. We were, as way of example, not aware of the recent minor variation which we understood sought to amend the Sky Bar licence in precisely that way.

With regards to condition 1 in the application, we would not normally consider a condition which refers to 'ancillary to entertainment' sufficient for policy purposes for a new application nor would we necessarily accept that the nature of the Albert's Schloss operation falls within the definition. However, we note that this is a variation of the licence and current condition 18c on the current licence states: 'The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment' and we propose a similar condition be adopted here.

Landlord's application

With regards to what is termed as the shadow licence application by the landlord, if the 20 - 24, Shaftesbury Avenue licence is varied then we do not consider that the 'shadow' licence application is a shadow application at all, as the primary licence has been varied.

We believe that, in the circumstances it is appropriate that the Licensing Sub-Committee determines both applications. We are aware that there are in any event outstanding representations from interested parties on the Albert's Schloss application.

Regards,

██████████
████████████████████



City of Westminster

Office Name: Ian Watson Designation: Senior Practitioner Environmental Health Date: 22/12/22 Contact number: Email: iwatson@westminster.gov.uk Signed: Ian Watson Uniform Ref Number: 22/09725/PREAPM
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Trading name of business and Address: Alberts Schloss, 20-24 Shaftesbury Avenue, W1D 7EU Reference Number if Applicable: 22/09725/PREAPM
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Licence: Yes 22/04957/LIPDPS	Applicant/Solicitor: Lisa Sharky Poppleston Allen	Cumulative Impact Zone: Yes
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Proposed Type of Business: Live Entertainment with performance stage and restaurant Proposed Licensed Areas: Ground Floor and Sub-Basement Current Activities: Sale of Alcohol, Late Night Refreshment and Regulated Entertainment. Current Hours: Monday to Saturday 10.00 to 03.00 hours and Sunday 12.00 to 22.30 hours.
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Pre application advice purpose: To consider various applications to permit a new operation within an existing licensed premises. The current issued licence will be transferred, licensed areas changed and operational conditions updated within the West End Cumulative Impact Zone. Propose conditions with regard to the ancillary nature of the alcohol and advise on technical suitability and policy implications in advance of the appropriate applications.

Issues discussed and actions taken:

Inspection carried out by Ian Watson (Environmental Health – EH) and Alan Lynagh (District Surveyor) to fully assess the existing premises. The findings are detailed below.

District Surveyor Comments

Means of Escape

Ground Floor

The ground floor exit provision is proposed to be a main entrance/exit measuring approximately 2000mm and an alternative exit measuring 900mm. Discounting the largest exit would generally mean the ground floor capacity would be circa 100-110 persons based on the remaining 900mm exit. The floor space calculations for the ground floor equate to approximately 104 persons based on the seating layout. We would recommend the applicant confirms the desired occupancy level at this floor for confirmation. If the client uses a BS9999 approach to the means of escape calculation it is likely the ground floor could accommodate up to 143 persons, which is also likely to be acceptable assuming there would be some standing occupancy at busiest times.

Sub-Basement

The sub-basement appears to have 5 designated exits (this is discounting the accommodation staircases back up to the ground floor). In addition, two of these routes appear to deliver back to the same staircase. All exits appear to be 1200mm wide with one at 1300mm wide. Discounting the largest and assuming a single flow at the staircase for the two storey exits that share a staircase the capacity would be $3 \times 240 = 720$ persons based on exit provision. If the applicant seeks a higher figure then this should be confirmed so that additional advice can be provided.

The current floor layout supports 132 persons on the banquette/bench seating at 0.45m per person and 153 additional loose seats. Utilising a floor space factor of 0.3msq per person within 2m of the bar areas and discounting any seats in these areas, as it is assumed this would be the most dense use this equates to 288 persons in this area. This is 573 people overall. However, this does not then account for general standing in other parts of the sub-basement. It is therefore likely that this would support at least another 100 people so we would recommend that a capacity of circa 650 is acceptable for the sub-basement on floor space. If the applicant confirms the proposed sub-basement capacity they are seeking operationally we can confirm acceptance.

Access for Persons with Reduced Mobility

We would request that a suitable method statement is in place detailing the access/egress arrangements for persons with reduced mobility and that suitable evacuation chairs are in place as well as suitable staff training arrangements.

General

- **Doors** – All doors should be in line with the fire strategy requirements with regard to widths. To clarify the width of a doorway is the clear width measured between the leaves (or, if a single door, the leaf and the frame or doorstop) of the doors when open at right angles to the frame. Door hardware may be ignored if the door opens more than 90 degrees to the frame. Doorways should be not less than 2060mm high except that the height may be reduced to 1960mm in existing buildings. Curtains or drapes should generally not be hung across doors or escape routes within any of the licensable areas as this could impede any evacuation.
- **Double Swing Doors and Doors Across Corridors** - Double swing doors, doors across corridors and doors that may cause an obstruction should be fitted with safety glass vision panels with zones of visibility between 500mm and 1500mm from the floor. Fire resisting safety glass panels should be fitted in fire doors to the same level of fire resistance as the door itself.
- **Thresholds** - No door should open immediately over or onto a step. A single step on the line of a doorway is not acceptable. A landing at least as wide as the door and at least as long as the width of the door plus 400mm, should be provided between the door and the first step of any stair. There should be no upstand or threshold bar across any doorway or escape route, other than a chamfered weather bar or threshold seal for sound insulation protruding a

maximum of 6mm and arranged so as not to cause a trip hazard.

- **Door fastenings** - All exit doors should be free from fastenings when public, entertainers or staff are present or have fastenings that may be readily opened in emergency without using both hands or a key to open the door. Note 1: This does not preclude the use of a key to open the door from the outside. Note 2: Any removable devices, such as locks, bolts, chains or padlocks, used to improve security must be removed before the premises are occupied. A door alarm system is preferable to removable security devices where possible. Where there may be more than 60 people, any fastenings on doors should be panic bolts or panic latches operated by push bars complying with *BS EN 1125*. If a room holds less than 60 people, push pads or lever handles complying with *BS EN 179* are acceptable. The use of latches operated by lever handles should be avoided in public areas. Round knobs should not be used as they could be difficult to operate. Any door furniture should be fitted between 800mm and 1200mm above floor level and should provide visual contrast with the surface of the doors. To avoid confusion push plates should usually be fitted for pushing doors and handles to pull doors.
- **Guarding and Barriers** - Any platforms, temporary or otherwise over 380mm high to which the public have access should be provided with suitable guarding. All staircases should be provided with suitable handrails 800mm above pitch line of stairs.
- **Electrical Installations** - The electrical installation including the lighting installation, both normal and emergency, should comply with British Standard 7671. It should be shown to be safe and adequate before the premises operate under their license. Electrical sockets located in performance areas should be protected by residual current devices (RCDs) of 30 milliamps/30 milliseconds sensitivity complying with BS 4293. Particular reference is drawn to the proposed units where the public interact (viewing boxes etc).
- **Temporary electrical installations** – All temporary electrical wiring and distribution systems for any installations used within the premises for events should comply with the recommendations of BS 7671 or where applicable BS 7909. Where they have not been installed by a competent person, temporary electrical wiring and distribution systems should be inspected and certified by a competent person before they are put to use.
- **Lighting** – The premises should have an adequate supply of both normal and emergency and each system should be sufficient to enable the public, performers and staff to see their way to move around the premises safely and to escape from the premises. Particular attention is drawn to the staircases, other changes of level and key staff locations such as fire alarm panels. Adequate emergency lighting in addition to sufficient normal lighting should be provided so that all parts of the premises including toilets and internal and external exit routes leading to the street are illuminated.
All emergency lighting should comply with BS 5266: Parts, 1, 7 & 8. Both supplies of lighting should be independently capable of providing the recommended minimum illuminance. However, whilst both normal and emergency supplies are functioning properly, either or both supplies may operate at a reduced level so long as the minimum recommended illuminance is

provided. In the event of the failure of either supply the remaining supply should be automatically restored to full illuminance. The lighting and emergency lighting circuits should not normally be switched off by the operation of any RCD. The lighting should be operated by an automatic switching system or remain on when the public are present. Light switches should preferably not be installed in public areas such as the event space but if so installed should be key-operated or otherwise protected from unauthorised operation.

Maintained emergency lighting (that is operating whenever the premises are occupied) should be installed where the normal lighting may be dimmed. Where non-maintained emergency lighting is installed, it should come into operation on the failure of the local normal lighting circuit forming part of the normal lighting. Consideration therefore needs to be given to how the event spaces will be operated in the future and which system will be more appropriate. Lighting fittings should be fixed at least 2100mm above floor level or pitch line of stairs. Suspended fittings, other than small lamp pendants, should be provided with suitable means of suspension independent of the electric cable. Heavy fittings should be rigidly fixed or be provided with two non-combustible independent means of suspension.

- **Exit Signage** – All exit routes should be suitably signed, with particular attention is drawn to the need for signage throughout the licensed areas.

Licensing Policy

The premises currently benefits from a premises licence 22/04957/LIPDPS that permits the supply of alcohol Monday to Saturday 10.00 – 03.00 hours and Sunday 12.00 – 22.30 hours with entertainment to the same terminal hour. The current permitted capacity is 620 persons with a proposal to increase this to a maximum of 700 persons.

The licence is conditioned at 18 (c) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.

The premises are located within the West End Cumulative Impact zone and therefore any changes to the layout or capacity must not impact on the licensing policy or the licensing objectives.

The current policy considerations would be **CIP1, MD1, CD1, PS1, PN1 and CH1**.

Cumulative Impact Policy CIP1 A states,

It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment.

Music and Dance Premises Policy MD1 B states,

B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:

1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1, and/or,
2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.

It is therefore advised that the conditioned style of operation needs to change from being music and

dancing led to entertainment led.

This would then change the policy consideration to policy CCSOS1 Cinemas, Cultural Venues, Live Sporting Premises and Outdoor Spaces.

Policy CCSOS1 states at B

B. Applications inside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
 2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
 3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
 4. The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
 5. The applicant has clearly demonstrated that the sale by retail of alcohol and late-night refreshment will be ancillary to the venue's primary function as a cinema, cultural venue, live sporting premises or outdoor space.
 6. The sale by retail of alcohol and/or late-night refreshment after 11pm is limited to customer, patrons or members of the audience who will or have made use of the primary function of the venue as a cinema, cultural venue or live sporting premises.
 7. The application and operation of the venue meeting the definition for a cinema, cultural venue, live sporting premises or outdoor space as per Clause C2
- The definition of a cultural venue is given at clause C

C2. Cultural Venues

- a. Theatres: for the performance of plays, dramatic or other entertainment performances to an audience.
- b. Performance Venues: for a live performance in front of an audience which may include concert halls, comedy clubs or similar performances venues.
- c. Cultural Uses: for the exhibition of art (e.g. galleries), a museum, or historical building/site that is open for visitors to visit on payment.

Therefore, the style of entertainment of both live music and stage performances should be included in any application pack.

Policy F8 states

F8. The council welcomes the vital contribution that cinemas, cultural venues and live sporting premises make in providing the diverse culture and entertainment that attracts people of all ages into Westminster and maintains its status as a world class city. The council as the Licensing Authority accepts that these types of uses are unlikely to be linked with crime and disorder, and generally have less impact on residents than other licensable activities. The substitution of these types of uses in the West End Cumulative Impact Zone in place of pubs, bars and alcohol-led music and dance venues will likely promote the licensing objectives.

Policy F10 makes it clear that the primary use must be that of a cultural venue and any licensable activities must remain ancillary to such premises.

F10. Applicants will be expected to demonstrate that the primary use of the premises will be as a cinema, cultural venue or live sporting premises as defined within this policy. Alcohol and late-night refreshment must be ancillary to the main use of the venue. This is to ensure that the venue will operate as a cinema, cultural venue or live sporting premises. Conditions may be attached to the premises licence to ensure that alcohol and late-night refreshment remain ancillary to the primary

purpose of the venue. This approach will ensure that the premises use does not change to a venue which is more drink led which is likely to have a detrimental impact on the Licensing Objectives

Policy COMB1 could be explored but the plans would need to show a defined restaurant area alongside the stage area etc...

It is therefore imperative that the proposed conditions strictly define the operation of the premises to ensure that there is no negative impact on the licensing objectives or within the west end cumulative impact zone.

Other policies that would apply are Core Hours Policy HRS1 and the licensing objectives, CD1, PS1, PN1 and CH1.

The provision of the supply of alcohol would not attract policy PB1 provided the supply of alcohol was ancillary to strictly defined entertainment. PB1 only applies if the premises are used exclusively or primarily for the supply of alcohol for consumption on those premises.

Licensing Position

I would advise that the process to obtaining a satisfactory licence is done in stages.

Stage 1. Transfer the existing licence 22/04957/LIPDPS to the new operator.

Stage 2. Landlord to apply for a 'shadow' licence of the transferred licence.

Stage 3. Full variation to change the licensed areas from the sub-basement and basement to ground floor and sub-basement. remove historic conditions including the capacity condition, update the conditions to full model conditions including a personal condition regarding the new operator and an ancillary entertainment condition. Full works conditions including a new capacity works condition with a set maximum capacity of 700 persons.

It may be possible to change the starting hours to 09.00 hours Monday to Sunday but I would advise just aligning the Sunday hour to 10.00 hours with a midnight terminal hour, but this is your call if you believe it would not impact the variation application.

A variation application will be made for the entertainment and areas required, in a premises that was historically alcohol led with music and dancing provided. The operation of the different areas of the premises will need to be considered in relation to the COMB1 policy.

It is advised that the supervision of queuing is considered as well as a phased dispersal of persons from the premises undertaken to minimise any nuisance and such dispersal shall form part of a comprehensive dispersal policy.

A works condition will be required to ensure public safety is not impacted. The additional people arriving and departing will need to be properly managed along with smokers to ensure no additional public nuisance is generated. A comprehensive and robust dispersal policy will need to be drawn up to minimise the impact of people leaving in the early hours.

Conditions

To address the licensing objectives with regard to the Licensing Policy and objectives the following conditions are proposed.

Two conditions are required to be drafted that personalise the licence to operate as Albert Schloss and redefine the operation as entertainment led rather than music and dancing led. The wording will need to be precise and enforceable.

- 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.
- A Challenge 21 or Challenge 25 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport or proof of age card with the PASS Hologram.
- No open containers of drink shall be allowed outside the premises and there shall be no consumption of drink directly outside the premises.
- 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 and will include the external area immediately outside the premises entrance. 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.
- 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.
- 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 regarding crime disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service.
- The premises licence holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day they start their employment.
- From 21.00 hours on Thursday, Friday and Saturday, a minimum of six SIA licensed door supervisors shall be on duty at the entrance of the premises at all times whilst it is open for business, and they must correctly display their SIA licence(s) when on duty so as to be visible. At all other times, the requirement for SIA licensed door supervisors shall be risk-assessed.

- The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day.
- 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.
- Loudspeakers shall not be located in the entrance lobby or outside the premise building.
- 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.
- 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.
- There shall be no sales of alcohol for consumption 'Off' the premises after 23:00 hours each day.
- There shall be no sales of hot food or hot drink for consumption off the premises after 23:00 hours each day.
- 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.
- 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.
- The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
- All windows and external doors shall be kept closed after 23:00 hours each day, except for the immediate access and egress of persons.
- The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
- Notices shall be prominently displayed at all exits requesting patrons to respect the needs of the local residents and businesses and leave the area quietly.

- Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the need of local residents and use the area quietly.
- The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
- 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 and shall be limited to a maximum of 35 persons at any one time.
- 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.
- No collection of waste or recycling materials (including bottle) from the premises shall take place between 23:00 and 07:00 hours on the following day.
- No deliveries to the premises shall take place between 23:00 and 07:00 hours on the following day.
- All waste if to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- 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.
- 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.
- All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
- All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
- The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
- Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
- The premises will implement a comprehensive dispersal policy and all relevant staff will be trained in its implementation. The Policy will be reviewed regularly and whenever the Licensee becomes aware of issues associated with dispersal.
- No licensable activities shall take place 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.

- 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. Such capacity shall not exceed 700 persons (excluding staff).
- Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

Consider

- MC58 No person on behalf of the premises or on behalf of a person carrying or attempting to carry on a licensable activity shall cause, permit, employ or allow, directly or indirectly, whether on payment or otherwise, any person(s) to importune, solicit or tout members of the public on any public highway within the specified area outlined below for the purpose of bringing customers to the premises. The distribution of leaflets or similar promotional material is also prohibited within the specified area.

For the purpose of this condition: 'Directly' means - employ, have control of or instruct.

'Indirectly' means - allowing / permitting the service of or through a third party.

'Specified' Area' means - the area encompassed within (insert name of boundary roads.)

- There shall be a minimum of xxx seats provided within the premises at all times that licensable activity is provided.

I don't know if you would want to add the provision of plays and films onto the licence. This would depend on whether your client utilises these activities at their other premises.

Conclusion

Any application to vary the current licence without changing the conditioned style of operation would be a policy refusal. The variation application will need to change by condition the operation to entertainment led and personalise the operation to Albert Schloss to gain confidence of the licensing authority.

A raft of new model conditions address the licensing objectives to minimise the impact on the surrounding area and the cumulative impact zone in particular. The applicant will need to demonstrate that any application variation will not make the premises drinks led. The entertainment must be the predominant factor people are attending the premises. Additional conditions may need to be considered once any representation has been received.

As part of the application process it is advised that the other responsible authorities will also need to assess the proposals and may wish to make additional comments.

Please note that any advice given will not guarantee that your application will be granted by the Licensing Service and the Environmental Health Consultation Team may still choose to make a representation to the application submitted.

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 22/07/2013

Before :

MR JUSTICE TURNER

Between :

EXTREME OYSTER	<u>1st Claimant</u>
STAR OYSTER LTD	<u>2nd Claimant</u>
- and -	
GUILDFORD BOROUGH COUNCIL	<u>Defendant</u>

James Rankin for the **1st and 2nd Claimants**

James Findlay QC (instructed by **Bridget Peplow of Guildford BC**) for the **Defendant**

Judgment

Mr Justice Turner :

Introduction

1. The second claimant, Star Oyster Ltd (“Star”), is the freehold owner of two nightclub premises in Guildford: the “Casino and Players Lounge” and “Bar Mambo”. Both premises are covered by licences granted in respect of “licensable activities” under the Licensing Act 2003. The tenant of the clubs, and holder of these licences, is Luminar Leisure Limited (“Luminar”). The two club premises, although presently run as distinct undertakings, are housed within the same building.
2. The first claimant, Extreme Oyster Ltd (“Extreme”) is the trading company of Star. Extreme ran Bar Mambo prior to Luminar taking over on 13th May 2012. Extreme continues to be an active trading company employing staff and receiving income from the rental of the premises from Star. It pays all of Star’s running costs and expenses.
3. On 2 May 2012, the claimants applied to the defendant, Guildford Borough Council (“Guildford”) for “shadow” licences in respect of these two premises and areas within them. The term shadow licence is not defined in either statute or regulations but is a convenient shorthand way of describing a licence which has been obtained by one party in respect of premises in relation to which another licence (to which I propose to refer as the “primary licence”) has already been granted to someone else. In short, the claimants wished, for commercial reasons, to have the benefit of licences operating in parallel to those held by Luminar.

4. Guildford refused the claimant's applications on the basis that they had failed to satisfy the terms of Section 16 of the 2003 Act compliance with which is a pre-condition of the consideration of any application for a premises licence. The claimants now seek to challenge the legality of this decision by way of judicial review.

The disputes

5. Guildford accepts that circumstances may arise in which a shadow licence can lawfully be granted but contends that such circumstances do not arise on the facts of this case. Of more generic importance is the question as to just how wide is the category of applicants which the law permits to apply for such a licence. The claimants advocate a broad approach; Guildford a narrow one.
6. Further issues fall to be addressed. The first pertains to the lawfulness of the process by which Guildford purported to reject the application. The decision had been purportedly delegated to Mr Curtis-Botting, the defendant's Licensing Services Manager. The claimants contend that this delegation was unlawful and that any decision should have been taken by the licensing sub-committee. The second issue relates to Guildford's refusal to return to the claimants the fees which they had paid in respect of the failed applications.
7. An unhappy aspect of this case is what could be described, perhaps euphemistically, as a lack of empathy between Mr Michael Harper, the owner of Star, and Mr Curtis-Botting. This case is not, however, about personalities and, although I have read with care the evidence relating to the background history, I must remind myself that there are no express allegations of bias, in the legal sense, against Mr Curtis-Botting and that his decisions must stand or fall on their own merits.

Shadow licences – the legal background

8. Under betting legislation, it was (and still is) only ever permissible for there to be one licence at any one time in respect of any given set of premises. Section 152(1)(b) of the Gambling Act 2005 provides:

“152 (1) A premises licence—

... (b) may not be issued in respect of premises if a premises licence already has effect in relation to the premises...”

9. The position under the Licensing Act 2003 is, however, less strict and allows for the existence of more than one licence in respect of the same premises. Section 2 of the Act provides:

“Authorisation for licensable activities and qualifying club activities

(1) A licensable activity may be carried on—

(a) under and in accordance with a premises licence (see Part 3), or

(b) in circumstances where the activity is a permitted temporary activity by virtue of Part 5.

(2) A qualifying club activity may be carried on under and in accordance with a club premises certificate (see Part 4).

(3) Nothing in this Act prevents two or more authorisations having effect concurrently in respect of the whole or a part of the same premises or in respect of the same person.”

10. The Department of Culture Media and Sport (“DCMS”) is required by section 182 of the 2003 Act to publish guidance indicating how the Act will be administered by the licensing sub-committees of the local authorities who now exercise the relevant jurisdiction over the grant, refusal, variation and review of licences for premises that offer regulated entertainment and licensable activities.

11. Section 4 (3) of the 2003 Act provides:

“4 General duties of licensing authorities Th

(3) In carrying out its licensing functions, a licensing authority must also have regard to

... (b) any guidance issued by the Secretary of State under section 182.”

12. The applicable DCMS guidance provides at paragraph 8.19:

“...There is nothing in the 2003 Act which prevents an application being made for a premises licence at premises where a premises licence is already held”.

13. Nevertheless, an applicant for a licence must qualify under one or more of the gateway criteria imposed by section 16 of the 2003 Act (of which there are ten). Only the first of these is directly material to this application:

“16 Applicant for premises licence

(1) The following persons may apply for a premises licence—

(a) a person who carries on, or proposes to carry on, a business which involves the use of the premises for the licensable activities to which the application relates...”

The explanatory notes refer to this as the “principal category” in this section. However, they provide no further guidance as to its interpretation.

14. Paterson’s Licensing Acts provides the following commentary on section 16 at paragraph 1.321:

“Who may apply?”

Whereas a justices' licence could be granted to any person whom the justices thought fit and proper, under the new legislation section 16 specifies a restricted list of persons who may apply for a premises licence. The most common applicant will be *'a person who carries on, or proposes to carry on, a business which involves the use of the premises for the licensable activities ...'* It is suggested that the use of the term *'involves'* might denote a broad range of businesses including that of a landlord receiving a rent from a premises being used for such a purpose (this interpretation cited and approved by the district judge and subsequently Richards L.J. at para 24 of his judgment in Hall & Woodhouse Ltd v Poole Borough Council) as well as an owner of such a business, a local authority, the holder of a franchise or a tenant..."

And at paragraph 1.3515 footnote 3:

"...Quaere whether e.g. a developer of a site who intends to construct premises to be used for the sale of alcohol would be able to apply. It could be argued the business involvement in the use of the licensed premises is too remote. This could be an issue for developers who have historically put licences in place at an early stage in a project, albeit often only on an outline basis under s 6(5) of the Licensing Act 1964. For those persons the procedure afforded by the Licensing Act 2003 (which also presents difficulties) might be the more appropriate route. For a case which raised similar issues arising under the Gambling Act 2005 see Betting Shop Services Ltd v Southend-on-Sea Borough Council [2007] EWHC 105 (Admin)...In that instance it was held that Guidance published by the Gambling Commission dealing with the point was inconsistent with the true construction of the Act. Where the applicant fulfilled the other statutory criteria, an application for a premises licence might be granted in respect of premises not yet ready for gambling (in that they had not been fully constructed or were to be altered). The claimant had met the relevant statutory criteria for its application and the authority was therefore obliged to consider it."

15. The case of Hall, to which Paterson refers, involved a criminal prosecution under section 136(1)(a) of the 2003 Act. The appellant, Hall & Woodhouse Limited ("Hall"), was the owner of the Stepping Stones public house in Poole. It let the premises to one Cartlidge under a tenancy agreement. He, in turn, employed one Ferguson to be the manager and designated premises supervisor. Hall had obtained the relevant premises licence.
16. In the early months of 2007, it became clear that those responsible for running the Stepping Stones were ignoring the terms of the licence in a number of respects. In particular, they were serving drinks after hours and failing to maintain adequate protection against the risk of fire.

17. Charges were brought against Cartlidge and Ferguson under section 136 (1) of the 2003 Act alleging that they had knowingly allowed a licensable activity to be carried on at the public house otherwise than under and in accordance with an authorisation. They duly pleaded guilty.
18. Hall was also prosecuted on the basis that, in the words of the section, it “had carried on...a licensable activity on...premises otherwise than under and in accordance with an authorisation...”.
19. When the matter came before the District Judge, he applied the following reasoning:

“(1) Section 16 of the Licensing Act specifies a restricted list of persons who may apply for a premises licence. The only basis on which the appellant could apply was as a person who carries on or proposes to carry on a business which involves use of a premises for licensable activities to which the application relates; (2) I am satisfied that use of the term “involves” denotes a broad range of business including that of a landlord receiving rent from premises being used for such purpose as in this case; (3) In making the application for the licence, the appellant must have considered itself to be carrying on a business which involves use of premises for licensable activities; (4) The grant of premises licences and enforcement of any conditions in them are fundamental to the licensing system and enforcement of it. To find otherwise would be to undermine the whole basis of the licensing regime and to negate the effect of the offences in section 136(1) .”
20. There is a due diligence defence under section 139 upon which Hall did not rely. In consequence, the District Judge convicted. Hall appealed to the Divisional Court.
21. The Divisional Court held that section 136 (1)(a) is directed at persons who *as a matter of fact* actually carry on or attempt to carry on a licensable activity on or from premises. Being a licence holder does not make a person automatically liable in respect of licensable activities carried on or from the premises.
22. One of the arguments rejected by the Divisional Court was that the language of section 136 should be equated with that of section 16. The prosecution had contended that a licence holder who applies for a premises licence will only qualify under the relevant part of section 16(1)(a) if he is a person carrying on a licensable activity. From this, it would have followed that passing through this section 16 gateway would automatically mean that the successful applicant was to be taken, for the purposes of section 136, to be carrying on the activity thereafter. Richards L.J. considered this argument to be fundamentally misconceived. He held:

“24 Under section 16(1)(a) an application for a premises licence may be made by “a person who carries on, or proposes to carry on, *a business which involves the use of the premises for the licensable activities* to which the application relates” (emphasis added). Carrying on such a business is self-evidently different from carrying on the licensable activities themselves,

and the fact that a person's actual or proposed business involves the use of the premises for licensable activities does not mean that he necessarily carries on the licensable activities themselves at the premises for which the licence is granted. The commentary on section 16 in *Paterson's Licensing Acts*, 117th ed (2009), para 1.3515 states, at note 3:

“It is suggested that the use of the term ‘involves’ might denote a broad range of businesses including that of a landlord receiving a rent from a premises being used for such a purpose, an owner of such a business, a local authority, the holder of a franchise or a tenant.”

“I agree that the statutory expression is broad enough to cover the case where a freehold owner carries on the business of letting premises to tenants on the basis that the tenant will carry on licensable activities at the premises. But the landlord's business in such a case is, in principle, distinct from the activities carried on by the tenant, and I regard it as a complete fallacy to merge the two elements together and to treat the landlord as automatically carrying on the licensable activities at the premises.

25 I should note that the June 2007 revised guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 states, at para 8.20, that in the case of public houses it would be easier for a tenant to demonstrate that it has carried on a business within section 16(1)(a) than it would be for a pub-owning company that does not itself carry on licensable activities. That may or may not be so. The language used in that paragraph might be thought to support my construction of section 136(1)(a) , but in any event what is said in the guidance does not affect the view I have expressed about the meaning and effect of section 16(1)(a) or the distinction to be drawn between that provision and section 136(1)(a) . I expressly reject Mr Light's submission that the premise of the legislation is that the person granted a premises licence is himself necessarily carrying on such licensable activities as are carried on on or from the premises to which the licence relates.

26 It is, of course, possible for a landlord to carry on a licensable activity at premises notwithstanding that the premises have been let and notwithstanding the existence of the landlord/tenant relationship, but whether he does so or whether, as an alternative possibility, he knowingly allows a licensable activity to be carried on at the premises has to be determined as a question of fact. Nor do I see how the mere inclusion in the tenancy agreement of obligations aimed at ensuring that the premises are managed properly and in compliance with the Act

could *of itself* warrant the finding that licensable activities carried on there are carried on by the landlord.”

The factual background

23. The licence applications to which this claim relates are eight in number. Four were made by Star and four by Extreme. Between them they covered different permutations of the physical extent of the premises to which they were intended to apply. Those numbered 92057 and 105889 were, for reasons which will be examined later in this judgment, to assume particular prominence during the course of oral submissions.
24. Three of the eight applications were listed to be heard by the licensing sub-committee. The first of these hearings was to take place at 2pm on Tuesday 24 July 2012.
25. However, by email sent at about 5pm on Thursday 19 July 2012, one Sophie Butcher, Committee Member for Legal and Democratic Services, wrote to Star’s solicitors to say that the hearings had been “cancelled” on the basis that the applications did not comply with section 16 of the Licensing Act 2003. In addition no further arrangements were to be made to convene hearings in respect of the other outstanding applications. Full and detailed reasoning was promised for the following Monday. During the course of submissions, I elicited from counsel for the defendant that the decision upon which this mail was based had earlier been reached, but not contemporaneously recorded, by Mr Curtis-Botting.
26. This mail prompted a response from Star’s solicitors expressing surprise and dismay at the decision and pointing out that, since the decision had not been taken by the sub committee, there was no statutory right of appeal and thus the only route of legal challenge would be by way of judicial review.
27. On 23 July, the promised letter containing the defendant’s reasons was sent by one Mr Gerrard, Interim Head of Legal and Democratic Services. With respect to the legal position, having set out the terms of section 16(1)(a), it said:

“The Licensing Authority’s view is that none of the above companies now fall within this definition. Luminar Group Limited are carrying on the licensable activities. Whilst the case of [Hall] indicated that a landlord could fall within the definition by virtue of carrying on a business of collecting rent, this only applies if the landlord applies for a licence in respect of the licensable activities carried on by the tenant. In the case of the above applications, they are in respect of a business which would be carried on by the companies themselves and do not relate to Luminar Group Ltd’s licensable activities.”

28. The letter went on to say :

“The Licensing Authority have (sic.) considered whether the above companies can fall within the definition of proposing to carry on a business. On the facts of this case, it is not considered that they can. It will be 5 years before the lease comes to an end. If the 3 year break clause is invoked the

premises will have to be redeveloped, in which case further licence applications would be required in any event. Counsel's view is that any plans that the companies may have to carry out licensable activities in the future are at most a consideration of a proposal and do not fall within section 16(1)(a)."

Terminology

29. The defendant takes issue with the use of the term "shadow" licence and challenges the claimant's assertion that such arrangements are and were commonplace. Ultimately, however, so long as the term shadow licence is treated as being no more than a convenient label, and not one to be accorded any special legal status, then I see no harm in using it. This is particularly so in the light of the fact that the claimants do not contend that every shadow licence application will automatically comply with section 16(1)(a) and the defendants do not contend that every shadow licence will automatically fall foul of it. Each case will fall to be decided on its own facts.

Interpretation of section 16(1)(a)

30. In the Hall case, the court was not dealing with circumstances in which it was proposed that two premises licences would be held by two persons in respect of the same premises. In the instant case, there was disagreement between counsel as to whether or not applications for shadow licences had now become standard practice within the industry. In the event, I do not find that this is an issue which it is necessary to resolve. Orthodoxy is no more proof of legality than novelty is of illegality.
31. Despite the strongly opposed position of the parties on a number of issues, there were, nevertheless, some areas of agreement between the parties. In particular, counsel for the defendant, Mr Findlay Q.C. conceded, importantly, that the defendant could not legitimately have found that Star, as landlord, was precluded by section 16(1)(a) from making an application for, what he described as, a "mirror" licence. Such a licence, he explained, is a licence in identical terms to the primary licence insofar as it relates to the "licensable activities" covered by the latter. His concession was based on the approach of Richards L.J. in Hall.
32. Of the eight applications which are the subject matter of this case, it is applications 92057 and 105889 made by Star (to which I have already made passing reference) which were the most closely equivalent in scope and content to the existing licences held by Luminar. They related to the "Mambo" and "Casino and Players Lounge" premises respectively. Counsel for the defendant conceded that, if the claimants' applications had related to exactly the same activities in scope and form in respect of premises exactly as delineated in the Luminar licences, then the section 16 gateway would have been open to the claimants and Guildford could have had no legitimate basis upon which to refuse to proceed to determine the applications on their substantive merits.
33. However, Mr Findlay went on to assert that the defendant was entitled to reject the applications because of differences between the activities to which the shadow applications related and those covered by the primary licences.

34. When, in response to these submissions, I enquired just what these differences actually were, Mr Findlay was unable to provide me with a full answer. I, therefore, permitted him a short adjournment to find out the answer from Mr Curtis-Botting who was in attendance at the hearing. Copies of the Luminar licences for comparison were not immediately to hand, not having been included in the trial bundle.
35. After the adjournment, Mr Findlay identified the following differences between the terms of the primary licence and the proposed terms of the shadow licences:
- i) Application 92057 provided for the showing of films not suitable for children and for tableside and show dancing. The corresponding Luminar licence did not. Star's application also purported to cover a small and roughly square area which, although falling within the footprint of both premises as a whole, had not been included in the equivalent Luminar licence. In all other particulars the activities were identical as, indeed, were the operating times.
 - ii) Star's application 105889 was different to its Luminar counterpart to the extent that there was no specific provision for door supervisors and there were differences in relation to the permitted scope of lap dancing activities and the provision of CCTV surveillance. Upon enquiry as to the actual nature and extent of the differences relating to lap dancing and CCTV, Mr Findlay was unable to offer further assistance and said that he would be prepared to base his case on this issue with reference to the provision of doormen alone.
36. Of the differences relied upon, it must be said that none of them had ever been referred to in any communication written or oral from the defendant to the claimants. None of them was mentioned in Mr Curtis-Botting's witness statement, a document not otherwise short on detail. Furthermore each and every one of them could have been addressed at the sub-committee hearings which had been listed and the sub-committee would have been able (had it considered it to be necessary for the promotion of the licensing objectives in the light of material representations) to impose conditions which would have removed or mitigated these differences.
37. Mr Findlay assured me that, despite all of the above, Mr Curtis-Botting had, indeed, considered these very factors in reaching his decision. I accepted this assurance.
38. I then enquired of Mr Findlay whether his case was that an application for a shadow licence must fail under section 16(1)(a) unless the licensable activities identified therein were identical in every single respect to those contained in the primary licence. This was the stance which he initially adopted but, thereafter, he conceded that not every difference no matter how small would have this effect and argued that the differences had to be "material". Even accepting that Mr Curtis-Botting had applied his mind to these differences, there was no evidence as to which of them he had considered to be "material" or upon what basis.
39. I was and remain concerned that Mr Curtis-Botting made a mere mental note of these limited discrepancies and, thereafter, peremptorily cancelled (or refused any further consideration of) these applications without ever volunteering which discrepancies he had identified. I am not persuaded by the argument that the nature of the discrepancies was not communicated to the claimants because their challenge by way of judicial review was insufficiently focussed and that this justified Guildford's silence on the

point. It will be recalled that the letter of 23 July 2012, which Guildford had said in the earlier email would contain “full and detailed reasoning”, dealt with the point in the following way:

[The case of Hall] “...only applies if the landlord applies for a licence in respect of the licensable activities carried on by the tenant. In the case of the above applications, they are in respect of a business which would be carried on by the companies themselves and do not relate to Luminar Group Ltd’s licensable activities.”

40. A reasonable interpretation of this passage would, in my view, have been that Guildford’s objection was not that there was a material difference between the licensable activities referred to in the claimant’s applications and those contained in the primary licence but that the shadow licence applications related to free standing activities which were within the claimants’ contemplation to carry out themselves and not through mere involvement in a business carried out by Luminar. In other words, the objectionable factor was that, in order to comply with section 16(1)(a), the claimants’ applications should have been entirely parasitic upon the activities of Luminar and should not have reflected any future contemplated activities of the claimants themselves. However, this objection, if valid, would have applied equally to an application drafted in terms identical to those of the primary licence and thus is inconsistent with the concession made by Mr Findlay in his submissions. Nevertheless, despite any perceived contrast between the wording of the letter and the submissions now relied upon by Guildford, I approach the determination of the issue *de bene esse* as if the letter articulated unambiguously the same analysis as that upon which it now relies.
41. Ultimately, the resolution of this issue depends upon the interpretation of the words “the licensable activities to which the application relates” in section 16(1)(a) of the Act. The narrow interpretation favoured by Guildford is that such licensable activities should be materially identical in content to the primary licence with specific reference to the scope of the plan and operating schedule which must accompany the shadow application.
42. Guildford advances three specific policy bases in support of its approach. It contends:
 - (a) Section 16 does not provide for a free for all. In restricting the pool of possible applicants Parliament clearly considered there was benefit in so doing.
 - (b) Numerous licences make enforcement more difficult. Clarity of responsibility is important as noted by the current Guidance at paragraph 8.17.
 - (c) Unrestricted applications place an undue burden on licensing authorities.
43. Contention (a) does not, in my view, advance Guildford’s case. No one suggests that section 16 provides a “free for all”. It is self-evident that Parliament would not have imposed the section 16 gateways unless it considered that some benefit would thereby be achieved. This, however, begs the question as to where the line is to be drawn. The existence of the line cannot, of itself, determine its position.

44. Contentions (b) and (c), on the other hand, relating to difficulties in enforcing multiple licences and the burden of dealing with them, are not without some weight. Nevertheless, this weight is not sufficient, in my view, to preclude a broad interpretation of section 16(1). The potential deleterious consequences must be balanced against the following factors:
- i) The holder of a premises licence is under duties imposed by section 57 of the Licensing Act 2003 (breach of any one of which is an offence) in respect of keeping, displaying and producing such a licence. These obligations apply equally to holders of a shadow licence. There is, therefore, a level of well defined statutory control over the risk of confusion arising over the existence and parameters of any given licence. I accept that this does not remove all risk that, in any given case, the position may be less clear than if only one licence holder were permitted but the position is, at least, mitigated by the formalities of section 57 and, if the risk of confusion were to be prioritised as a factor in the threshold test, Parliament could have made express provision for this in the wording of the statute. It did not.
 - ii) The broader interpretation of section 16(1) continues to preserve the important control measure that any given applicant must demonstrate a sufficient nexus between its business and the relevant licensable activities. Accordingly, those operating businesses with a more tenuous link, such as developers, may well be excluded from using this gateway. Borderline cases will have to be decided on their own facts.
 - iii) A further disincentive to the making of multiple applications is that a fee is payable in respect of each of them. In this case the level of fee was £625 per application.
 - iv) Situations may arise, in any event, in which one set of premises is covered by a number of licences. Even on a narrow approach, a multiplicity of licences is not precluded in respect of any given premises. Simply by limiting applications in relation to existing businesses where the licensable activities are virtually identical to those already carried on will not obviously achieve a substantial reduction in the number of multiple applications made.
45. On the other hand, there are a number of factors which provide support for a broader interpretative approach.
46. Firstly, the Licensing Act 2003 was not intended to support a regime based on a narrow and restrictive approach to licensing. As Black J. observed in R (Daniel Thwaites plc) v Wirral Borough Magistrates' Court and Others [2008] EWHC 838 (Admin) at para. 13:

“The Licensing Act 2003 was intended to provide a ‘more efficient’ ‘more responsive’ and ‘flexible’ system of licensing which did not interfere unnecessarily. It aimed to give business greater freedom and flexibility to meet the expectations of customers and to provide greater choice for consumers whilst protecting local residents from disturbance and anti-social behaviour.”

And at para. 42:

“... the Act anticipates that a ‘light touch bureaucracy’ (a phrase used in para 5.99 of the Guidance) will be applied to the grant and variation of premises licences.”

A wider approach to the interpretation of section 16(1)(a) facilitates these policy aims. The narrow one advocated by the defendant does not.

47. Secondly, the applicant for a shadow licence may have very good and perfectly legitimate business, or other, reasons to include some details of the relevant licensable activity not included in the original primary licence. The automatic exclusion of such applications from further consideration under section 16(1)(a) would celebrate the triumph of bureaucracy over common sense.
48. Thirdly, if, in any given case, there were sound policy reasons for taking issue with any differences between the terms of the shadow application and those contained in the primary application, then these could be considered at the hearing and dealt with on their merits based upon an assessment of what would be necessary for the promotion of the licensing objectives in the light of representations made. It is far better that the proper control mechanism for such applications should involve the considered application of policy rather than the operation of a mechanistically applied threshold condition. Any frivolous, vexatious or repetitious applications could always be dealt with by way of delegation to a single officer and, in obvious cases, be disposed of in a proportionately summary fashion.
49. Fourthly, if Parliament had wished to preclude the making of second or subsequent licence applications on anything but identical or near identical bases to those contained in first licences, then this could have been made clear in the Guidance. It was not.
50. Fifthly, section 17 of the 2003 Act treats the “relevant licensable activities” as enjoying a separate conceptual existence from, for example, “the times during which it is proposed that the relevant licensable activities are to take place”. It follows that “a business which involves the use of the premises for the licensable activities to which the application relates” does not cease to be such a business merely because the application relates, for example, to operating hours which are different from those covered by the primary licence. The licensable activities remain the same even when the times over which they are permitted do not.
51. There are provisions in the 2003 Act upon which Guildford rely which allow an owner to apply for the transfer of the original licence back from the tenant in the event of insolvency or surrender or because the tenant had given up occupation but these are circumscribed by time restraints and depend in part upon the cooperation of the tenant which may not always be forthcoming.
52. Having concluded that a narrow test is not appropriate, it is necessary to consider the parameters of a broader interpretation. In my view, the answer lies in the legislation itself. Section 1(1) of the 2003 Act categorises licensable activities thus:

“Licensable activities and qualifying club activities

1. For the purposes of this Act the following are licensable activities—

- (a) the sale by retail of alcohol,
- (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,
- (c) the provision of regulated entertainment, and
- (d) the provision of late night refreshment.

This categorisation provides a logical and straightforward basis upon which to apply section 16(1)(a).

53. Where the shadow application is limited to actual (as opposed to proposed) use, a sequential analysis would involve the following steps:
- i) Is the applicant a person who carries on a business? If not, he does not satisfy 16(1)(a) and the application must fail. If he does, then go to (ii).
 - ii) Does that business involve the use of the premises to which the application relates for licensed activities? If not, it does not satisfy 16(1)(a) and the application must fail. If it does, then go to (iii)
 - iii) Identify the categories of licensable activities as listed under section 1 of the 2003 Act for which the premises are used. Go on to (iv).
 - iv) Does the application relate to any category or categories of licensable activity not identified under (iii) above? If so, the applicant does not satisfy 16(1)(a) and the application must fail in so far as it purports to apply to those activities. If not, 16(1)(a) is satisfied.
54. It would follow that the landlord of a public house (the tenant of which held the primary licence to sell alcohol) would not be precluded from applying for a shadow licence also for the retail sale of alcohol even if, for example, the standard days and timings in the shadow application differed from those permitted under the primary licence. The category of licensable activity would remain the same. By way of contrary example, the shadow application could not, however, satisfy the requirements of sub-section 16(1)(a) if it were made in respect of regulated entertainment where the primary licence did not include provision for regulated entertainment. In such a case the applicant, in order to bring itself within the subsection, would have to demonstrate that it actually proposed to carry on a business at the premises which involved regulated entertainment.
55. Applying this approach to the circumstances of this case, it follows that the defendant was wrong to decide that section 16(1)(a) applied so as to exclude Application 105889 from further consideration. The differences relied upon did not relate to the categories of licensable activity but merely to details such as the provision of doormen and the like.

56. Application 92057 is different to the extent that the area covered in the shadow application is not co-terminous with that to which the primary licence relates. However, the discrepant area still falls within premises used by Star as landlord but is merely covered by a different primary licence held by Luminar.
57. In my view, it matters not for the purposes of the application of section 16(1)(a) whether the shadow licence application covers an area entirely co-incident with any given primary licence. So long as the extent of the shadow licence application does not stray beyond the parameters of the premises used by the applicant as a business and that the matching categories of licensable activities are carried out under the primary licences relating thereto then the threshold of section 16(1)(a) is surmounted.
58. Again, in the event that there were any legitimate policy concern over the proposed physical area of the premises covered by the shadow application, this could be addressed at the substantive hearing.
59. It therefore follows that the defendant was wrong to conclude that section 16(1)(a) precluded application 92057 from further consideration.
60. I would therefore order Guildford to proceed with these two applications on the basis that they pass through the section 16(1)(a) gateway.
61. With respect to the remaining Star applications, I quash Guildford's decisions and require it to approach the issue as to whether they qualify under section 16 afresh applying the law as I have ruled it to be.

Proposed carrying on of business

62. In case I am wrong about my interpretation of section 16 in so far as it relates to existing (rather than proposed) use, it is necessary to consider whether, even if Star could not bring itself into the category of carrying on a business within the scope of section 16(1)(a) it could still rely upon the assertion that it *proposed to carry on* a business which involved the use of the premises for the licensable activities to which the application related (to which, for ease of reference, I will refer as "the alternative limb").
63. Star contends that its intentions in respect of the future of its business at the premises were sufficient to comply with the alternative limb. These intentions were:
 - i) To protect Star in the event that its tenants went into liquidation or surrendered its licence, or was the subject of review proceedings.
 - ii) To protect Star in the event that its tenants failed to pay/were late paying their rent.
 - iii) In the event that Star gave its tenants notice to quit and retake possession pending redevelopment of the premises, to enable it to run the premises in the meantime.
 - iv) To enable Star to market the premises or parts of the premises should the tenants stay in possession for the full term.

64. Guildford rejects this approach and submits that “proposes” is a normal English word which should be given its normal meaning, subject to any special meaning that may be attributable to its particular statutory context.
65. Guildford contends that the approach of the Court of Appeal in Mainwaring v Trustees of Henry Smith’s Charity [1998] QB 1 at 18E, a case determined under the Landlord and Tenant Act 1987, is equally applicable to the Licensing Act 2003. Sir Thomas Bingham MR held:
- “It is in our view clear that the expression "proposes" describes a state of mind somewhere between mere consideration of a possible course of action at one extreme and a fixed and irrevocable determination to pursue that course of action at the other. As Lord Denning MR observed in Trustees of the Magdalen and Lasher Charity, Hastings and Others v Shelover (1968) 19 P & CR 389 at 392, contrasting different expressions to be found in the Landlord and Tenant Act 1954, "The word "proposes" is different from the word "intends". A man may propose to do a thing without having formed a fixed and settled intention to do it. "A "proposal" under the Act means that a project must have moved out of "the zone of contemplation ... into the valley of decision": Cunliffe v Goodman [1950] 2KB 237 at 254 per Asquith LJ.”
66. Star cautions against the suggestion that the interpretation of “proposes” in the policy context of the provisions of the Landlord and Tenant Act 1987 should be translated directly into the context of the Licensing Act 2003.
67. For my own part, I do not consider that there is anything in the quoted passage from Sir Thomas Bingham’s judgment in Mainwaring which could, in any event, be interpreted as giving the word “proposes” anything other than its ordinary English meaning. He certainly did not consider that it was necessary to give the word any purposive (let alone strained) interpretation to achieve a just determination of the cause before him. On the contrary, he concluded that, in the circumstances of that case, “it is impossible to feel any doubt”. He acknowledged, however, that “Cases could well arise in which it might be very doubtful whether a landlord's plans had hardened sufficiently to be regarded as a proposal...”
68. I resist the temptation to provide any further judicial gloss on the proper interpretation of the word “proposes”.
69. In this case, however, regardless of the proper interpretation of the word “proposes”, Mr Curtis-Botting made a mistake. When deciding whether Star was able to bring itself within the alternative limb he was under the mistaken impression that the lease contained a three year break clause when, in fact, it was a one year break clause. This, in my view, amounted to a material misdirection.
70. On this basis, I would have quashed his decision on the alternative limb in any event. I do not, however, find that a decision adverse to the claimants on this issue, had it been based on accurate primary facts, would automatically have been Wednesbury unreasonable. This is a court of review and not of appeal.

Extreme Oyster

71. The role of Extreme is referred to in paragraph 2 of this judgment. In summary, it receives income from the rental of the premises from Star. It pays all of Star's running costs and expenses.
72. Extreme is not, however, the landlord of the premises or any part of them and arguably operates at a further stage removed from the business which actually uses the premises for the licensable activities to which the application relates. This does not mean that Extreme's applications must automatically be excluded from consideration by the operation of section 16(1)(a) of the 2003 Act but it does mean that this is an issue upon which the decision maker and not the court should be the final arbiter (acting, of course, within the constraints of public law).
73. The reasons given in the decision letter for finding that Extreme did not satisfy the threshold criteria of section 16(1)(a) are flawed. The decision with respect to whether Extreme was carrying on a business which involved the use of the premises for the licensable activities to which the application relates (as articulated in Guildford's submissions to me) was wrongly based on the assumption that there had to be virtual equivalence between the scope of the activities actually carried out and those in respect of which the application was made. The decision on the alternative limb was also flawed by Mr Curtis-Botting's error relating to the timing of the break clause. The decisions relating to the Extreme applications are, therefore, quashed and must be considered afresh applying the law as I have held it to be.

Delegation

74. The decision to rule against all of the Claimants' applications was taken by Mr Curtis-Botting alone and not by the sub-committee. The powers of sub-delegation under the 2003 Act are contained within section 10 which provides:

“10 Sub-delegation of functions by licensing committee etc.

(1)A licensing committee may arrange for the discharge of any functions exercisable by it—

(a)by a sub-committee established by it, or

(b)subject to subsection (4), by an officer of the licensing authority.

(2)Where arrangements are made under subsection (1)(a), then, subject to subsections (4) and (5), the sub-committee may in turn arrange for the discharge of the function concerned by an officer of the licensing authority.

(3)Arrangements under subsection (1) or (2) may provide for more than one sub-committee or officer to discharge the same function concurrently.

(4)Arrangements may not be made under subsection (1) or (2) for the discharge by an officer of—

(a)any function under—

(i)section 18(3) (determination of application for premises licence where representations have been made),

(ii)section 31(3) (determination of application for provisional statement where representations have been made),

(iii)section 35(3) (determination of application for variation of premises licence where representations have been made),

(iv)section 39(3) (determination of application to vary designated premises supervisor following police objection),

(v)section 44(5) (determination of application for transfer of premises licence following police objection),

(vi)section 48(3) (consideration of police objection made to interim authority notice),

(via)section 53A(2)(a) or 53B (determination of interim steps pending summary review),

(vii)section 72(3) (determination of application for club premises certificate where representations have been made),

(viii)section 85(3)(determination of application to vary club premises certificate where representations have been made),

(ix)section 105(2) (decision to give counter notice following police objection to temporary event notice),

(x)section 120(7) (determination of application for grant of personal licence following police objection),

(xi)section 121(6) (determination of application for renewal of personal licence following police objection), or

(xii)section 124(4) (revocation of licence where convictions come to light after grant etc.),

(b)any function under section 52(2) or (3) (determination of application for review of premises licence) in a case where relevant representations (within the meaning of section 52(7)) have been made,

(ba) any function under section 53C (review following review notice), in a case where relevant representations (within the meaning of section 53C(7)) have been made,

(c)any function under section 88(2) or (3) (determination of application for review of club premises certificate) in a case where relevant representations (within the meaning of section 88(7)) have been made, or

(d)any function under section 167(5) (review following closure order), in a case where relevant representations (within the meaning of section 167(9)) have been made.

(5)The power exercisable under subsection (2) by a sub-committee established by a licensing committee is also subject to any direction given by that committee to the sub-committee

75. The Amended Guidance contains a table of “Recommended Delegation of Functions” but this takes the issue no further to the extent that it does not state whether or not it is generally appropriate for a decision under section 16 to be delegated to an officer.
76. I am satisfied that Guildford would not have acted in breach of the provisions of section 10 if it had actually authorised the Licensing Committee to arrange for the relevant function (i.e. to determine whether or not a prospective applicant falls within the scope of section 16) to be delegated to an officer of the licensing authority such as Mr Curtis-Botting. However, to examine whether such delegation actually took place or was compliant with Guildford’s policy on the matter, it is necessary to have regard to Guildford’s “Delegation to Officers” document which is accessible on its website.
77. This document, rather than listing, as does the Act, those decisions which are *not* to be delegated to officers, lists those decisions which *are* to be so delegated. Guildford relies upon category 8 in the list in the Delegation document which, it contends, empowered Mt Curtis-Botting to make the decision. It provides that such a delegation is permitted:
- “To determine all applications for a premises licence...where no representations have been made.”
78. During submissions, I was first informed on behalf of Guildford that in respect of some of the eight relevant applications no representations had been made but in respect of others representations had been made. Further enquiry revealed, however,

that this was wrong and that representations had, in fact, been made in respect of all eight applications.

79. When pressed on this issue, Guildford's argument was to the effect that I should treat the case as if no representations had been made (even though they had) on the basis that the issue under section 16 was to be looked at sequentially before the determination of an application because, if the proposed applicant fell outside the terms of section 16, then the issue of whether or not representations had been made would fall out of the equation.
80. I disagree with this analysis. Section 10 of the 2003 Act prohibits the delegation of any function under...section 18(3) (determination of application for premises licence where representations have been made). Thus the Committee was entitled to permit a determination under section 18(3) where no representations had been made. However, it simply did not go on, as it could have done, to authorise the single officer to determine issues arising under section 16(1).
81. There was no justification for Guildford to act in breach of its Delegation Policy. The public and the claimants had a legitimate expectation that this Policy would be followed. I am, therefore, satisfied that the decision on section 16 is one that ought not to have been determined by Mr Curtis-Botting alone and would quash his decisions on this basis also. I would add that the answer to the question whether, in any given case, there is a sufficient nexus between an existing business and the licensable activities to which an application is made may not always be straightforward and that it would not be generically inappropriate for policies to provide for licensing sub-committees to make the relevant determination rather than to delegate it to an individual officer.

Fees

82. A subsidiary issue arose relating to the fees paid by the claimants in respect of their applications. In summary they contended that it was unlawful for Guildford to retain fees paid in respect of applications which had been rejected without any substantive consideration of the merits. In the light of my findings with respect to the status of Guildford decisions relating to such fees I find it unnecessary to adjudicate on this issue.

Consequences

83. In summary, therefore, this court makes a declaration that Star's applications 92057 and 105889 are compliant with section 16(1)(a) and must be allowed to proceed to substantive determination and that Guildford's decisions on the remaining applications from Star and Extreme are quashed and are to be re-visited on the legal basis I have ruled upon.

Email received from applicant 21 February 2023

Dear Karyn,

I am replying to you in Natasha's absence.

In relation to live music I can confirm that we intended to apply as per the current licence, and am therefore happy to confirm that on Thursdays we wish to amend the hours to state 09:00 to 03:00.

As to the requested condition, we are minded not to agree this as it appears unreasonable given the circumstances and defeats the purpose of the Shadow Licence if it cannot have immediate effect once the current licence is no longer operational. It diminishes the protection afforded by such licence.

We would however be happy to agree the following condition :

"The Shadow Licence will not take effect when the current Premises Licence is in operation".

I look forward to hearing from you.

Licensing Authority Response received 5 April 2023

Hi Lisa

Apologies for not getting back to you sooner.

Thank you for confirming the hours are to remain the same.

On further review of the application the Licensing Authority believe this premises falls within PB1 policy as there is no ancillary nature to the sale of alcohol.

In regards to your proposed amended condition the Licensing Authority does not agree with your amendment due to model condition 97 ensures that the shadow licence if granted would be inoperable for use should the licence for 20/03425/LIPDPS be surrendered to operate the Sky Bar.

Currently the premises licence 21/06624/LIPN Sky Bar & Lounge, Trocadero, 13 Coventry Street, London has been granted as per the below conditions.

65. The applicants contend that this application can be treated as an exception to policy upon the basis of the following:

(a) Premises Licence 15/02410/LIPT relating to 1-4 Leicester Square (which the first applicant previously offered to surrender when Licence 18/00656/LIPN was granted), together with Licence 18/00656/LIPN, will be surrendered subject to the grant of this application;

(b) Premises Licence 20/03425/LIPDPS relating to the Rainforest Cafe at 20-24 Shaftesbury Avenue will be surrendered by the first applicant, subject to the grant of the linked application described below (66a) and the satisfaction of works conditions relating to this application and the application described at 66(a);

(c) The capacity for the Piccadilly Institute stated within Premises Licences 19/09064/LIPN and 21/04481/LIPDPS shall be reduced by 380 as a result of the linked application described below (66b).

66. To support the exception to policy argument, the below linked applications will be submitted following the grant of this licence application:

(a) New Premises Licence application for the Rainforest Café at 20-24 Shaftesbury Avenue authorising the use of the premises as a restaurant (with a holding bar) until midnight;

(b) Two minor variation applications to reduce the capacity for the Piccadilly Institute by 380 persons.

Conditions 65 and 66 above to be removed upon satisfaction of the works conditions at 62 to 63 above, and to a works condition which will be incorporated in the application referred to at Condition 65 (b).

Therefore, should the application for the shadow licence be granted and the other current licence (20/03425/LIPDPS) be surrendered the shadow licence would then take effect be able to operate in its own right.

Therefore the Licensing Authority maintains the model condition 97 in its entirety which should be attached to the licence as this will render all licences attached to that premises redundant.

“The shadow licence will not take effect when the current licence is in operation, or it lapses, is surrendered or revoked.”

This condition will therefore mean that the shadow licence will then not take effect on the happening of the four events above namely the current licence in operation, current licence lapsing, current licence being surrendered or revoked. The Licensing Authority requests that if this licence is granted that it is surrendered at the same time as the primary licence.

The Licensing Authority also notes that there is currently a variation application for 20/03425/LIPDPS, that will effectively, if granted, will no longer be a shadow of the current licence and the applicant is encouraged to provide the Licensing Authority an explanation as to the intentions of the shadow application should the variation be granted.

Sky Bar & Lounge licence attached as Appendix A.

The Licensing Authority therefore maintains their representation as per paragraph D20 of the Westminster’s Licensing Policy that this application should duplicate the current operation licence and if the variation is granted this will not do so and therefore is not an exception to policy.



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

Schedule 12
Part A

WARD: St James's
UPRN: 100023472806

Premises licence

Regulation 33, 34

Premises licence number:

21/06624/LIPN

Original Reference:

21/06624/LIPN

Part 1 – Premises details

Postal address of premises:

Sky Bar & Lounge
Trocadero
13 Coventry Street
London
W1D 7DH

Telephone Number: Not Supplied

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

Performance of Dance
Performance of Live Music
Playing of Recorded Music
Late Night Refreshment
Sale by Retail of Alcohol

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

Performance of Dance
Monday to Sunday: 10:00 to 03:00
Seasonal Details: On the morning of British Summertime the terminal hour shall be extended by one hour. For Hotel residents and guests 24 hours.

Performance of Live Music
Monday to Sunday: 10:00 to 03:00
Seasonal Details: On the morning of British Summertime the terminal hour shall be extended by one hour. For Hotel residents and guests 24 hours.

Playing of Recorded Music

Monday to Sunday: 10:00 to 03:00
Seasonal Details: On the morning of British Summertime the terminal hour shall be extended by one hour. For Hotel residents and guests 24 hours.

Late Night Refreshment
Monday to Sunday: 23:00 to 03:00
Monday to Sunday: 23:00 to 05:00 Hotel residents & guests
Seasonal Details: On the morning of British Summertime the terminal hour shall be extended by one hour. For Hotel residents and guests 24 hours.

Sale by Retail of Alcohol
Monday to Sunday: 10:00 to 03:00
Monday to Sunday: 00:00 to 00:00 Hotel residents & guests
Seasonal Details: On the morning of British Summertime the terminal hour shall be extended by one hour for Hotel residents and guests - 23.00 to 05.00 hours.

The opening hours of the premises:

Monday to Sunday: 00:00 to 00:00

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

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

Part 2

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

Trocadero (London) Hotel Ltd & Tao Group Operating Llc
Both C/o 16 Babmaes Street
London
SW1Y 6HD

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

09162589 (Trocadero (London) Hotel Ltd)
Not applicable - Tao Group Operating Llc

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

Name: Not Known

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

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

Licence Number: Not known

Licensing Authority: Not known

Date: 16 December 2021

This licence has been authorised by Mary Pring on behalf of the Director - Public Protection and Licensing.

Annex 1 – Mandatory conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

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

Where -

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,

- (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
9. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

Annex 2 – Conditions consistent with the operating Schedule

None

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

10. There shall be no sales of hot food or hot drink for consumption 'off' the premises after 23:00 hours except to hotel residents and their bona fide guests.
11. (a) On the 12th floor, seating shall be provided internally and on the terrace for a minimum of 70% of those that can be accommodated in that area. Waiter/waitress service shall be available to all customers seated throughout the 12th floor.

(b) On the 13th floor, the sale of alcohol shall be ancillary to music and dancing and substantial refreshment within the Clubroom and, within the Flex Event Space it shall be ancillary to pre-booked or ticketed events and/or functions and dining.
12. Where permitted to use the entrance on Rupert Street for admission to the premises beyond midnight and until the terminal hours for admissions then the area hatched green (on the right of Rupert Street entrance lobby) shall be secured as an overflow holding area that can be used by management and the door team to increase the available space for customers to queue internally whilst waiting for admission to the 12th and 13th floors.
13. There shall be no dance floor on the 12th floor, including the roof terrace.
14. For any pre-booked event or occasion involving a licensable activity when a guest list is in operation, only a director of the managing company, the Premises Licence Holder, the Designated Premises Supervisor or the Duty Manager will be authorised to add additional names to the guest list. Any additions less than 48 hours before the prebooked event or occasion must be legibly entered on the list and signed for by the Director, the Premises Licence Holder, the Designated Premises Supervisor or the Duty Manager. This list will be kept for a period of 28 days following the event and will be made available immediately for inspection upon request by a Police Officer or authorised Council Officer.
15. All windows and external doors leading to the 12th floor roof terrace shall be kept closed after 23:00 hours, except for the immediate access and egress of persons.
16. Admission to the 12th and 13th floor licensed areas from the street by members of the public shall only be via the ground floor Sky Bar lift lobby.
17. No alcohol shall be consumed by customers more than 30 minutes after the permitted terminal hour for the supply of alcohol. (This shall not apply to hotel residents and their bona fide guests). Guests limited to 5.
18. (a) From 21:00 hours a minimum of 2 door staff shall be on duty in the ground floor lobby area and a minimum of 1 on duty on the 12th and 13th floors whilst open to the public (excludes hotel residents and bona fide guests) for licensable activities. This shall be increased to a ratio of 1:75 (or part thereof) from 22:00 hours on the 12th and 13th floors until those areas are closed to the public for licensable activities.
(b) Prior to 21:00 hours, the need for door staff shall be determined by risk assessment carried out by the DPS.
(c) On any occasion prior to 21:00 hours where the premises are open to the public and no door staff are on duty then a member of staff shall be on duty in the ground floor lobby area to meet and greet customers.

19. At least one member of door staff deployed to the ground floor and to each floor (12th and 13th) from 21:00 hours (as required by condition 18) shall wear a Body Worn Video Camera capable of recording audio and video in any light condition as per the minimum requirements of the Westminster Police Licensing Team. All recordings for BWV 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 authorized officers throughout the preceding 31-day period.
20. When Body Worn Video systems are in use then they will be deployed immediately during any verbal altercation or use of force by any member of staff. All ejections shall be recorded on BWV.
21. All staff engaged in the use of Body Worn Video shall receive relevant training to ensure they are confident in its use. A record will be kept on the premises of which staff have been trained. This record will be available to the relevant authority for inspection upon request and shall be retained for a minimum of 12 months.
22. (a) The premises shall install and maintain a comprehensive CCTV and Body Worn Video system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points, lifts (internal area) and lift areas will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are 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.

(b) The CCTV system shall provide coverage of the external area outside all public entrances. It shall provide coverage of queues to enter the premises and designated smoking areas, customer search areas and vehicle drop off areas by the entrances.
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 premises are open for licensable activities. 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 (including where applicable any Body Worn Video system) subject to Data Protection requirements.
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 subject to Data Protection requirements. It must be completed within 24 hours of the incident and will record the following:
 - a) all crimes reported to the venue,
 - b) all ejections of patrons,
 - c) any complaints received concerning crime and disorder,
 - d) any incidents of disorder,
 - e) any faults in the CCTV or Body Worn Video system, search warrants
 - f) any refusal of the sale of alcohol,
 - g) any visit by a relevant authority or emergency service.
 - h) all seizures of drugs or offensive weapons.
25. 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, military ID, biometric resident permit or proof of age card with the PASS Hologram.
26. 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.

27. 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 Service and access shall only be by persons authorised by the Premises licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
28. (a) Loudspeakers shall not be located in the ground floor entrance lobby unless there is a sound lobby, or outside the premises building.
(b) On the 12th floor external terrace, live music (which does not involve percussion) shall be permitted until 22:00 hours and recorded music permitted until 00:00 hours. Live music, (including percussion) and recorded music shall however be permitted beyond these times and until 03:00 hours if the external terrace is enclosed with a retractable roof to the satisfaction of Environmental Health Service.
29. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under a Sexual Entertainment Venue Licence.
30. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
31. 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.
32. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
33. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
34. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
35. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
36. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
37. 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.
38. 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.
39. With the exception of fresh produce, no deliveries to the premises shall take place between 23:00 hours and 08:00 hours the following day.
 40. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
 41. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by SIA trained personnel so as to ensure that there is no public nuisance or obstruction to the public highway.
 42. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises directly off the street.
 43. Any events which are not pre booked private or corporate events but are externally promoted events shall be risk assessed. A documented risk assessment will be completed 10 days prior to the event and retained for a minimum of 31 days afterwards and be made immediately available for viewing by the Responsible Authorities upon request. When carrying out the risk assessment for the event and holding the event, the premises will take into account any reasonable advice received from the Metropolitan Police.
 44. A representative of the Premises Licence Holder shall attend the local Pub watch meetings.
 45. There shall be No entry/Re-entry (excluding persons exiting to smoke) to the premises after 02:00 hours on each day.
 46. An attendant shall be on duty in the cloakroom during the whole time that it is in use.
 47. (a) An attendant shall be on duty in the male and female toilets areas (within the licensed area) from 21:00 hours daily until the premises are closed to the public (excluding hotel residents and bona fide guests).
(b) Attendants shall be equipped with a means of alerting security without delay, e.g. radio, BWV, or personal alarm which shall be kept on their person.
 48. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign, or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
 49. (a) With the exception of the function room, after midnight all drinking vessels used in the venue shall be made from a sustainable material other than glass. All drinks in glass bottles are to be decanted into non glass containers or non-glass carafes prior to being served, with the exception of champagne, wine, or bottles of spirits with a minimum size of 70 CL supplied by way of waiter/waitress service to tables. Staff shall clear all empty champagne and spirit bottles promptly from the table. Customers shall not be permitted to leave their table carrying any such glass bottle or drink directly from the bottle.
 50. From 23:00 hours, a full pat-down search of all entrants and bag search, shall be conducted by properly trained security staff of the appropriate gender. Searching will be supplemented using two functional metal detecting wands. All searches will be covered by the premises CCTV system. Prior to 23:00 hours, searching shall be based on a risk assessment by designated security staff.

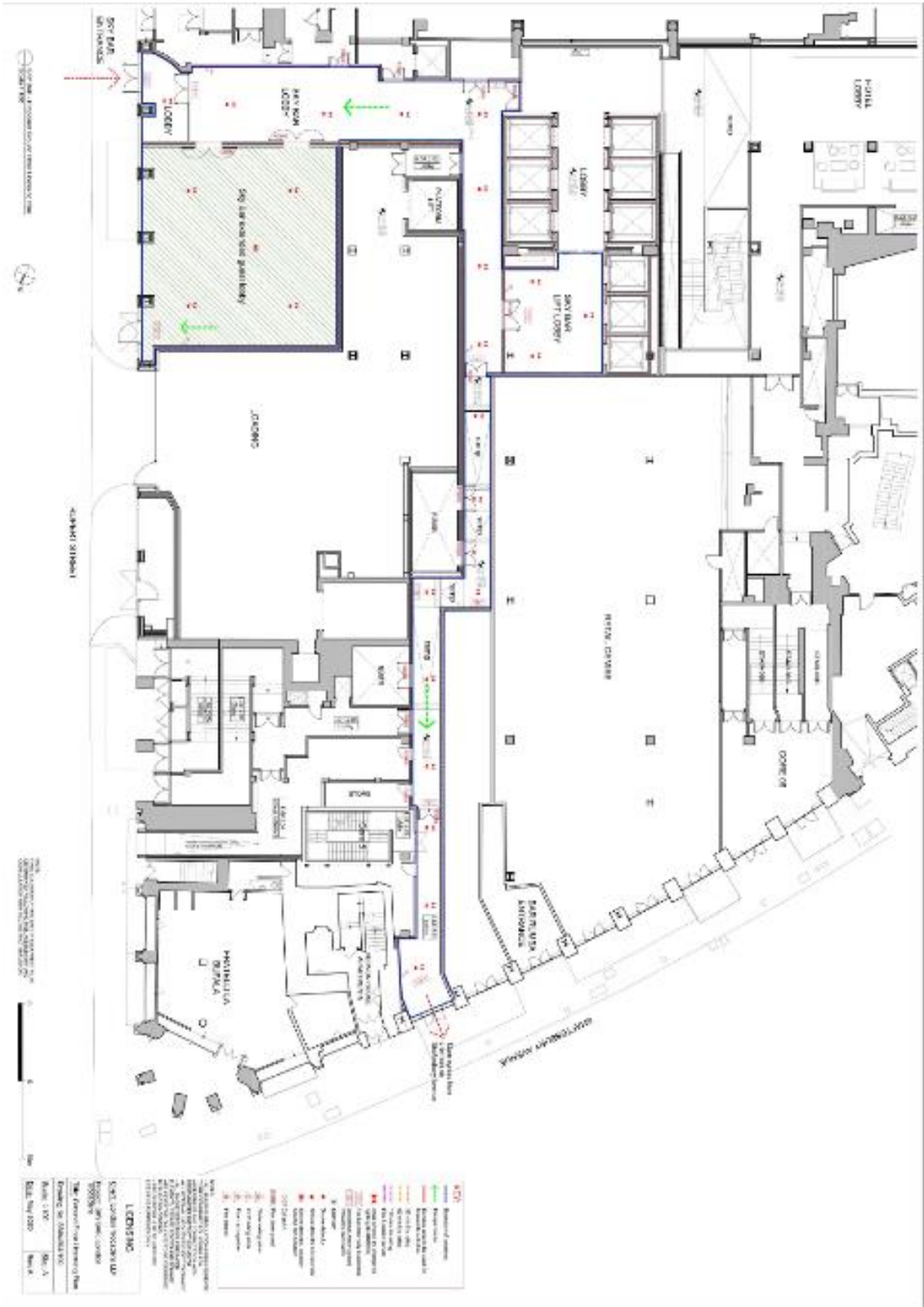
51. After 21:00 hours, designated queuing and smoking area shall be enclosed within appropriate barriers to ensure that the footway is kept clear and constantly monitored by security personnel and/or staff. There shall be a limit of 12 smokers at any one time.
52. In the event that an assault involving an injury or of a sexual nature is committed on the premises (or appears to have been committed), the management will immediately ensure that:
 - a. the Police (and, where appropriate, the London Ambulance Service) are called without delay;
 - b. all measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the Police;
 - c. the crime scene is preserved so as to ensure a full forensic investigation to be carried out by the Police;
such other measures are taken (as appropriate) to fully protect the safety of all persons on the premises.
53. Where the premises are open for the sale of alcohol for consumption on the premises (other than hotel residents and bona fide guests) then from 22:00 hours a Personal Licence Holder shall be on duty.
54. When accessible to customer after 22:00 hours for smoking then the designated smoking areas on the 12th floor terrace shall be monitored by at least one door supervisor and shall be covered by the venue's CCTV system.
55. After 22:00, all security engaged outside the entrance to the premises, or supervising or controlling queues outside the premises, shall wear high visibility yellow jackets or vests. Security staff shall display their SIA licence at all times when on duty. At the commencement of duty, all security personnel must have their names and licence number logged with date and time. Names must be legible and appropriate for a legal document. The log shall be made available for inspection of the Responsible Authorities upon request and be retained for a minimum of 31 days.
56. After 22:00, registered door supervisors shall ensure that the specified capacities are adhered to at all material times. Before 22:00 registered door supervisors and / or staff shall ensure that the specified capacities are adhered to at all material times. A daily log is to be maintained to ensure that any capacity limit set is recorded hourly and can be properly monitored. Information regarding the capacity will be given to an authorised officer or Police officer on request.
57. A traffic marshal shall be employed by management from 22:00 on Friday, Saturday and any other time deemed necessary by the Premises Licence Holder. They shall remain on duty until all customers have left the immediate vicinity of the premises to ensure, as far as reasonably practicable, there is no obstruction on Rupert Street in the immediate vicinity of the premises from customers or vehicles linked to the premises. The Traffic Marshal shall wear a high visibility jacket of a different colour to those worn by SIA door staff and marked 'traffic marshal' to be clearly identifiable in this role and equipped with a radio link to security.
58. (a) SIA door staff shall from midnight until the premises are closed to the public (plus 30 minutes), monitor Rupert Street and Shaftesbury Avenue to encourage the quiet dispersal of customers.
(b) Designated street marshals and noise control officers will be deployed as identified from time to time, from midnight.
59. Customer facing front of house staff shall receive at least basic training in Conflict Management provided by a qualified source. Training records for such staff shall be kept

- on the premises and provided to the Responsible Authorities for viewing upon request.
60. (a) After 21:00 hours, the lift lobby area on the ground floor shall be monitored by at least one SIA door supervisor who shall direct patrons into lifts which are designated for use by the 12th and 13th floors. Those lifts will have CCTV cameras fitted within the lifts.
(b) During high-risk times as identified by the Premises Licence Holder, door staff shall ride in the lifts with guests.
(c) Upon disembarking, there will be a reception area to greet patrons on the 12th and 13th floors before they are directed to the relevant area of the premises.
61. The Premises Licence Holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all front of house staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day they start their employment.
62. No licensable activities shall take place at the premises until the premises 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.
63. Before the premises open to the public the plans as deposited will be checked by the Police and Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority. This condition shall be removed by the Licensing Team once satisfied.
64. The maximum number of persons permitted on the premises at any one time (excluding staff) shall not exceed:
a. 12th Floor xxx persons;
b. 13th Floor xxx persons
With no more than 1000 persons at any one time.
65. The applicants contend that this application can be treated as an exception to policy upon the basis of the following:
(a) Premises Licence 15/02410/LIPT relating to 1-4 Leicester Square (which the first applicant previously offered to surrender when Licence 18/00656/LIPN was granted), together with Licence 18/00656/LIPN, will be surrendered subject to the grant of this application;
(b) Premises Licence 20/03425/LIPDPS relating to the Rainforest Cafe at 20-24 Shaftesbury Avenue will be surrendered by the first applicant, subject to the grant of the linked application described below (66a) and the satisfaction of works conditions relating to this application and the application described at 66(a);
(c) The capacity for the Piccadilly Institute stated within Premises Licences 19/09064/LIPN and 21/04481/LIPDPS shall be reduced by 380 as a result of the linked application described below (66b).
66. To support the exception to policy argument, the below linked applications will be submitted following the grant of this licence application:
(a) New Premises Licence application for the Rainforest Café at 20-24 Shaftesbury Avenue authorising the use of the premises as a restaurant (with a holding bar) until midnight;
(b) Two minor variation applications to reduce the capacity for the Piccadilly Institute by 380 persons.
Conditions 65 and 66 above to be removed upon satisfaction of the works conditions at 62 to 63 above, and to a works condition which will be incorporated in the application

referred to at Condition 65 (b).

67. A copy of the dispersal policy shall be available on the premises for inspection.
68. (a) After 23:00 hours, all customers entering the premises shall have their ID scanned on entry, save for when a biometric scanning system is in place. The details recorded shall include a live facial image capture of the customer and capture the photographic identification produced. The details recorded by the ID scanner system shall be made available to the Police and the local authority upon request.
- (b) The requirement in (a) above is subject to the following exceptions, namely that a maximum number of (25) guests per night may be admitted at the Managers discretion without necessarily photo ID being scanned and recorded. The admission of such guests however shall be in accordance with the following procedure:
- (i) The DPS shall approve in writing the names of a maximum of three managers other than him/herself who are authorised to sign in such guests.
 - (ii) A legible record (the signing in sheet) of those guest's name shall be retained on the premises for inspection by the Licensing Authority and Police for a minimum period of 31 days. The name of the DPS approved manager authorising the admission will also be recorded by that manager,
 - (iii) Guests shall be required to produce some form of ID such as a bank card (or emailed electronic photo ID) and ID scan entry with a live photo shall be created.
 - (iv) Where there are appropriate reasons for a guest not to be able to produce ID and be subject to ID scan, the Approved Manager may still permit entry. In such circumstance he shall also record the reasons for this in the signing in sheet.
- (c) Notwithstanding (a) above, patrons who are attending a pre-booked private event at the premises do not need to have their ID Scanned on entry and instead a written guest list shall be held at reception for the event and will be retained for 31 days after the event for inspection by the Police and responsible authorities upon request.
69. All front of house staff at the premises shall receive Welfare and Vulnerability Engagement (WAVE) training by a qualified trainer, and once every 12 months thereafter. The date the training was provided and signed confirmation from the member of staff shall be recorded and made available for inspection by the Responsible Authorities upon request.
70. No licensable activities shall take place at the premises until the capacity of the 12th and 13th floors have 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.

Annex 4 – Plans





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

Schedule 12
Part B

WARD: St James's
UPRN: 100023472806

Premises licence
summary

Regulation 33, 34

Premises licence
number:

21/06624/LIPN

Part 1 – Premises details

Postal address of premises:

Sky Bar & Lounge
Trocadero
13 Coventry Street
London
W1D 7DH

Telephone Number: Not Supplied

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

Performance of Dance
Performance of Live Music
Playing of Recorded Music
Late Night Refreshment
Sale by Retail of Alcohol

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

Performance of Dance

Monday to Sunday: 10:00 to 03:00

Seasonal Details: On the morning of British Summertime the terminal hour shall be extended by one hour. For Hotel residents and guests 24 hours.

Performance of Live Music

Monday to Sunday: 10:00 to 03:00

Seasonal Details: On the morning of British Summertime the terminal hour shall be extended by one hour. For Hotel residents and guests 24 hours.

Playing of Recorded Music

Monday to Sunday: 10:00 to 03:00

Seasonal Details: On the morning of British Summertime the terminal hour shall be extended by one hour. For Hotel residents and guests 24 hours.

Late Night Refreshment

Monday to Sunday: 23:00 to 03:00

Seasonal Details: On the morning of British Summertime the terminal hour shall be extended by one hour. For Hotel residents and guests 24 hours.

Sale by Retail of Alcohol

Monday to Sunday: 10:00 to 03:00

Seasonal Details: On the morning of British Summertime the terminal hour shall be extended by one hour for Hotel residents and guests - 23.00 to 05.00 hours.

The opening hours of the premises:

Monday to Sunday: 00:00 to 00:00

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

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

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

Trocadero (London) Hotel Ltd & Tao Group Operating Llc
Both C/o 16 Babmaes Street
London
SW1Y 6HD

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

09162589 (Trocadero (London) Hotel Ltd)
Not applicable - Tao Group Operating Llc

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

Name: Not known

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

Restricted

Date: 16 December 2021

This licence has been authorised by Mary Pring on behalf of the Director - Public Protection and Licensing.



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

Schedule 12
Part A

WARD: St James's
UPRN: 100023472818

Premises licence

Regulation 33, 34

Premises licence number:

23/00402/LIPT

Original Reference:

05/02759/LIPCV

Part 1 – Premises details

Postal address of premises:

Alberts Schloss
20-24 Shaftesbury Avenue
London
W1D 7EU

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

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

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

Performance of Dance

Monday to Sunday: 09:00 to 03:00

Performance of Live Music

Monday to Sunday: 09:00 to 03:00

Playing of Recorded Music

Unrestricted

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

Monday to Sunday: 09:00 to 03:00

Late Night Refreshment

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

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

Sale by Retail of Alcohol

Monday to Saturday: 10:00 to 03:00
Sunday: 12:00 to 22:30

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

The opening hours of the premises:

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

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

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

Part 2

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

Zecol Thomas Limited
8 Hewitt Street
Manchester
M15 4GB

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

05916811

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

Name: Makrand Gandhale

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

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

Licence Number: H04927

Licensing Authority: London Borough of Hounslow

Date: 08 February 2023

This licence has been authorised by Ms Roxsana Haq on behalf of the Director - Public Protection and Licensing.

Annex 1 – Mandatory conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

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

Where -

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,

- (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions reproducing the effect of conditions subject to which the existing licences have effect:

Conditions related to Regulated Entertainment:

9. 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.
10. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).
11. Notwithstanding the provisions of Rule of Management No. 6 the premises may remain open for the purposes of this licence from 23:00 on each of the days Sunday to Saturday to 03:00 on the day following.
12. An attendant shall be stationed in the shop the whole time that the premises are open to the public.
13. The number of persons accommodated at any one time (excluding staff) shall not exceed: Basement - 470; Sub-Basement - 150.

Conditions Relating to the Sale of Alcohol

14. 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.
15. No gaming otherwise than by machines authorised under part III, Gaming Act, 1968.
16. No striptease, no nudity and all persons on the premises to be decently attired.
17. There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.

Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified attachments

Monday to Saturday

18. (a) Subject to the following paragraphs, the permitted hours on weekdays shall commence at 10:00 (12.00 on Christmas Day and Good Friday) and extend until 03:00 on the morning following, except that -
 - (i) the permitted hours shall end at 00:00 midnight on any day on which music and dancing is not provided after midnight; and
 - (ii) on any day that music and dancing end between 00:00 midnight and 03:00, the permitted hours shall end when the music and dancing end;
- (b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect with the substitution of references to 04:00 for references to 03:00.
- (c) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.
- (d) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00.00 on New Year's Eve.

NOTE - The above restrictions do not prohibit:

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

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

Sunday

19. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) On Sundays, other than Christmas Day or New Year's Eve, 12.00 noon to 22.30.
- (b) On Christmas Day, 12.00 to 15.00 and 19.00 to 22.30.
- (c) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00.00 midnight on 31st December).

NOTE - The above restrictions do not prohibit:

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

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

20. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:
- (a) He is the child of the holder of the premises licence.
 - (b) He resides in the premises, but is not employed there.
 - (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

- (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

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

21. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):
- (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
 - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
 - (c) to take all other reasonable precautions for the safety of children.
22. The terminal hour for late night refreshment on New Year's Eve is extended to 05.00 on New Year's Day.

Annex 2 – Conditions consistent with the operating Schedule

None

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

23. When a customer chooses to pay by credit card, he/she will be presented with an itemised bill upon final payment, showing details of all drinks and food purchased.



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

Schedule 12
Part B

WARD: St James's
UPRN: 100023472818

Premises licence
summary

Regulation 33, 34

Premises licence
number:

23/00402/LIPT

Part 1 – Premises details

Postal address of premises:

Alberts Schloss
20-24 Shaftesbury Avenue
London
W1D 7EU

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

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

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

Performance of Dance

Monday to Sunday: 09:00 to 03:00

Performance of Live Music

Monday to Sunday: 09:00 to 03:00

Playing of Recorded Music

Unrestricted

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

Monday to Sunday: 09:00 to 03:00

Late Night Refreshment

Monday to Saturday: 23:00 to 03:30

Sunday: 23:00 to 03:00

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

Sale by Retail of Alcohol

Monday to Saturday: 10:00 to 03:00

Sunday: 12:00 to 22:30

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

The opening hours of the premises:

Monday to Saturday: 09:00 to 03:30

Sunday: 09:00 to 03:00

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

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

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

Zecol Thomas Limited
8 Hewitt Street
Manchester
M15 4GB

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

05916811

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

Name: Makrand Gandhale

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

Restricted

Date: 08 February 2023

This licence has been authorised by Ms Roxsana Haq on behalf of the Director - Public Protection and Licensing.

Application	Details of Application	Date Determined	Decision
05/02759/LIPCV	Application for new premises licence	01.06.2005	Granted by Licensing Sub-Committee
06/04127/WCCMAP	Master Licence	01.06.2005	Granted by Licensing Sub-Committee
09/07148/LIPCH	Application to vary the licence holders registered address	22.11.2009	Granted under Delegated Authority
17/04908/LIPT	Application to transfer the licence from The Original Rainforest Cafe Limited to RFC 20 UK Limited	18.04.2013	Granted under Delegated Authority
17/09581/LIPDPS	Application to vary DPS	19.9.2017	Granted under Delegated Authority
17/10791/LIPDPS	Application to vary DPS	12.10.2017	Granted under Delegated Authority
18/06367/LIPT	Application to transfer the licence from RFC 20 UK Limited to Net Communications Limited	28.11.2018	Granted under Delegated Authority
18/07020/LIPDPS	Application to vary DPS	28.11.2018	Granted under Delegated Authority
18/13324/LIPDPS	Application to vary DPS	28.11.2018	Granted under Delegated Authority
19/15473/LIPDPS	Application to vary DPS	11.12.2019	Granted under Delegated Authority
20/03215/LIPT	Application to transfer the licence from Net Communications Limited to Trocadero (London) Hotel Limited	15.04.2020	Granted under Delegated Authority
20/03425/LIPDPS	Application to vary DPS	07.05.2020	Granted under Delegated Authority
22/04586/LIPCHT	Application to change the trading name from Rainforest Café to Jungle Cafe	28.04.2022	Granted under Delegated Authority
22/04957/LIPDPS	Application to vary DPS	25.05.2022	Granted under Delegated Authority
23/00402/LIPT	Application to transfer the licence from Trocadero (London) Hotel Limited to Zecol Thomas Limited	08.02.2023	Granted under Delegated Authority

Rainforest Café

Application	Details of Application	Date Determined	Decision
22/02797/LIPN	New premises licence Performance of Dance Monday to Sunday: 10:00 to 00:00 Performance of Live Music Monday to Sunday: 10:00 to 00:00 Playing of Recorded Music Monday to Sunday: 10:00 to 00:00 Late Night Refreshment Monday to Sunday: 23:00 to 00:00 Sale by Retail of Alcohol Monday to Sunday: 10:00 to 00:00	06.06.2022	Granted under Delegated Authority

There is no appeal history

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

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

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

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

Mandatory Conditions

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

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

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

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

- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$
 Where -
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions consistent with the operating schedule

Conditions reproducing the effect of conditions subject to which the existing licences have effect:

Conditions related to Regulated Entertainment:

9. 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.

10. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).
11. Notwithstanding the provisions of Rule of Management No. 6 the premises may remain open for the purposes of this licence from 23:00 on each of the days Sunday to Saturday to 03:00 on the day following.
12. An attendant shall be stationed in the shop the whole time that the premises are open to the public.
13. The number of persons accommodated at any one time (excluding staff) shall not exceed: Basement - 470; Sub-Basement - 150.

Conditions Relating to the Sale of Alcohol

14. 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.
15. No gaming otherwise than by machines authorised under part III, Gaming Act, 1968.
16. No striptease, no nudity and all persons on the premises to be decently attired.
17. There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.

Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified attachments

Monday to Saturday

18. (a) Subject to the following paragraphs, the permitted hours on weekdays shall commence at 10:00 (12.00 on Christmas Day and Good Friday) and extend until 03:00 on the morning following, except that -
 - (i) the permitted hours shall end at 00:00 midnight on any day on which music and dancing is not provided after midnight; and
 - (ii) on any day that music and dancing end between 00:00 midnight and 03:00, the permitted hours shall end when the music and dancing end;
- (b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect with the substitution of references to 04:00 for references to 03:00.
- (c) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.
- (d) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00.00 on New Year's Eve.

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

- (c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;
- (d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of her Majesty's naval, military or air forces;
- (g) the taking of alcohol from the premises by a person residing there;
- (h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

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

Sunday

19. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) On Sundays, other than Christmas Day or New Year's Eve, 12.00 noon to 22.30.
- (b) On Christmas Day, 12.00 to 15.00 and 19.00 to 22.30.
- (c) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00.00 midnight on 31st December).

NOTE - The above restrictions do not prohibit:

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

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

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

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

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

- 21. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):
 - (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
 - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
 - (c) to take all other reasonable precautions for the safety of children.
- 22. The terminal hour for late night refreshment on New Year's Eve is extended to 05.00 on New Year's Day.

Annex 2 Conditions consistent with the operating schedule

None

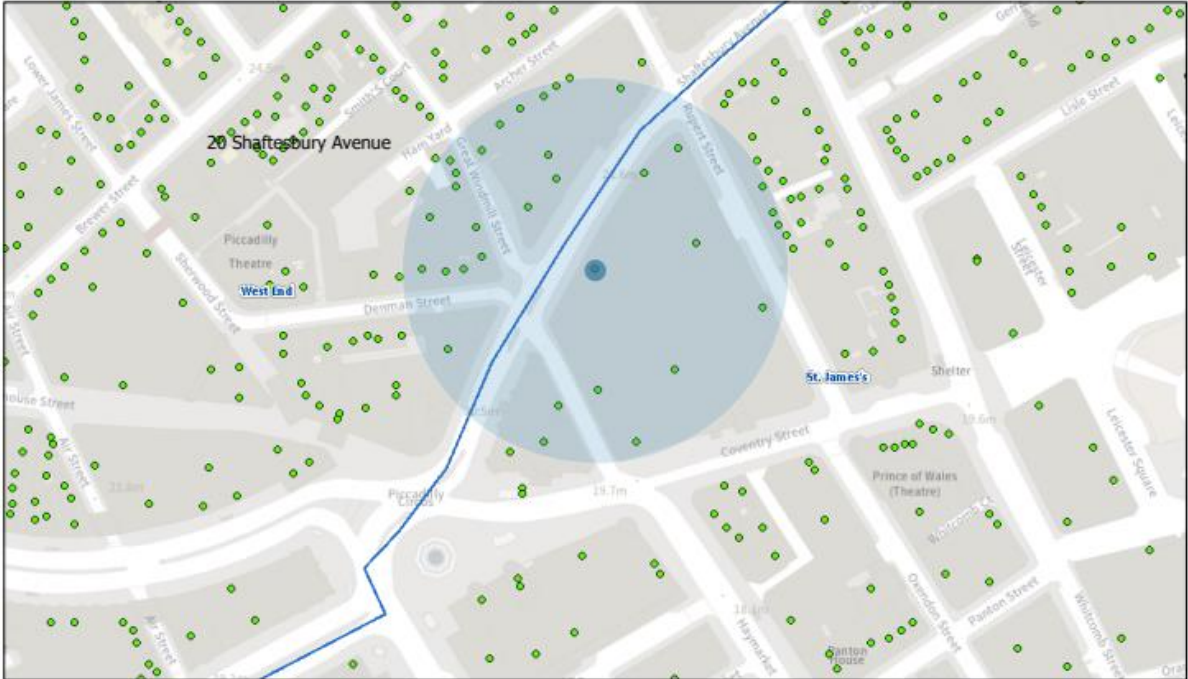
Annex 3 Conditions consistent with the operating schedule

- 23. When a customer chooses to pay by credit card, he/she will be presented with an itemised bill upon final payment, showing details of all drinks and food purchased.

Conditions proposed by the Licensing Authority

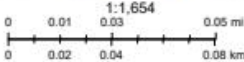
24. The shadow licence will not take effect when the current licence is in operation, or it lapses, is surrendered or revoked.

20-24 Shaftesbury Avenue, London, W1D 7EU



04/04/2023, 14:45:21

- Property Mailing List
- Borough Boundary - Mask
- Ward Boundaries
- Ward Labels
- Borough Boundary - Detailed



Resident Count 24

Licensed premises with 75 metres of Shadow, 20-24 Shaftesbury Avenue, London, W1D 7EU				
Licence Number	Trading Name	Address	Premises Type	Time Period
19/16538/LIPDPS	Crystal Maze	20-24 Shaftesbury Avenue London W1D 7EU	Miscellaneous	Monday to Sunday; 09:00 - 04:00
20/09511/LIPDPS	Crystal Maze	20-24 Shaftesbury Avenue London W1D 7EU	Miscellaneous	Monday to Sunday; 09:00 - 04:00
22/02797/LIPN	Rainforest Cafe	20-24 Shaftesbury Avenue London W1D 7EU	Restaurant	Monday; 10:00 - 00:30 Tuesday; 10:00 - 00:30 Wednesday; 10:00 - 00:30 Thursday; 10:00 - 00:30 Friday; 10:00 - 00:30 Saturday; 10:00 - 00:30 Sunday; 10:00 - 00:30
23/00402/LIPT	Alberts Schloss	20-24 Shaftesbury Avenue London W1D 7EU	Restaurant	Sunday; 09:00 - 03:00 Monday to Saturday; 09:00 - 03:30
18/16199/LIPVM	Shaftesbury Food And Wine	Ground Floor Unit 2 Avenue House 25 - 27 Shaftesbury Avenue London W1D 7EQ	Shop	Monday; 00:00 - 00:00 Tuesday; 00:00 - 00:00 Wednesday; 00:00 - 00:00 Thursday; 00:00 - 00:00 Friday; 00:00 - 00:00 Saturday; 00:00 - 00:00 Sunday; 00:00 - 00:00
16/06157/LIPT	McDonald's	Ground Floor Right And Basement Avenue House 25 - 27 Shaftesbury Avenue	Restaurant	Sunday; 05:00 - 23:00 Monday to Thursday; 05:00 - 00:00 Friday to Saturday; 05:00 - 01:00

		London W1D 7EQ		
23/00478/LIPDPS	Lyric Theatre	Avenue House 25-27 Shaftesbury Avenue London W1D 7EG	Theatre	Monday to Sunday; 09:00 - 00:00
22/05496/LIPN	Coyote Ugly - (30 Shaftesbury Avenue)	Unit 30 Basement Part And Ground Floor Trocadero 13 Coventry Street London W1D 7AB	Leisure (other)	Monday to Sunday; 08:00 - 03:00
22/04961/LIPDPS	Shrimp And Grill	Basement To First Floor Unit 75 Trocadero 13 Coventry Street London W1D 7AB	Restaurant	Monday; 09:00 - 23:30 Tuesday; 09:00 - 23:30 Wednesday; 09:00 - 23:30 Thursday; 09:00 - 23:30 Friday; 09:00 - 00:00 Saturday; 09:00 - 00:00 Sunday; 09:00 - 23:00 Sundays before Bank Holidays; 09:00 - 00:00
21/06593/LIPDPS	Platinum Lace Gentlemans Club	Unit 33 Trocadero 13 Coventry Street London W1D 7AB	Night clubs and discos	Sunday; 15:00 - 03:30 Monday to Saturday; 15:00 - 06:30
20/00949/LIPDPS	Not Recorded	Unit 29 Trocadero 13 Coventry Street London W1D 7AB	Shop	Monday to Sunday; 00:00 - 00:00
19/00522/LIPDPS	Not Recorded	Unit 34B Trocadero 19 Rupert Street London W1D 7PN	Restaurant	Sunday; 10:00 - 00:00 Monday to Saturday; 10:00 - 00:30
19/07844/LIPN	United Chip, Unit 34a, The Trocadero	19A Rupert Street London W1D 6DF	Restaurant	Sunday; 12:00 - 22:30 Monday to Thursday; 11:00 - 23:30 Friday to

				Saturday; 11:00 - 00:00
18/16233/LIPN	Not Recorded	Unit 34B Trocadero 19 Rupert Street London W1D 7PN	Restaurant	Sunday; 10:00 - 00:00 Monday to Saturday; 10:00 - 01:30
20/01462/LIPDPS	HaiDiLao	Units 4 And 5 Trocadero 13 Coventry Street London W1D 7AB	Restaurant	Sunday; 08:00 - 23:00 Tuesday to Thursday; 08:00 - 00:00 Friday to Saturday; 08:00 - 00:30 Sundays before Bank Holidays; 08:00 - 00:30
20/11037/LIPCH	St James Tavern Public House	45 Great Windmill Street London	Public house or pub restaurant	Sunday; 07:00 - 22:30 Monday to Thursday; 07:00 - 23:30 Friday to Saturday; 07:00 - 00:00 Sundays before Bank Holidays; 07:00 - 00:00
17/15045/LIPDPS	Sophies	42 - 44 Great Windmill Street London W1D 7ND	Restaurant	Sunday; 09:00 - 23:00 Monday to Saturday; 09:00 - 01:30
20/07563/LIPDPS	Five Guys	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Sunday; 10:00 - 22:30 Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00
22/00403/LIPDPS	Picturehouse Central	Trocadero 13 Coventry Street London W1D 7DH	Cinema	Monday to Sunday; 00:00 - 23:59
17/08106/LIPN	Unit 4 - Happy Bar And Grill	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Sunday; 08:00 - 22:30 Monday to Thursday; 08:00 - 23:30 Friday to Saturday; 08:00 - 00:00

21/06624/LIPN	Sky Bar Lounge	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Monday to Sunday; 00:00 - 00:00
18/00656/LIPN	Trocadero Hotel/Sky Bar & Restaurant	Trocadero 13 Coventry Street London W1D 7DH	Hotel, 3 star or under	Monday to Sunday; 00:00 - 00:00
21/11207/LIPDPS	Shoryu Soho	2-3 Denman Street London W1D 7HA	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
16/02850/LIPDPS	Bar Rumba	Ground Floor Unit 17d Trocadero 13 Coventry Street London W1D 7ER	Restaurant	Sunday; 09:00 - 03:30 Monday to Saturday; 09:00 - 06:00
21/14602/LIPDPS	Fratelli La Bufala	Vernon House 40 Shaftesbury Avenue London W1D 7ER	Restaurant	Monday to Sunday; 09:00 - 01:00
20/03711/LIPV	Olives N' Mezze Mediterranean Kitchen	Basement And Ground Floor 40 Great Windmill Street London W1D 7LY	Restaurant	Sunday; 09:00 - 02:00 Monday to Saturday; 08:00 - 02:00
22/07837/LIPV	The Windmill	17 - 19 Great Windmill Street London W1D 7JZ	Theatre	Monday; 09:00 - 05:30 Tuesday; 09:00 - 05:30 Wednesday; 09:00 - 05:30 Thursday; 09:00 - 05:30 Friday; 09:00 - 05:30 Saturday; 09:00 - 05:30 Sunday; 09:00 - 03:00
21/14637/LIPV	Not Recorded	17 - 19 Great Windmill Street London W1D 7JZ	Sexual Entertainment Venue	Monday; 09:00 - 05:30 Tuesday; 09:00 - 05:30 Wednesday; 09:00 - 05:30 Thursday; 09:00 - 05:30 Friday; 09:00 - 05:30 Saturday; 09:00 - 05:30

				Sunday; 09:00 - 03:00
14/07220/LIPN	(Restaurant)	Basement And Ground Floor 39 Great Windmill Street London W1D 7LX	Restaurant	Sunday; 11:00 - 00:00 Monday to Saturday; 11:00 - 01:00
22/05797/LIPT	Chilli Shaker Indian Cuisine	4 Denman Street London W1D 7HD	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
22/09173/LIPDPS	Archer Street	3 - 4 Archer Street London W1D 7AP	Night clubs and discos	Sunday; 09:00 - 23:00 Monday to Saturday; 09:00 - 01:30 Sundays before Bank Holidays; 09:00 - 00:00
23/01031/LIPVM	Piccadilly Institute	First Floor To Fifth Floor 1 Piccadilly Circus London W1J 0TR	Night clubs and discos	Sunday; 07:00 - 01:00 Monday to Friday; 07:00 - 03:30 Sundays before Bank Holidays; 07:00 - 01:30
23/01033/LIPVM	Shadow Licence	1 Piccadilly Circus London W1J 0TR	Premises Licence - Shadow Licence	Sunday; 07:00 - 01:00 Monday to Friday; 07:00 - 03:30 Sundays before Bank Holidays; 07:00 - 01:30
21/14329/LIPDPS	Not Recorded	Ground Floor Unit G2 The London Pavillion 1 Piccadilly London W1J 0DA	Not Recorded	Monday to Sunday; 00:00 - 00:00
21/04777/LIPDPS	West End Metro	Ground Floor 38 Great Windmill Street London W1D 7LU	Shop	Sunday; 07:00 - 02:00 Monday to Saturday; 07:00 - 02:00
22/05329/LIPDPS	Apollo Theatre	Apollo Theatre 31 - 33 Shaftesbury	Theatre	Monday to Sunday; 09:00 - 00:00

		Avenue London W1D 7EZ		
18/04102/LIPDPS	Blue Posts Public House	28 Rupert Street London W1D 6DJ	Restaurant	Sunday; 12:00 - 23:00 Monday to Thursday; 10:00 - 23:30 Thursday to Friday; 10:00 - 00:00
21/07738/LIPDPS	Blue Posts Public House	28 Rupert Street London W1D 6DJ	Public house or pub restaurant	Sunday; 12:00 - 23:00 Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00

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City of Westminster

Licensing Sub-Committee Report

Item No:	
Date:	20 April 2023
Licensing Ref No:	23/00414/LIPV - Premises Licence Variation
Title of Report:	Alberts Schloss 20-24 Shaftesbury Avenue London W1D 7EU
Report of:	Director of Public Protection and Licensing
Wards involved:	St James's
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Jessica Donovan Senior Licensing Officer
Contact details	Telephone: 020 7641 6500 Email: Jdonovan@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	Variation of a Premises Licence, Licensing Act 2003		
Application received date:	24 January 2023		
Applicant:	Zecol Thomas Limited		
Premises:	Alberts Schloss		
Premises address:	20-24 Shaftesbury Avenue London W1D 7EU	Ward:	St James's
		Cumulative Impact Area:	West End
		Special Consideration Zone:	None
Premises description:	The premises intends to operate as entertainment led venue.		
Variation description:	<p>This variation seeks the following:</p> <ul style="list-style-type: none"> To vary the licensed areas from the sub-basement and basement to ground floor and sub-basement. To remove the conditions contained in annex 1 on the licence. To add 50 new conditions including a new capacity works condition with a set maximum capacity. To vary the current permitted hours for the sale of alcohol on Sundays 10:00 to 00:00. To add plays as a licensable activity during the hours currently permitted for regulated entertainment. 		
Premises licence history:	<p>The premises has had the benefit of a premises licence since 2005. The current premises licence (23/00402/LIPT) can be viewed at Appendix 3 of this report. The premises were also granted a new premises licence in June 2022 for the Rainforest café (22/02797/LIPN).</p> <p>A copy of the premises history can be found at Appendix 4.</p>		
Applicant submissions:	<p>The applicant has provided the following submissions:</p> <ul style="list-style-type: none"> A dispersal policy Mediation with an interested party Correspondence between the applicant and [REDACTED] A brochure Pre-application advice report Extreme Oyster / Star Oyster Limited and Guildford Borough Council <p>A copy of the documents can be found at Appendix 2.</p>		
Applicant amendments:	<p>During consultation, the applicant reduced the proposed terminal hour for the retail sale of alcohol on Sundays from 00:00 to 22:30. Full details can be seen at 1-B.</p> <p>The applicant also amended the proposed maximum capacity from 700 to 620.</p>		

1-B Current and proposed licensable activities, areas and hours						
Regulated Entertainment						
Plays						
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	N/A	N/A	09:00	03:00	N/A	Sub-Basement and Ground Floor
Tuesday	N/A	N/A	09:00	03:00		
Wednesday	N/A	N/A	09:00	03:00		
Thursday	N/A	N/A	09:00	03:00		
Friday	N/A	N/A	09:00	03:00		
Saturday	N/A	N/A	09:00	03:00		
Sunday	N/A	N/A	09:00	03:00		
Seasonal variations: Non-standard timings:	Current: N/A				Proposed: The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day. In relation to the morning on which British Summertime begins the terminal hour for licensable activities and opening will be extended by 1 hour.	

Performance of live music						
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	09:00	03:00	No Change		Sub-Basement and Basement	Sub-Basement and Ground Floor
Tuesday	09:00	03:00				
Wednesday	09:00	03:00				
Thursday	09:00	03:00				
Friday	09:00	03:00				
Saturday	09:00	03:00				
Sunday	09:00	03:00				
Seasonal variations/ Non-standard timings:	Current: For the current seasonal timings please see condition 18 &19 on the existing licence at appendix 3 .				Proposed: The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day. In relation to the morning on which British Summertime begins the terminal hour for licensable activities and opening will be extended by 1 hour.	

Performance of Dance						
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	09:00	03:00	No Change		Sub-Basement and Basement	Sub-Basement and Ground Floor
Tuesday	09:00	03:00				
Wednesday	09:00	03:00				
Thursday	09:00	03:00				
Friday	09:00	03:00				
Saturday	09:00	03:00				
Sunday	09:00	03:00				
Seasonal variations/ Non-standard timings:	Current:				Proposed:	
	For the current seasonal timings please see condition 18 &19 on the existing licence at appendix 3 .				<p>The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day.</p> <p>In relation to the morning on which British Summertime begins the terminal hour for licensable activities and opening will be extended by 1 hour.</p>	

Playing of Recorded music						
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	00:00	00:00	No Change		Sub-Basement and Basement	Sub-Basement and Ground Floor
Tuesday	00:00	00:00				
Wednesday	00:00	00:00				
Thursday	00:00	00:00				
Friday	00:00	00:00				
Saturday	00:00	00:00				
Sunday	00:00	00:00				
Seasonal variations/ Non-standard timings:	Current:				Proposed:	
	For the current seasonal timings please see condition 18 &19 on the existing licence at appendix 3 .				<p>The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day.</p> <p>In relation to the morning on which British Summertime begins the terminal hour for licensable activities and opening will be extended by 1 hour.</p>	

Anything of a similar description to Live Music, Recorded Music or Performance of Dance						
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	09:00	03:00	No Change		Sub-Basement and Basement	Sub-Basement and Ground Floor
Tuesday	09:00	03:00				
Wednesday	09:00	03:00				
Thursday	09:00	03:00				
Friday	09:00	03:00				
Saturday	09:00	03:00				
Sunday	09:00	03:00				
Seasonal variations/ Non-standard timings:	Current: For the current seasonal timings please see condition 18 &19 on the existing licence at appendix 3.				Proposed: The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day. In relation to the morning on which British Summertime begins the terminal hour for licensable activities and opening will be extended by 1 hour.	

Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit						
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	00:00	00:00	No Change		Sub-Basement and Basement	Sub-Basement and Ground Floor
Tuesday	00:00	00:00				
Wednesday	00:00	00:00				
Thursday	00:00	00:00				
Friday	00:00	00:00				
Saturday	00:00	00:00				
Sunday	00:00	00:00				
Seasonal variations/ Non-standard timings:	Current: For the current seasonal timings please see condition 18 &19 on the existing licence at appendix 3.				Proposed: The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day. In relation to the morning on which British Summertime begins the terminal hour for licensable activities and opening will be extended by 1 hour.	

Late night refreshment						
Indoors, outdoors or both			Current :		Proposed:	
			Indoors		No change	
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	23:00	03:30	No change		Sub-Basement and Basement	Sub-Basement and Ground Floor
Tuesday	23:00	03:30				
Wednesday	23:00	03:30				
Thursday	23:00	03:30				
Friday	23:00	03:30				
Saturday	23:00	03:30				
Sunday	23:00	03:00				
Seasonal variations/ Non-standard timings:		Current:			Proposed:	
		The terminal hour for late night refreshment on New Year's Eve is extended to 05.00 on New Year's Day.			<p>The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day.</p> <p>In relation to the morning on which British Summertime begins the terminal hour for licensable activities and opening will be extended by 1 hour.</p>	

Sale by Retail of Alcohol						
On or off sales			Current :		Proposed:	
			Both		No change	
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	10:00	03:00	10:00	03:00	Sub-Basement and Basement	Sub-Basement and Ground Floor
Tuesday	10:00	03:00	10:00	03:00		
Wednesday	10:00	03:00	10:00	03:00		
Thursday	10:00	03:00	10:00	03:00		
Friday	10:00	03:00	10:00	03:00		
Saturday	10:00	03:00	10:00	03:00		
Sunday	12:00	22:30	10:00	22:30		
Seasonal variations/ Non-standard timings:		Current:			Proposed:	
		For the current seasonal timings please see condition 18 &19 on the existing licence at appendix 3 .			<p>The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day.</p> <p>In relation to the morning on which British Summertime begins the terminal hour for licensable activities and opening will be extended by 1 hour.</p>	

Hours premises are open to the public						
	Current Hours		Proposed Hours		Premises Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	09:00	03:30	No change		Sub-Basement and Basement	Sub-Basement and Ground Floor
Tuesday	09:00	03:30				
Wednesday	09:00	03:30				
Thursday	09:00	03:30				
Friday	09:00	03:30				
Saturday	09:00	03:30				
Sunday	09:00	03:00				
Seasonal variations/ Non-standard timings:	Current:				Proposed:	
	For the current seasonal timings please see condition 18 & 19 on the existing licence at appendix 3 .				<p>The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day.</p> <p>In relation to the morning on which British Summertime begins the terminal hour for licensable activities and opening will be extended by 1 hour.</p>	

1-C Layout alteration
<p>This variation seeks to vary the licensed areas from the sub-basement and basement to ground floor and sub-basement.</p> <p>A copy of the plans can be found at Appendix 2.</p>

1-D Conditions being removed and added
<p>This variation seeks to remove conditions 9-22 that appear at annex 1 on the existing premises licence and add 50 new conditions.</p> <p>A copy of the conditions can be found at Appendix 3.</p>

2. Representations

2-A Responsible Authorities	
Responsible Authority:	The Licensing Authority
Representative:	Karyn Abbott
Received:	17 February 2023

I write in relation to the application submitted for a variation of the premises licence for 20-24 Shaftesbury Avenue, London, W1D 7EU.

As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011, the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the four Licensing Objectives:

- Public Nuisance
- Prevention of Crime & Disorder
- Public Safety
- Protection of children from harm

The application seeks to vary the following:

Variation to change the licensed areas from the sub-basement and basement to ground floor and sub-basement. Remove historic conditions including the capacity condition, update the conditions to full model conditions including a personal condition regarding the new operator and an ancillary entertainment condition. Full works conditions including a new capacity works condition with a set maximum capacity of 700 persons (excluding staff). To amend the current permitted hours for the sale of alcohol on Sundays 10:00 to midnight; there being no change to permitted hours on other days. To add plays as a licensable activity during the hours currently permitted for regulated entertainment.

The premises are located within the West End Cumulative Impact Zone and as such various policy points must be considered, namely CIP1, HRS1 and PB1.

Policy PB1(B) states

B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:

1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1.
2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.

C. The applications referred to in Clause B1 and B2 will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1, and/or,
2. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
3. The application and operation of the venue continuing to meet the definition of a Public House or Bar in Clause D.

D. For the purposes of this policy a Public House or Bar is defined as a premises, or part of a premises that's primary use is the sale or supply of alcohol for consumption on those premises and/or for consumption off the premises for consumption outside the venue.

The Licensing Authority note that the proposed variation does fall outside of Westminster's core hours for Pubs and Bars.

The Core hours for Pubs and Bars are:
 Monday to Thursday: 10am to 11.30pm.
 Friday and Saturday: 10am to Midnight.
 Sunday: Midday to 10.30pm.
 Sundays immediately prior to a bank holiday: Midday to Midnight.

It is noted that the applicant has proposed the below condition within the operating schedule.

1. The licensable activities authorised and provided at the premises shall be ancillary to the main function of the premises operating as an Albert's Schloss themed entertainment led venue operated by Zecol Thomas Limited.

The Licensing Authority encourage the applicant to provide further submissions on the questions below in regards to this condition.

1. Can you provide a description of the themed entertainment?
2. What will the timings be of this entertainment?
3. Will this be ticketed and prebooked?
4. Will patrons need to be seated for the entertainment?
5. Will food be available with the entertainment?

The Licensing Authority note that the area for licensable activities is proposed to be changed from the sub-basement and basement to the ground floor and sub-basement. The Licensing Authority has concerns with the proposed layout change as the ground floor is more visual from street level and with a proposed increase in capacity by 80 people leaving the premises at 3am this will have a detrimental impact within the cumulative impact zone.

The Licensing Authority encourages the applicant to provide further submissions as to how the increase in capacity and the layout change of the premises will not add to cumulative impact in the West End cumulative impact area, in accordance with policy CIP1.

The Licensing Authority would like submissions from applicant in regard to the above questions so the application can be accessed further against any further relevant policy considerations.

The Licensing Authority looks forward to receiving further submissions from the applicant in due course.

Please accept this as a formal representation.

Responsible Authority:	Environmental Health Service
Representative:	Ian Watson
Received:	16 February 2023

I refer to the application for variation of the Premises Licence.

The premises are located within the West End Cumulative Impact Zone as stated in the City of Westminster's Statement of Licensing Policy.

The applicant has submitted floor plans of the premises.

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

The applicant is seeking the following

1. To vary the licensed area from the sub-basement and basement floors to Sub-basement and ground floor.
2. To remove, vary and add conditions.
3. To increase the capacity of the premises from 620 persons to 700 persons excluding staff.
4. To vary the hours for the supply of alcohol 'On' and 'Off' the premises on a Sunday 10.00 to 00.00 hours.
5. To provide regulated entertainment 'Indoors' comprising
 - Plays
 Monday to Sunday between 09.00 to 03.00 hours.

I wish to make the following representation

1. The variation of the layout of the premises will impact on Public Safety and have the likely effect of causing an increase in Public Nuisance within the West End CIZ.
2. The removal, variation and addition of conditions will have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the West End CIZ.
3. The proposed increase in capacity will have the likely effect of causing an increase in Public Nuisance and impact on Public Safety within the West End CIZ.
4. The variation of hours on a Sunday will have the likely effect of causing an increase in Public Nuisance within the West End CIZ.
5. The addition of plays as regulated entertainment will impact on Public Safety within the West End CIZ.

The applicant has provided additional information and conditions with the application which are being addressed.

Should you wish to discuss the matter further please do not hesitate to contact me.

Responsible Authority:	Metropolitan Police Service (<i>Withdrawn 07 March 2023</i>)
Representative:	PC Tom Stewart
Received:	03 February 2023

I am writing on behalf of the Chief Officer of Police for the Metropolitan Police Service ("The Commissioner") to make representations opposing the granting of the variation application for **Alberts Schloss 20-24 Shaftesbury Avenue W1D 7EU**

The applicant seeks the following:

"Variation to change the licensed areas from the sub-basement and basement to ground floor and sub-basement. Remove historic conditions including the capacity condition, update the conditions to full model conditions including a personal condition regarding the new operator and an ancillary entertainment condition. Full works conditions including **a new capacity works condition with a set maximum capacity of 700 persons (excluding staff)**. To amend the current permitted hours for **the sale of alcohol on Sundays 10:00 to midnight**; there being no change to permitted hours on other days. To add plays as a licensable activity during the hours currently permitted for regulated entertainment".

In respect of the proposed increase in capacity from 620 (as per condition 13 attached to the current premises licence 22/04957/LIPDPS) to 700 and proposed extension to the sale of alcohol on Sunday 10:00 to midnight (in bold above), the Metropolitan Police Service ("The Police") submit that if granted, this variation would undermine the licensing objective: **the**

prevention of crime and disorder. The sale of alcohol hours proposed on Sunday out outside Westminster's core hours for a premises of this type (12:00 to 22:30).

The police have taken into consideration the additional conditions offered by the applicant, however the police are not satisfied that these conditions will mitigate the impact of the extension of licensable activities and capacity on the licencing objectives. The premises is located within the West End Cumulative Impact Zone ("CIZ") and as such it is Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for such premises.

Paragraph D16 of the SLP states "*The Licensing Authority's policy, in relation to the West End Cumulative Impact Zone, is directed at the global and cumulative effects of licences on the area as a whole (my emphasis). Therefore, a case is most unlikely to be considered exceptional unless it is directed at the underlying reason for having the policy. Exceptions to the West End Cumulative Impact Zone policy to refuse certain types of applications must be for genuinely exceptional reasons (my emphasis)*". It is the police's submission that the underlying reasons for the having the policy is due to the significant levels of crime, disorder and anti-social behaviour within the West End. Current levels of alcohol related assaults, sexual assaults and robberies are higher now than they were when the Cumulative Impact Assessment was undertaken in 2020. The peak times of these crimes are 00:00 to 5am Friday to Saturday (trading days). If the variation were to be granted, the effect would be to increase the number of potentially intoxicated people in the West End by 80 persons at a time when crime levels are at a peak.

The police propose that the applicant amends the application to maintain the capacity at that which is already authorised by the current licence (620 as per condition 13 attached to the current premises licence 22/04957/LIPDPS) as well as maintain the current hours for the sale of alcohol on Sundays (12:00 to 22:30).

Further to the above representation, I would like to conduct a site visit to the premises to better understand the proposed operation of the premises. I currently have availability on Thursday 9th February.

If the applicant would like to discuss my representation further, I can be contacted on the details below.

Following the reduction of capacity and terminal hour on Sundays for the retail sale of alcohol, the Metropolitan Police withdrew their representation on 7 March 2023.

2-B Other Persons			
Name:		[REDACTED]	
Address and/or Residents Association:		[REDACTED] [REDACTED] [REDACTED]	
Status:	Valid	In support or opposed:	Opposed
Received:	18 February 2023		
We already have enough noise and banging from enough premises and clubs into the wee hours of the morning - we do not need a place to be open for anymore hours! I strongly object to this as a resident living here for over 5 years.			

Name:	[REDACTED]		
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED]		
Status:	Valid	In support or opposed:	Opposed
Received:	10 February 2023		

[REDACTED] are in principle supportive of restaurants that operate in core hours but we oppose drink led licence applications for late night venues.

In the case of Alberts Schloss, we note that the previous operations at this venue have now ended and so are concerned at the impact of a 700 person capacity venue in the West End Cumulative Impact Zone.

Whilst we do not support the application, we understand that the existing licence/licences for the premises might lead to a greater impact on the CIZ if there is a realistic chance of this licence / these licences being revived.

Therefore, if the Council is minded to approve this variation, we urge the Council to impose strict conditions to limit the impact of 700 persons especially late at night when street and disorder is a particular concern.

Name:	[REDACTED]		
Address and/or Residents Association	[REDACTED]		
Status:	Valid	In support of opposed:	Opposed
Received:	20 February 2023		

We write to make a relevant representation to the above application on behalf of [REDACTED]
[REDACTED]

About [REDACTED] is a charitable company limited by guarantee established in 1972. [REDACTED] is a recognised amenity group and was formed to make Soho a better place to live, work or visit by preserving and enhancing the area's existing diversity of character and uses, and by improv-ing its facilities, amenities and environment.

**Application summary Variation
Premises Licence**

- Variation to change the licensed areas from the sub-basement and basement to ground floor and basement
- Remove historic conditions including the capacity condition, update the conditions to full model conditions licensing a personal condition regarding the new operator and an ancillary entertainment condition
- Full works condition including a new capacity works conditions with a set maximum of capacity 700 (excluding staff)
- To amend the current permitted hours, for the sale of alcohol on Sunday 10am to midnight; there being no change to permitted hours on other days
- To add plays as a licensable activity during the hours currently permitted for regulated entertainment
- Plays: Monday - Sunday: 9am - 3am, theatrical performances including an artist routine, dance, dramatic performance, spoken word and the like in front of an audience

Alcohol: Sunday: 10:00 - 00:00

Plays: Monday - Sunday: 09:00-03:00

Opening Hours: Monday - Sunday: 09:00 - 03:00

Proposed Conditions: 1. The licensable activities authorised and provided at the premises shall be ancillary to the main function of the premises operating as an Albert Schloss themed entertainment led venue operated by Zecol Thomas Limited.

2. 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.

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 and shall be limited to a maximum of 35 persons at any one time.

22. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff as to ensure that there is no public nuisance or obstruction to the public highway.

Current Licence : Jungle Cave, 22/04957/LIPDPS

Alcohol: Monday - Saturday: 10:00 - 03:00. Sun: 12:00 - 22.30.

Late Night Refreshment: Mon - Sat:23:00 - 03:00. Sun: 23:00 - 03:00.

Performance of Dance/Live Music / Anything similar Monday - Sunday: 09:00 - 03:30

Recorded Music : unrestricted

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

Opening Hours : Monday - Saturday: 09:00 - 03:30 Sunday: 09:00 - 03:00

Capacity: Basement - 470, Sub-Basement 150. Total 620 On and Off sales

Representation [REDACTED] objects to this application on the following grounds.

Premises Variation Application We are surprised this application has been submitted considering the fact that this licence was offered as one of the licences for surrender when Sky Bar and Lounge, Trocadero Hotel, applicants, Trocadero (London) Hotel and Tao Group Operating PLC, applied for a 3am licence (21/06624/LIPN). On 11th November 2021 the Licensing Sub-Committee granted the 3am licence and the offer was accepted. The applicant stated an application for a midnight restaurant licence would be made to replace the current 3am licence, to date this application has not be submitted. The Sky Bar decision document makes reference to this agreement with Conditions 65 and 66 stating the following;

65: The applicants contend that this appellation can be treated as an exception to policy upon the basis of the following:

(a) Premises Licence 15/02410/LIPT relating to 1-4 Leicester Square (which the first applicant previously offered to surrender when Licence 18/00656/LIPN was granted), together with Licence 18/00656/LIPN, will be surrendered subject to the grant of this application;

(b) Premises Licence 20/03425/LIPDPS relating to the Rainforest Cafe at 20-24 Shaftesbury Avenue will be surrendered by the first applicant, subject to the grant of the linked application described below (66a) and the satisfaction of works conditions relating to this application and the application described at 66(a); (our emphasis)

(c) The capacity for the Piccadilly Institute stated within Premises Licences 19/09064/LIPN and 21/04481/LIPDPS shall be reduced by 380 as a result of the linked application described below 66b.

66: **To support the exception to policy argument, the below linked applications will be sub-mitted following the grant of this licence application:**

(a) New Premises Licence application for the Rainforest Café at 20-24 Shaftesbury Avenue authorising the use of the premises as a restaurant (with a holding bar) until midnight;

(b) Two minor variation applications to reduce the capacity of the Piccadilly Institute by 380 persons.

Conditions 65 and 66 above to be removed upon satisfaction of the works conditions at 62 and 63 above, and to a works condition which will be incorporated in the application referred to at Condition 65 (b).

On this basis this application to vary the existing licence should be refused.

Themed Entertainment Led Venue We contest the applicants proposal that the licensable activities provided at the premises shall be ancillary to the main function of the premises operating as a themed entertainment led venue. We suggest the primary function is the sale of alcohol, where 'substantial food' (pro-posed condition 2) will be available and where there will be some entertainment but it will not be the main focus. Our view is the entertainment will take place regardless and would not be the reason why people attend, and furthermore, it does not appear that patrons will be required to purchase a ticket.

This application does not fall within the Cinema, Cultural Venues, Live Sporting Premises and Outdoor Spaces Policy CCSOS1, but within the Pubs and Bars Policy PB1 and this is an attempt to circumvent this policy.

Queuing and Smoking Outside We are concerned with the proposed condition to allow queuing outside the premises and along Shaftesbury Avenue which is a major thoroughfare and where any obstruction will have a significant and negative impact. A queue will impede the free flow of pedestrians on the highway and will result in people walking in the road placing them at risk. We also object to the proposal to allow 35 people to stand outside the premises and smoke on the same grounds.

Increase in Capacity and Hours We object to the application to increase the capacity of the premises by 80, from the current 620 to 700, and to extend the supply of alcohol on Sundays 10am to midnight, both are contrary to policy. Any increase in capacity and extension of hours in the West End Cumulative Impact Zone will result in an increase in cumulative impact and fail to promote the licensing objectives.

We base this view on the large number of licensed premises in the cumulative impact zone, the premises is situated in an area with a large number of late night licensed premises, those in the same section of Shaftesbury Avenue being:

Rumba, 36, Shaftesbury Avenue. 3am, capacity 455

Ugly Coyote, 30, Shaftesbury Avenue. 3am, capacity 350

Jungle Cave (Albert Schloss): 20-24, Shaftesbury Avenue. 3am, capacity 620

The Sky Bar, Trocadero Hotel: will also exit on Shaftesbury Avenue. 3am, capacity 1,000

The total number of patrons being dispersed onto this street at 3am will be **2,425**.

The premises is also in very close proximity to Soho the late night entertainment district, with its **478** licensed premises a large proportion being late night (25%), **118** licensed with a terminal of 1am until 6am and a **capacity of 22,480**.

In our view the premises falls under the Pubs and Bars Policy PB1 where the applicant needs to demonstrate an exception to policy.

Residents There are real concerns amongst residents about the ever increasing numbers of alcohol establishments in the area. They have been subjected to anti-social behaviour that is beyond acceptable levels. They have had to endure vomiting in the street, people urinating in the street or through their letter boxes, abuse from people when reminded that their home is not a urinal, pedicabs playing unacceptably loud music into the early hours of the morning.

We are concerned people leaving the premises will cause a noise nuisance to residents as they

continue their night out in Soho, or as they make their way home. For residents, people at some point will walk down their street or pass nearby and with people who are usually highly intoxicated, this involves, shouting, screaming and fighting creating loud noise and disturbing residents sleep.

A recent sleep survey conducted by [REDACTED] confirms that residents are disturbed by noise at night and it is having a negative impact. 87 people responded of which 78 are Soho residents with ages spread fairly evenly from 22 to 80, 59% having lived in Soho for more than 10 years.

When asked about disturbed sleep; 24% of respondents have their sleep disturbed 7 nights a week, 16% 5 or 6 nights a week and 19% 3 or 4 nights a week. Furthermore, 64% of respondents agreed that noise nuisance from increased commercial activity at night is the most serious problem impacting Soho residents quality of life. 62% of respondents agreed that the council should not grant any extensions of hours for premises in Soho. 60% of respondents agreed that noise nuisance and sleep deprivation is adversely impacting my health and the health of the people they live with. 46% of respondents agreed that noise nuisance is so bad that they have considered moving away from Soho. The full survey can be found in **Appendix 1**.

Crime and Disorder The Cumulative Impact Assessment 2020 presents overwhelming evidence of the year on year increase in cumulative impact in the West End Zone 1, **it highlights the rate of crime as 10 - 13 times higher between 6pm - 6am compared to the borough average.** The level of crime, dis-order and anti social behaviour continues to be a huge problem in Soho, the crime figures are high and increasing. The recent police crime report for December 2022 highlights Soho as having the highest number of robberies, overall knife crime and violence against the person compared to other areas within the cumulative impact zone.

In Soho the majority of robberies take place at night, people are targeted as they leave venues, alongside the robberies and assaults, drug dealing is another problem with groups of dealers congregating to sell drugs to people out on the streets. There are more dealers in the area at night than during the day, this is directly linked to the large number of venues and people on the streets which creates the drugs market. Pickpockets also operate in the area, they are a part of a well organised criminal group who arrive in a van at night and disperse into Soho before returning to be driven away.

It is well known that intoxicated people become victims of crime, their vulnerability being exploited by gangs or individuals who are in the area late at night specifically to target them. We believe patrons leaving this bar at night will be at high risk of becoming victims of crime.

Cumulative Impact Policy CIP1 This area has been identified by the Westminster City Council as under stress because the cumulative effect of the concentration of late night and drink led premises and night cafes has led to serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses. The evidence presented in the Cumulative Impact Assessment 2020 is overwhelming, it describes the high level of cumulative impact in the West End Zone between 2017-2019. It concludes that, *'After consideration of the cumulative impact assessment it is the Licensing Authority's view that the number of premises licences in the West End, are such that it is likely granting further types of licences or varying existing licences would be inconsistent with the authority's duty to promote the licensing objectives. The granting of licences for certain types of operation that are likely to add to Cumulative Impact within these areas would not be consistent with the Licensing Authority's duty under the Licensing Act 2003.'* (p.19) *(Our emphasis)*

This evidence supported further policy restrictions in the West End, however, the impact of COVID-19 resulted in the Licensing Authority deciding not to implement greater restrictions at this stage, but it may in the lifetime of the policy if footfall moves toward pre-March 2020 levels

(D1). Soho and the area which surrounds it is fully open for business and thriving, our observation is Soho attracts more people now than at pre-COVID times.

It is important to note the policies in relation to the cumulative impact zone are directed at the global and cumulative effects of licences on the area as a whole (D16. of the policy).

D23. ‘The proximity of residential accommodation is a general consideration with regard to the prevention of public nuisance. It goes on, ‘The nature of cumulative impact is that it is cumulative and affects not only the immediate vicinity of the premises, but the wider area; thus the number of people visiting the premises, the nature of licensable activities and the lateness of operations have an impact on an area as a whole, irrespective of whether or not there is residential accommodation in proximity to the premises.’ (our emphasis)

The policy has a presumption to refuse applications within the West End Cumulative Impact Zone for pubs, music and dance and fast food premises, the applicant needs to demonstrate an exception to policy, they have failed to do so.

In summary In our view this application should be refused on the basis of the agreement that the licence would be surrendered following the grant of the Sky Bar 3am licence.

This application to vary the existing licence is contrary to policy and will fail to promote the licensing objectives and increase cumulative impact in the West End Cumulative Impact Zone.

We respectfully ask the Licensing Sub-Committee to refuse this application.

Yours faithfully,

Licensing Committee
██████████

Appendix 1 : ██████████ Sleep Survey Results

Appendix 1 : ██████████ Sleep Survey Results ██████████ Sleep Survey Results - 31 October 2022

A recent sleep survey conducted by ██████████ confirms that residents are disturbed by noise at night and it is having a negative impact. 87 people responded of which 78 are Soho residents with ages spread fairly evenly from 22 to 80.

59% have lived in Soho more than 10 years

26% between 3 and 10 years

6% between 1 and 3 years and

9% have lived here less than a year

42% own their homes

20% are Soho Housing Association and the rest tenants with other landlords

10 respondents have children living at home with them

58% have double glazing

37% single glazing

5% have triple glazing

24% of respondents have their sleep disturbed 7 nights a week

16% of respondents have their sleep disturbed 5 or 6 nights a week

19% of respondents have their sleep disturbed 3 or 4 nights a week

19% of respondents have their sleep disturbed once or twice a week

20% do not have a problem with environmental noise pollution

Topping the list in September was people drinking in the street with 54 mentions, then pedicabs

with 51, waste collections at 48, construction noise 36 and car horns 33 and deliveries at 25. Other noise sources identified were air conditioning, motorbikes revving, building alarms and music from licensed venues. The most common identified problem at 42% of respondents was people drinking and shouting in the street.

64% of respondents agreed that noise nuisance from increased commercial activity at night is the most serious problem impacting Soho residents quality of life

46% of respondents agreed that noise nuisance is so bad that they have considered moving away from Soho

60% of respondents agreed that noise nuisance and sleep deprivation is adversely impacting my health and the health of the people they live with.

67% of respondents agreed that the council should base its noise policy on the World Health Organisation guidelines

64% of respondents agreed that our ward councillors should make this their priority during the next four years 69% of respondents agreed that during the time I have lived in Soho noise pollution has got significantly worse

73% of respondents agreed that if noise limits are being exceeded the council should consider reviewing existing alcohol licences

72% of respondents agreed that the council should install electronic noise monitoring in Soho

56% of respondents agreed that the council should not grant additional premises licence for the sale of alcohol in Soho.

62% of respondents agreed that the council should not grant any extensions of hours for premises in Soho

68% of respondents agreed that the council should renew its noise strategy as a matter of urgency

Many respondents made additional comments:- *I left Soho 4 years ago. After 20 years, the noise & air pollution finally broke me. Like the frog in the pan of water with the heat gradually turned up, it took me a while to realise that it wasn't me going soft, it was the significant degradation of the environment around me. Since moved out of my flat, several other tenants have moved in & swiftly out again citing sleep disruption & excessive night noise as their reason for leaving. The flat is now used as an office rather than as residential.*

I am disappointed that another restaurant unit is going to be let on Hopkins Street by Shaftesbury when the residents already have an enormous amount of noise from the existing restaurants. No doubt they will also want an alcohol license, which will increase the noise and disturb residents even more.

As a disabled person working from home, I find it extremely exhausting not able to have rest at night, Screams and noise of drunk people every night, The Landlord WCC does not want to change the windows to a double glazing nor allow tenants to pay privately for windows to be upgraded. Noise at home, lack of sleep, and concentration in the day time. I have a hand held noise monitor, I recorded noise levels of 97db outside the pub at the corner of Broadwick and Berwick Streets.

More consideration needs to be given to residents from councillors, people visiting the area and local businesses in particular those who serve alcohol and have late night licences. Decisions such as granting planning and licence applications should not be made by people who do not

live in the area and are therefore not impacted by the decision making.

Very difficult to get the local authority to understand and take complaints seriously. Officers often helpful but then the case goes to committee and they always seem to rule in favour of the commercial premises rather than residents.

There is supposed to be a presumption to refuse new licences but in practice the council still lets new things through until after Midnight, which is far too late and has made a nonsense of the policy. There should be a quiet window of 11pm to 8am every day. 7am deliveries are far too early for a lot of people if they are noisy or use cages or refrigeration.

Regularly now (most nights) there are traffic jams in the street at 3am in the morning with cars picking up people leaving clubs. The cars frequently are using their horns. Last night they had their door open with music blaring. we have 2 motorbike stands close together. 1 in [redacted] and 1 in [redacted] There is always at least one bike revving up at either 3am or really early like 530am This noise has changed and increased over the past 3-4 years. I am woken up most nights at about 3am. And i have double glazing and am on [a high] floor.

Businesses take no responsibility for their customers drinking/eating and mainly shouting outside, including when they are queuing, and particularly when they are leaving. Post al fresco, there is a new attitude that anything goes on the streets and that includes contempt for the community who live here. The Council need to rethink this and put some major resource into enforcement.

I've lived in Soho for 60 years... Born and bred.. It's never been this noisy!

Early hours waste collections (including bottle smashing) also includes the food & beverage businesses putting their waste in the street and bottle bins at anti-social hours ahead of collection times. Our local restaurants are not supposed to put bottles out between the hours of 23:00 and 07:00 but they frequently do. Frequently delivery trucks some with noisy refrigeration units are also delivering early hours.

Also deliveries & pedicabs. Unfortunately my lack of sleep due to noise has caused serious health issues and I now cannot work and suffer anxiety and depression. I'm woken up on average 5 times per night and have considered suicide. Why I'm being denied sleep between the hours of 11pm and 7am astonishes me. The freeholders Shaftesbury Carnaby show a total disrespect to the effects that noise has on the residents of Soho.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
<p>Policy CIP1 applies</p>	<p>A. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment, other than applications to:</p> <ol style="list-style-type: none"> 1. Vary the hours within Core Hours under Policy HRS1, and/or 2. Vary the licence to reduce the overall capacity of the premises. <p>C. Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.</p> <p>D. For the purposes of this policy the premises types referred to in Clause A are defined within the relevant premises use policies within this statement.</p>
<p>Policy HRS1 applies</p>	<p>A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:</p> <ol style="list-style-type: none"> 1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm. 2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation. 3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed. 4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises. 5. The proposed hours when any music, including incidental music, will be played. 6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises. 7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity. 8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night. 9. The capacity of the premises. 10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs

and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.

11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.

12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.

13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.

14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.

C. For the purpose of Clauses A and B above, the Core Hours for applications for each premises use type as defined within this policy are:

1. **Casinos:** Up to 24 hours a day whilst casino gaming is permitted by a premises licence under the Gambling Act 2005.

2. **Cinemas, Cultural Venues and Live Sporting Premises:**
Monday to Sunday: 9am to 12am

3. **Hotels:** Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am. For the sale of alcohol to guests for consumption in hotel/guest rooms only: Anytime up to 24 hours.

4. **Off licences:** Monday to Saturday: 8am to 11pm. Sunday: 9am to 10.30pm.

5. **Outdoor Spaces:** Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.

6. **Pubs and bars, Fast Food and Music and Dance venues:**
Monday to Thursday: 10am to 11.30pm. Friday and Saturday: 10am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 12pm to 12am.

7. **Qualifying Clubs:** Monday to Thursday: 9am to 12am.. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.

8. **Restaurants:** Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.

9. **Sexual Entertainment Venues and Sex Cinemas:** Monday to Thursday: 9am to 11.30pm. Friday and Saturday: 9am to 12am. Sunday: 9am to 10.30pm. Sundays immediately prior to a bank holiday: 9am to 12am.

D. Core hours are when customers are permitted to be on the premises and therefore the maximum opening hours permitted will be to the same start and terminal hours for each of the days where licensable activity is permitted.

	E. For the purposes of this policy, 'premises uses' are defined within the relevant premises use policies within this statement.
Policy PB1 applies	<p>A. Applications outside the West End Cumulative Zone will generally be granted subject to:</p> <ol style="list-style-type: none"> 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The hours for licensable activities being within the council's Core Hours Policy HRS1. 3. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1. 4. The applicant has taken account of the Special Consideration Zones policy SCZ1 if the premises are located within a designated zone. 5. The application and operation of the venue meet the definition of a Public House or Bar in Clause D. <p>B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:</p> <ol style="list-style-type: none"> 1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1. 2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises. <p>C. The applications referred to in Clause B1 and B2 will generally be granted subject to:</p> <ol style="list-style-type: none"> 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1, and/or, 2. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1. 3. The application and operation of the venue continuing to meet the definition of a Public House or Bar in Clause D. <p>D. For the purposes of this policy a Public House or Bar is defined as a premises, or part of a premises that's primary use is the sale or supply of alcohol for consumption on those premises and/or for consumption off the premises for consumption outside the venue.</p>

4. Equality Implications

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

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

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

5. Appendices

Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Existing premises licence 23/00402/LIPT
Appendix 4	Premises history
Appendix 5	Proposed conditions
Appendix 6	Residential map and list of premises in the vicinity

Report author:	Jessica Donovan Senior Licensing Officer
Contact:	Telephone: 020 7641 6500 Email: Jdonovan@westminster.gov.uk

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

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

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	01 October 2021
3	Amended Guidance issued under section 182 of the Licensing Act 2003	December 2022
4	The Licensing Authority representation	17 February 2023
5	Environmental Health Service representation	16 February 2023
6	Metropolitan Police Service representation <i>(Withdrawn 7th March 2023)</i>	03 February 2023
7	Interested party 1 representation	18 February 2023
8	Interested party 2 representation	10 February 2023
9	Interested party 3 representation	20 February 2023

Dispersal Policy

Alberts Schloss

20 – 24 Shaftesbury Avenue, London, W1D 7EU

Dispersal Policy

This policy is a living document and will be reviewed from time to time taking cognize of advice given by the Police and Licensing Authority Officers.

Liaison with Neighbours

Nearby residents and business owners shall be provided with the contact details for the premises and its management where they are requested along with instructions for how to reach a live representative of the venue during all operational hours.

Management of arrival & departures

Staff shall –

- Manage any queue which forms outside the premises and shall manage the departure of guests, encouraging guests to move away from the area in a quiet and respectful manner.
- Direct all smoking customers to the designated space for them to use at the front of the premises.
- Ensure all alcohol is consumed on the premises.
- Carefully manage and expedite any transport enquiries.
- Together with management shall implement the premises terrorism threat risk assessment.

The front door of the premises and the public highway immediately adjacent to the premises will be under CCTV surveillance. Access to video evidence will always be available to the police in line with the Premises Licence conditions.

There will be appropriate signs in public areas of the premises reminding guests to leave quietly.

Staff The reception area will be spacious enough for any guest to wait for a pre-ordered taxi.

End of Evening Operational Policies

The premises will use volume levels, type of music played and variation of lighting levels to encourage the gradual dispersal of customers during the last part of trading.

Security staff and other premises staff shall be trained to politely encourage customers to leave gradually to support the gradual dispersal of customers. Security staff shall remain on the street outside the premises until the last customer has left the area.

Security Staff

Security shall -

- Encourage customers to drink-up and progress to the exit throughout the latter part of drinking-up time.
- Remind customers where necessary to leave quietly.
- Ensure the removal of all bottles and glasses from any customer who attempts to leave the premises carrying one.
- Encourage customers not to assemble outside the premises and discourage street entertainers and beggars outside the premises.
- Direct customers to wait inside the premises if waiting for a taxi and assist taxi's that are summoned.

Queuing

At the busiest trading times the following key measures will be employed:

- Sufficient security staff will be deployed outside the premises to ensure proper and efficient management of any queue which may form outside the premises.
- If needed to preserve adequate passing space for pedestrians, temporary barriers shall be used outside the premises.
- Management will liaise with EH and Police to ensure that they are satisfied with the operation of said queuing system.

Public Transport/Hackney Carriage/Private Hire Cars Arrangement

Details of public transport links to the venue shall be published on any website maintained by the venue.

Arrangements shall be made to promote the services of taxi companies which can provide transport for customers to take them away from the premises quickly. Customers shall be permitted to stay inside the premises whilst waiting for taxis.

Mediation with an interested party

From: Lisa Sharkey <L.Sharkey@popall.co.uk>

Sent: 06 March 2023 14:41

To: Seaward, Angela: WCC <aseaward@westminster.gov.uk>

Subject: 23/00414/LIPV - Alberts Schloss, 20-24 Shaftesbury Avenue, London W1D 7EU
PCX:000038000000193

Dear Angela,

I should be most grateful if you would notify the interested parties that we have applied to amend the application.

We have withdrawn the request to increase capacity from 620 to 700 and extend sale of alcohol hours on Sundays from 10.30 pm to midnight.

The capacity to therefore remain 620 and terminal hour for sale of alcohol to remain 10.30 pm as per the existing premises licence.

I should be most grateful if you would ask them whether they would be prepared to withdraw their objections to the application?

In relation to the objection from the Soho Society, they mentioned the fact that the landlord had proposed to offer this licence by way of surrender before activating the 3 am premises licence which was granted for the Sky Bar & Lounge (21/06624/LIPN). You can confirm to them that the landlord understands that this variation being approved will impact upon their ability to activate that licence and will necessitate the

landlord submitting separate applications before being able to activate that licence.

If any of the interested parties would like to meet with the applicant, then my clients would be very happy to meet.

I look forward to hearing from you.

Regards

Lisa

From: Seaward, Angela: WCC <aseaward@westminster.gov.uk>

Sent: Tuesday, March 7, 2023 9:02 AM

To: Lisa Sharkey <L.Sharkey@popall.co.uk>

Subject: RE: 23/00414/LIPV - Alberts Schloss, 20-24 Shaftesbury Avenue, London W1D 7EU
PCX:000038000000193

Hi Lisa

Please see comments received back following your amendments to the application.

Can the applicant please confirm:

1. What elements of the application now remain?

a. Change the licensed areas from the lower basement and basement to, the ground floor and basement as per the plans attached.

b. To add plays as a licensable activity during the hours currently permitted for regulated entertainment.

c. Permitted hours for alcohol on Sundays to commence at 10:00 as opposed to noon. (The proposal to extend permitted hours on Sundays from 10.30pm to midnight has been withdrawn).

d. To remove historic/outdated conditions and update them with new conditions recommended as part of pre-application advice, many being model conditions. One of the new conditions proposed being an ancillary entertainment condition and a personal condition regarding the new operator. A dispersal policy has also been filed

with the proposed conditions. (See attached). In relation to the proposed conditions, the applicants are no longer seeking to increase the capacity to 700 and this will remain 620 as per the existing premises licence. There will be a heavy focus upon entertainment within the premises. The attached brochure gives a flavour of the entertainment.

2. What is happening with the basement of the building? The basement will continue to operate as part of the licensed area as per the plans attached. The lower basement will be delicensed and operate as back of house areas.

3. Given that the surrender of the licence for 20-24 Shaftesbury Avenue was a major reason for the LSC's decision on the Sky Bar application, what separate applications is the landlord intending to make (specifically involving what other licence(s) to be offered for surrender?) The landlord is currently deciding how they wish to proceed with the Sky Bar. They had applied for a minor variation to amend that licence to offer to surrender 620 capacity from the remaining Piccadilly Institute licence in place of offering to surrender the licence for 20- 24 Shaftesbury Avenue. That minor variation was rejected, and the landlord understands that to be able to activate a 3 am licence for the Sky Bar that they will need to submit a full variation application. The landlord would be happy to engage with parties before making such application.

4. There is also a current 'shadow licence' application for 20-24 Shaftesbury Avenue, which I understand seeks to mirror the current licence for 20-24 Shaftesbury Ave. Should the Albert's Schloss application be granted, the 'shadow licence' application is not in fact a shadow licence at all. Is this understanding correct? The landlord is seeking to shadow licence the current licence. The reason being that the variation application will substantially change the current licence, including making it personal to Alberts Schloss and changing the licensed areas. The shadow licence was submitted following pre-application advice from Westminster City Council to protect the landlords' position in case, for any reason, Alberts Schloss did not complete the lease. If that occurred, then the landlord would be left with a worthless licence.

I Look forward to hearing from you in due course.

Kindest Regards

Angela Lynch

Senior Licensing Officer
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Public Protection and Licensing
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From: Lisa Sharkey <L.Sharkey@popall.co.uk>

Sent: 09 March 2023 14:35

To: Seaward, Angela: WCC <aseaward@westminster.gov.uk>

Subject: RE: 23/00414/LIPV - Alberts Schloss, 20-24 Shaftesbury Avenue, London W1D 7EU
PCX:000038000000193

Hi Angela,

Sorry it has taken a couple of days to reply but I have been away from the office. I have included answers below to the questions raised and attached the proposed plans, conditions, dispersal policy and brochure for ease and reference. If any of the interested parties would find it helpful to speak with me then please share my contact details.

Regards
Lisa

Lisa Sharkey |Managing Partner
Poppleston Allen

E:L.Sharkey@popall.co.uk | T:0115 9538 504 |M:07768 845 643 |W:www.popall.co.uk
Nottingham Office: 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS

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Lisa Sharkey |Managing Partner
Poppleston Allen

E:L.Sharkey@popall.co.uk | T:0115 9538 504 |M:07768 845 643 |W:www.popall.co.uk

From: Seaward, Angela: WCC

To: Lisa Sharkey

Subject: RE: 23/00414/LIPV - Alberts Schloss, 20-24 Shaftesbury Avenue, London W1D 7EU
PCX:000038000000193

Date: 15 March 2023 08:13:00

Attachments: image001.png
image002.jpg

Good Morning Lisa

I have received a response from the interested party, please see comments below; the additional information provided by the applicant is helpful and although the concerns on the Alberts Schloss application in isolation are much diminished, we remain concerned as to the relationship of this licence, the previous Rainforest Café licence and the pending 'shadow' licence application, and the Sky Bar licence requiring the surrender of the licence for 20 - 24 Shaftesbury Avenue.

We would wish to know with certainty what the intentions are regarding the Sky Bar because, for the avoidance of doubt, we do not consider that an offer to surrender additional (theoretical) capacity at a different premises, is the same for policy purposes as the surrender of an entire licence.

I look forward to hearing from you in due course.

Kindest Regards

Angela Lynch

Senior Licensing Officer

Licensing Service

Public Protection and Licensing

Westminster City Council

15th Floor

Westminster City Hall

64 Victoria Street

London SW1E 6QP
0114 551 3849 (Direct Dial)
0207 641 6500 (Contact Centre)
aseaward@westminster.gov.uk
Westminster.gov.uk

Correspondence between applicant and The Soho Society

From: [REDACTED]
Sent: Monday, March 27, 2023 12:56 PM
To: Lisa Sharkey <L.Sharkey@popall.co.uk>
Cc: [REDACTED]
Subject: 20-24 Shaftesbury Avenue applications

Hi Lisa,

Further to our conversation just now regarding these applications, I think it would be helpful if you could confirm in writing the position with regard to the Albert's Schloss application and its relationship (or lack of) to the relevant Sky Bar licence condition, and the purpose of the shadow licence application i.e. why it mirrors the current licence for 20-24 SA, rather than the Albert Schloss application.

As discussed, I am away now until the end of the week so I have cc'd [REDACTED] [REDACTED]. If you can include her in your response that would be great, then she and I will discuss when I am back.

Kind regards,
Richard

Richard Brown
Licensing Advice Project
Citizens Advice Westminster

From: l.sharkey@popall.co.uk
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: 20-24 Shaftesbury Avenue applications PCX:000038000000247
Attachments: [image004.png](#)
[image001.png](#)
[image003.png](#)
[image002.png](#)

Dear [REDACTED],

I can confirm that the Albert's Schloss application and the operators of Albert's Schloss are in no way connected to the Sky Bar Licence.

What will happen if the variation application for Albert's Schloss is granted is that the existing premises licence for 20-24 Shaftesbury Avenue will be held and operated by the new operators. This licence will then no longer be available to offer by way of surrender to activate the 3 am licence for the Sky Bar.

The 3 am licence for the Sky Bar is currently dormant and is subject both to a works condition and a condition requiring the above licence to be surrendered. To activate that licence therefore, a full variation application will have to be submitted offering something of equal value to be surrendered in place of the licence. That application will then be determined upon its merits.

The shadow licence application for 20-24 Shaftesbury Avenue mirrors the current licence and not the licence (as varied) being applied for by Albert's Schloss. The reason being that if the variation application is granted then the licence becomes personal to Albert's Schloss and contains specific conditions regarding the type of entertainment being linked to Albert's Schloss. Further, the variation application alters the location of the licensed areas. If, for any reason,

Albert's Schloss did not complete the lease then landlord is left with a completely changed licence which is of no use to another operator. The shadow licence protects the landlord in this respect.

I hope this reassures you that these two applications for 20-24 Shaftesbury Avenue are not linked to the Sky Bar. The operators of Albert's Schloss are keen to complete the lease and start the building works. They were hoping to start works in April and the delay waiting for a hearing date is putting at risk the works as builders commit to other plans. This, as you will no doubt appreciate, has a financial impact. If you are now satisfied with the applications, then my clients would be most grateful if you would withdraw your objections at the earliest opportunity.

I very much look forward to hearing from you.

Regards
Lisa

From: [REDACTED]
To: jdonovan@westminster.gov.uk; l.sharkey@popall.co.uk; kabbott@westminster.gov.uk
Cc: [REDACTED]
Subject: 20-24, Shaftesbury Ave application

Dear Lisa,

Thank you for your email. We have carefully considered our position and [REDACTED] has decided to maintain its representations on each application. We believe that in the circumstances it is appropriate that the Sub-Committee determines whether to grant the applications.

In order to explain our position, we comment on each application as follows:

Albert's Schloss

We appreciate that if the variation application for Albert's Schloss is granted, then it is personal to them and the landlord could not then surrender it for the purposes of satisfying the relevant condition on the Sky Bar licence, unless the licence was transferred back to them at some point in the future. We believe that a surrender of the licence in those circumstances would satisfy the relevant condition of the Sky Bar licence. We consider that the only way to prevent this from happening is if the varied licence, if granted, cannot be offered for surrender in satisfaction of the relevant condition on the Sky Bar licence, although we wonder about the enforceability of such a condition. Perhaps WCC's legal department may have a view, and we will raise this at the hearing.

In any event, although we accept that if that licence is not/cannot be surrendered in satisfaction of the relevant condition on the Sky Bar licence and so the Sky Bar licence could not operate unless/until the relevant condition was amended in some other way, this relies on us, being aware of any such application. We were, as way of example, not aware of the recent minor variation which we understood sought to amend the Sky Bar licence in precisely that way.

With regards to condition 1 in the application, we would not normally consider a condition which refers to 'ancillary to entertainment' sufficient for policy purposes for a new application nor would we necessarily accept that the nature of the Albert's Schloss operation falls within the definition. However, we note that this is a variation of the licence and current condition 18c on the current licence states: 'The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment' and we propose a similar condition be adopted here.

Landlord's application

With regards to what is termed as the shadow licence application by the landlord, if the 20 - 24, Shaftesbury Avenue licence is varied then we do not consider that the 'shadow' licence application is a shadow application at all, as the primary licence has been varied.

We believe that, in the circumstances it is appropriate that the Licensing Sub-Committee determines both applications. We are aware that there are in any event outstanding representations from interested parties on the Albert's Schloss application.

Regards,

██████████
████████████████████



MISSION MARS

MISSION

“To create world class food, drink, entertainment and hospitality experiences by nurturing... innovation, people and sustainability”.

DREAM

“To have our guests wanting more, our team striving to do better, whilst working for the greatest company in the world.”

VALUES

HAVE FUN

BE AUTHENTIC

BE POSITIVE

USE INITIATIVE

BE NEIGHBOURLY

These are the values that shape us

MISSION MARS IN NUMBERS

ANNUAL TURNOVER £63 MILLION



PUBLISHED AS 'ONE OF THE BEST PIZZA PLACES IN THE WORLD'



FOUNDED IN 2014

THE SUNDAY TIMES

FAST TRACK



TOP 5 FASTEST GROWING UK COMPANIES 2019

21

VENUES NATIONWIDE

£10.5 MILLION

BGF GROWTH INVESTMENT

BGF Invested in Growth

200

SENIOR MANAGEMENT TEAM WITH OVER 500 YEARS IN THE HOSPITALITY SECTOR!



Manchester Evening News CITY LIFE AWARDS 2018, 2019, 2020

5th

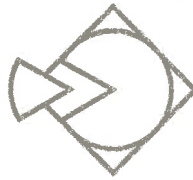
BEST PIZZA IN EUROPE

10th

BEST PIZZA IN THE WORLD



BEST RESTAURANT UNDER 20 SITES 2022



PEACH 25/25

BREAKTHROUGH BRAND 2021

VEGAN PIZZA OF THE YEAR 2022

TEAM OF

1,030



ALBERT'S SCHLOSS

THE BIER PALACE - A PLACE TO
RETREAT, TO MEET, EXPLORE,
INDULGE AND BE ENTERTAINED





ENTERTAINMENT

SEVEN DAYS OF SHOWTIME.

LIVE MUSIC, KUNST CABARET,
DUELLING PIANOS, DRAG, DJ'S,
INCLUSIVE PERFORMANCES, EVENTS
LOCAL COLLABORATIONS,
GOSPEL SUNDAY CHOIRS

UPWARDS OF £20K SPENT PER WEEK
ON ENTERTAINMENT ALONE.

ALPINE WUNDERLAND

SEVEN DAYS OF SHOWTIME

MONDAYS
BACK TO MEIN

SPECIAL GUEST DIS PLAY THEIR PERSONAL RECORD COLLECTION... ANYTHING GOES

TUESDAYS
KUNST KABARET

EXTREME AND FLAMBOYANT LIVE PERFORMANCES FROM THE CABARET UNDERWORLD, SPECIALLY CURATED FOR ALBERT'S SCHLOSS

FRIDAYS
FRIDAY FRÖLICHI!

KICK OFF THE WEEKEND WITH OUR HAUS BAND AND INTERACTIVE ARTISTS. THANK FROUCH IT'S FRIDAY!

WEDNESDAYS
BABY GRAND SLAM

ONE STAGE. TWO PIANISTS. ENDLESS REQUESTS

SATURDAYS
PLEASURE PALACE

SATURDAY NIGHT SPLENDOR. DECADENCE AND DELIGHT

THURSDAYS
HOMEGROWN

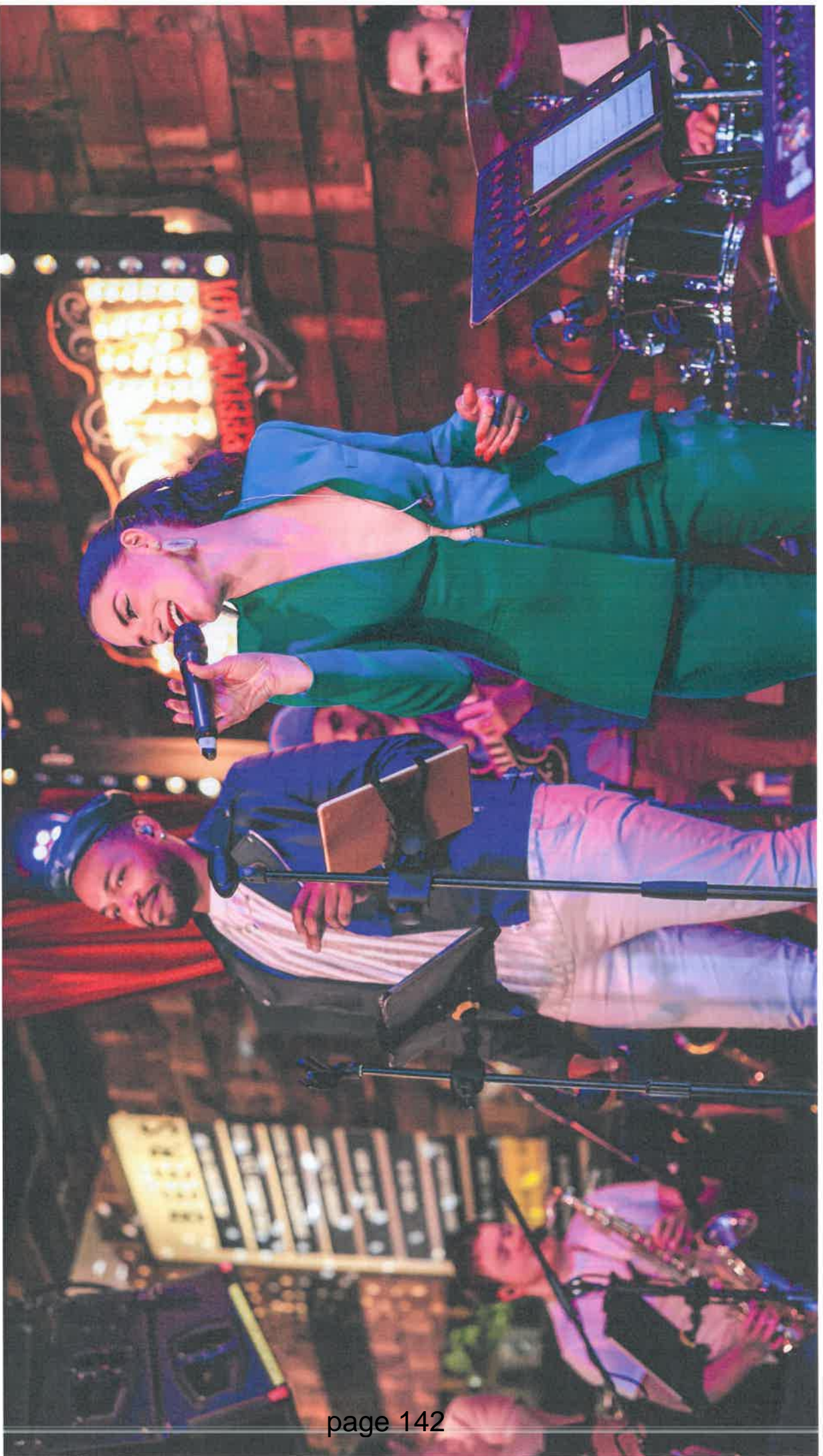
LOCALLY AND NATIONALLY SOURCED ARTISANAL BEATS AND VIBES

SUNDAYS
SUNDAY SERVICE

HAUS BAND, ROTATING DJs, COOK HAUS ROASTS, GROOVES, GRAY AND GOOD TIMES

TO SUPPORT OUR MUSICIANS, ACTORS AND PERFORMERS A SUPPLEMENTARY CHARGE OF €1 IS ADDED TO ALL DRINKS DURING SHOWTIME HOURS. THIS EXCLUDES SOFT DRINKS. €2 IS ADDED TO ALL BOTTLES OF WINE, CHAMPAGNE AND PROSECCO. DANKE.





MCR WEEKLY LINE-UP

MONDAY: BACK TO MEIN

Every Monday evening we're joined on stage by a special guest DJ, musician, presenter or performance artist will take over the palace to play their personal record collection. Anything goes.

TUESDAY: KUNST KABARET

Every Tuesday evening Kunst Kabaret invites you to the dark corners of the performance world, home to the cabaret resurgence and an almighty art revolution. Kunst Kabaret boasts an elite and diverse roster of high-brow performers, obscure and alluring; each show curated like no other before.

WEDNESDAY: BABY GRAND SLAM

Baby Grand Slam is a night of live entertainment where you can sing to your heart's content alongside two dueling pianists, a killer band and endless requests made by you, the audience. Expect chart-toppers and endless classics played especially for you.

THURSDAY: HMEGROWN

Local hero DJ Rich Reason takes to the decks from 7pm. Never content with spinning just the one genre, he weaves together everything from jazz to juke to jungle, from dub to dancehall to dubstep – always with one foot firmly on the dancefloor.

FRIDAY: FRIDAY FRÖLICH

Kick off the weekend with our Haus Band and interactive artistes. Thank Frölich it's Friday!

SATURDAY: PLEASURE PALACE

Our Haus bands reimagine your favourite tunes, with the very best DJ's and promenaders pulled together for a spektakular show, guaranteed to get absolutely everyone up dancing on the benches!

SUNDAY: SUNDAY SERVICE

Haus bands, gospel choirs, rotational DJs, Cook Haus roasts. Grooves, gravy + good times.
In the PM we have TESTIFY, our industrie night with local DJ's playing until the AM.

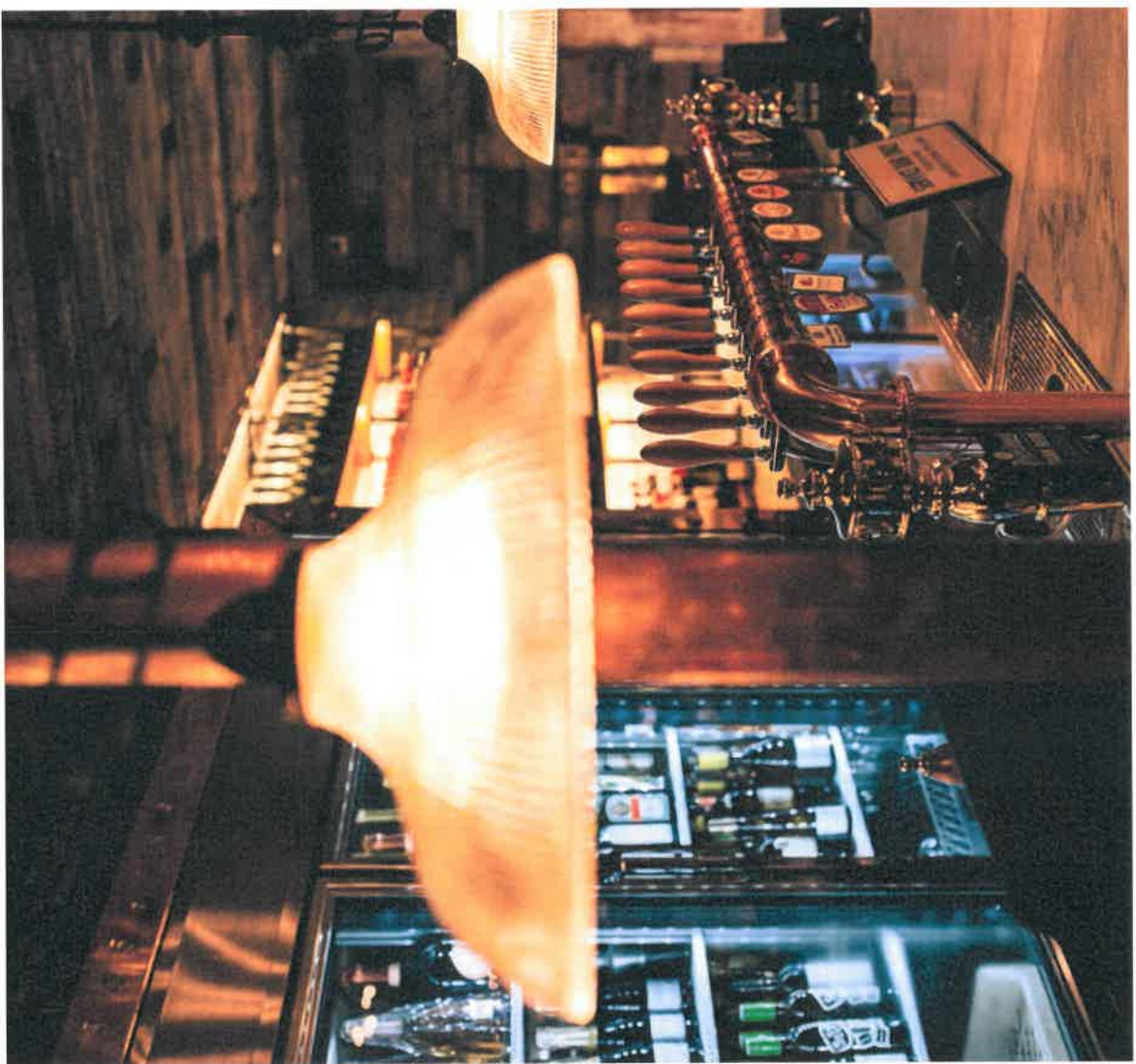


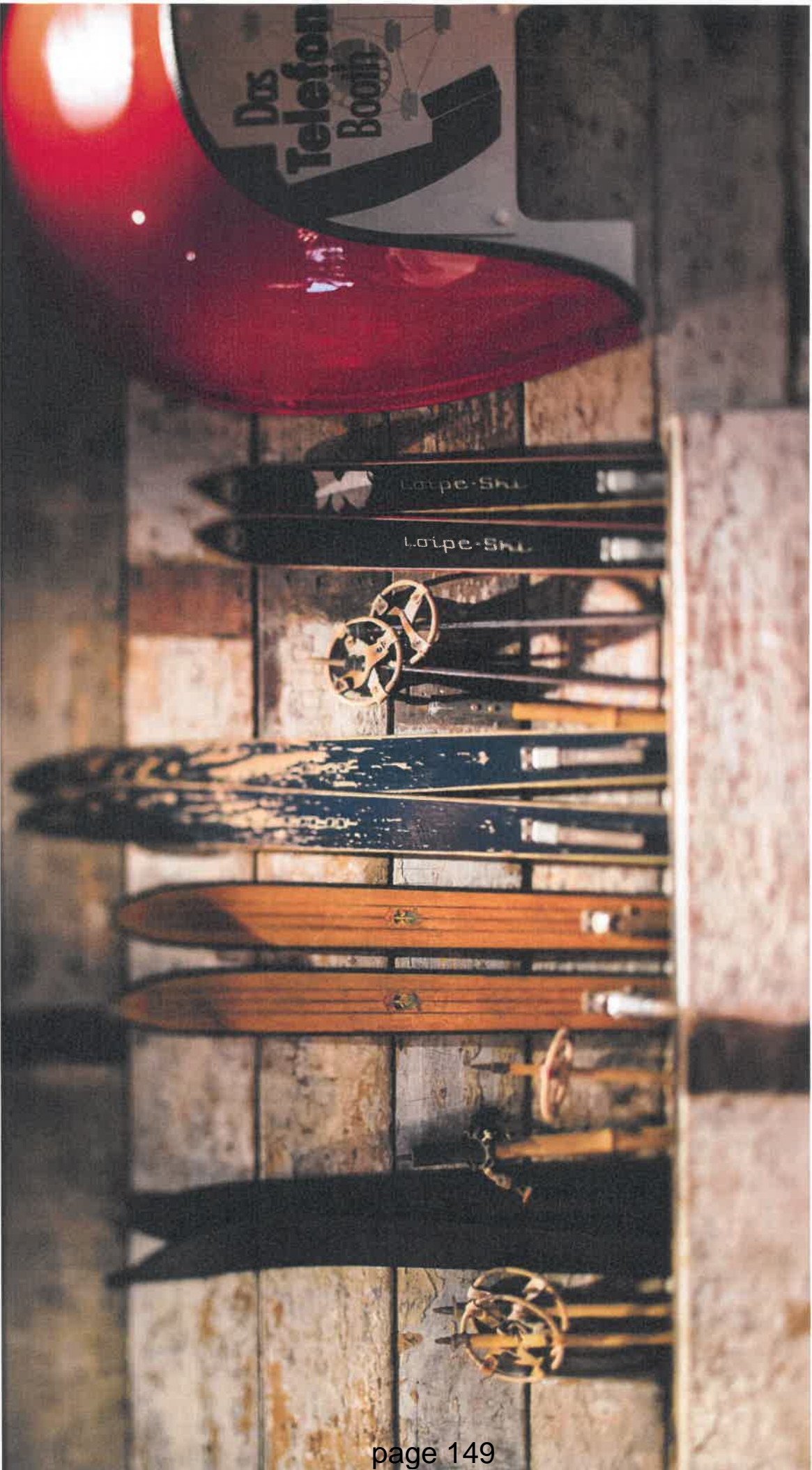




DESIGN

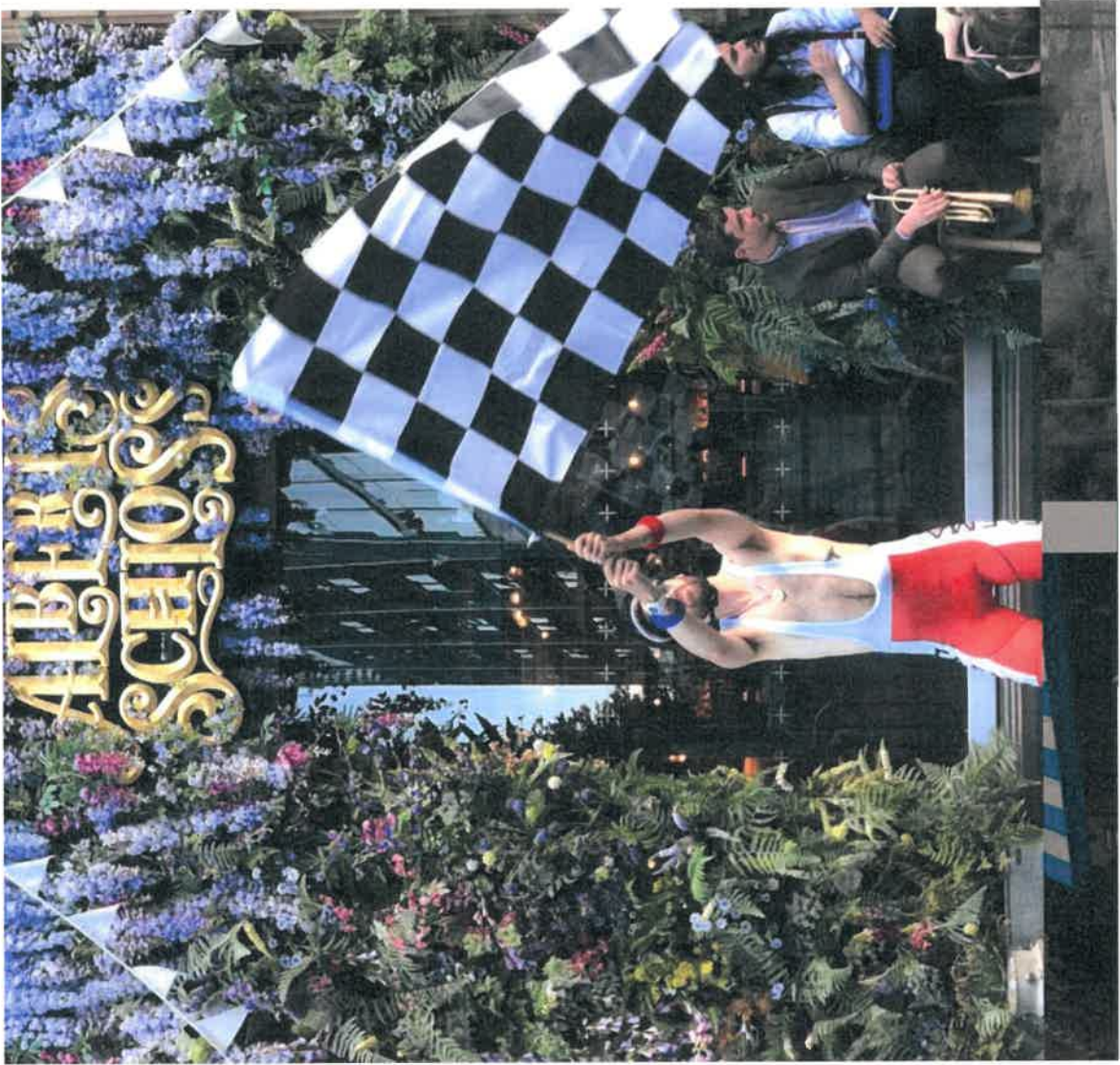
PALACE / CASTLE / PLEASURE
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ROARING FIRES / FLORAL ARTISTRY
/ RETREAT / RECREATION /
EXTRAVAGANCE / CHATEAU /
COUNTRY PILE











FOOD

COOK HAUS / BAKERY / BREAKFAST
BRUNCH / LUNCH / DINNER / BIER
HALLE FOOD / RUSTIC / ALPINE
CLASSICS / ARTISAN / SHARING /
FAMILY FEASTING

BREAKFAST

BY ALBERT'S SCHLOSS

LIVENERS

BLOODY MARY 8 / ESPRESSO MARTINI 8 / GARIBALDI 5 / SCREWDRIVER 5 / PROSECCO BOTTLE 25

FRESHLY SQUEEZED JUICE

ORANGE 4 / LEMONADE 3.5

KROISSANT ROYALE 9

Haus croissant, sweet slow cooked onions, gouda, Burford brown fried egg, crispy shallots, chives
Cheese Free;

SMOKED BACK BACON

BRATWURST

MOVING MOUNTAINS SAUSAGE (VF)

COOK HAUS BREAKFAST 9.5

Breakfast, smoked back bacon, Burford brown egg, roasted mushrooms, baked beans, toast
brown, roast tomato, Pain de Mie toast

GO ROYALE double egg, bratwurst and bacon 4

SPICY MUSHROOM ROYALE 8

Haus fried bread, chili + molasses roast oyster mushrooms, Burford brown poached eggs, hollandaise

TURKISH EGGS (V) 8

Goat yogurt, poached Burford brown egg, herbs, chili butter, crispy onion, sourdough toast

HAUS GRANOLA 6

Quick yogurt, seasonal fruit compote, cinnamon roasted seeds

VEGGIE COOK HAUS 9.5

Breakfast (V)
Moving Mountains sausage, smoked avocado, Burford brown egg, roasted portobello mushroom, baked beans, toast tomato, Pain de Mie toast

SALMON ROYALE 10

Haus fried bread, lightly smoked salmon, Burford brown poached egg, hollandaise

AVOCADO AND EGGS (V) 8

Smashed avocado, poached Burford brown egg, basil, chili butter, lime, sourdough toast

HAUS PASTRY 4

Baked 12-Haus by our master bakers. Ask your server for details

PANCAKE HAUS 9

Cheese Free;

MAPLE BACON + BURFORD BROWN EGG Fluffy sweet pancake, maple syrup
VANILLA BERRIES + CREAM (V) Fluffy sweet pancake, maple syrup

COFFEE

ESPRESSO	2.5	BREAKFAST TEA	2.5	SAN PELLIGRINO:
AMERICANO	3	LEMON + GINGER	3	LIMONATA
FLAT WHITE	3.5	EARL GREY	3	BLOOD ORANGE
CAPPUCCINO	3.5	GREEN TEA	3	COCA-COLA (BOTTLE)
LATTE	3.5	DEKAF TEA	3	DIET COKE (BOTTLE)
MUCHA	3.5	MOROCCAN MINT	3	FRITZ KOLA (BOTTLE)
HOT SCHOKOLADE	5	CHAI TEA	3	

BREWS

SOFTS

ALL OUR FOOD IS FRESH AND MAY CONTAIN ALLERGENS. PLEASE ASK YOUR SERVER FOR MORE INFORMATION.
A DISCRETIONARY SERVICE CHARGE OF 10% IS ADDED TO PARTIES OF SIX OR MORE.

PUDDING KLUB

BY ALBERT'S SCHLOSS

BAKED ALASKA FLAMBÉ 12

BEST SHARED BETWEEN TWO PEOPLE
Orange parfait, shoribread, blackberry compote, vanilla ice cream, Italian meringue, flaming grand marnier

BLACK FOREST GATEAU 7

Chocolate + coffee cake, sour cherry compote, vanilla cream, chocolate + kirsch sauce

ALBERT'S APPLE STRUDEL 7

Caramelised apple cake, spiced apple and raisin compote, filo pastry, vanilla sauce

BANOFFEE TRIFLE 7

Dulce de leche, Savoiardi biscuits, banana custard, vanilla cream, dark chocolate, pistachio

PRETZEL DOUGHNUTS (V) 7

Hot cinnamon sugared doughnuts, salted chocolate caramel dip

NORTHERN BLOC ICE CREAM

3 SCOOPS FOR 6

Ice Cream. Done Different. Done Right

Vanilla, Chocolate and Sea Salt, Caramel Sea Salt (VF),

Raspberry and Sorrel Sorbet (VF), Sicilian Lemon Sorbet (VF)

DESSERT WINE 125ml 8 BOTTLE 30

KARDOS TUNDERMESE 'FAIRY TALE' LATE HARVEST - TOKAJ, HUNGARY 10%
Rich mandarin, honey, vibrant

ALL OUR FOOD IS FRESH AND MAY CONTAIN ALLERGENS. PLEASE ASK YOUR SERVER FOR MENU INFORMATION.
A DISCRETIONARY SERVICE CHARGE OF 10% IS ADDED TO PARTIES OF SIX OR MORE.

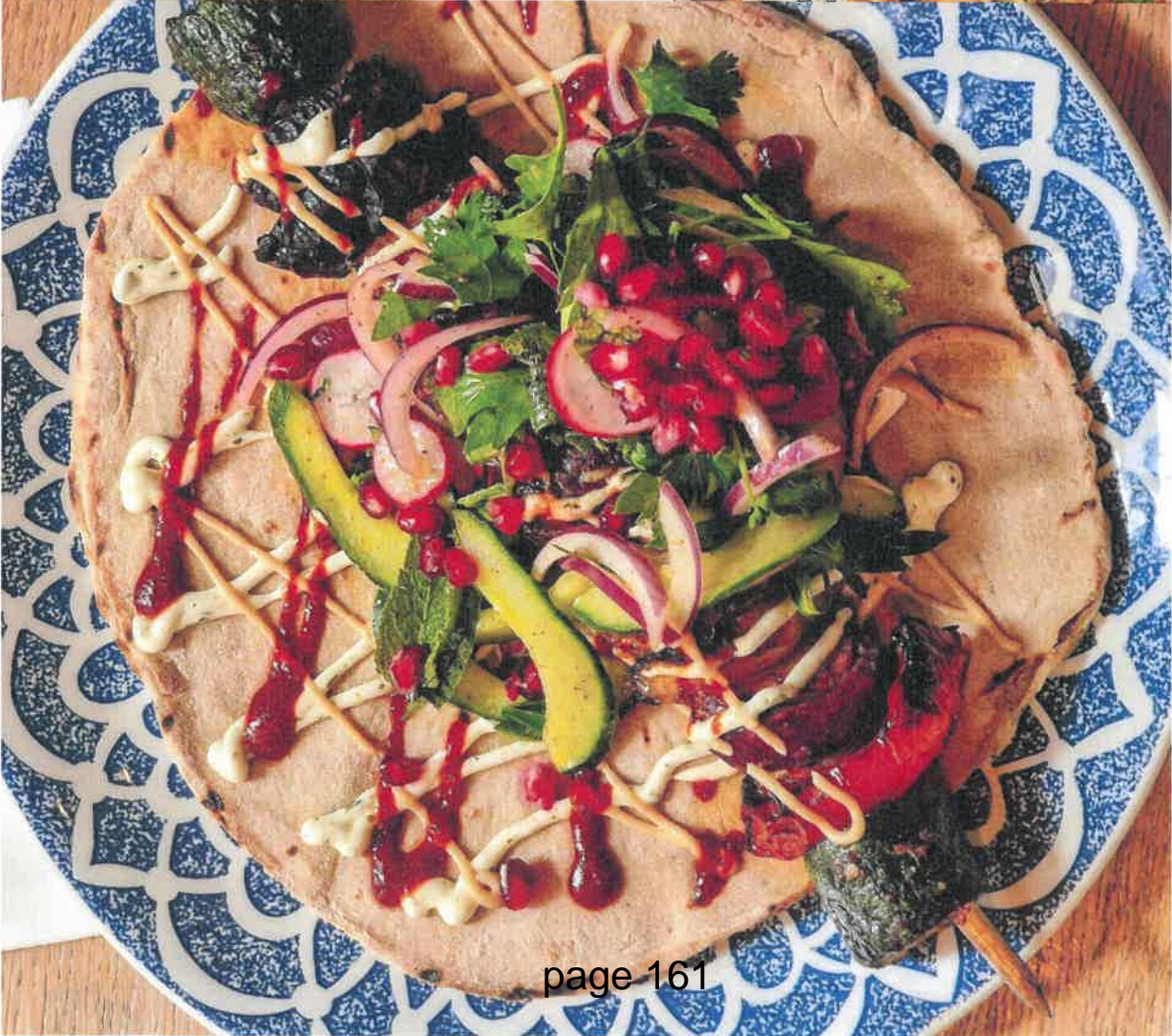




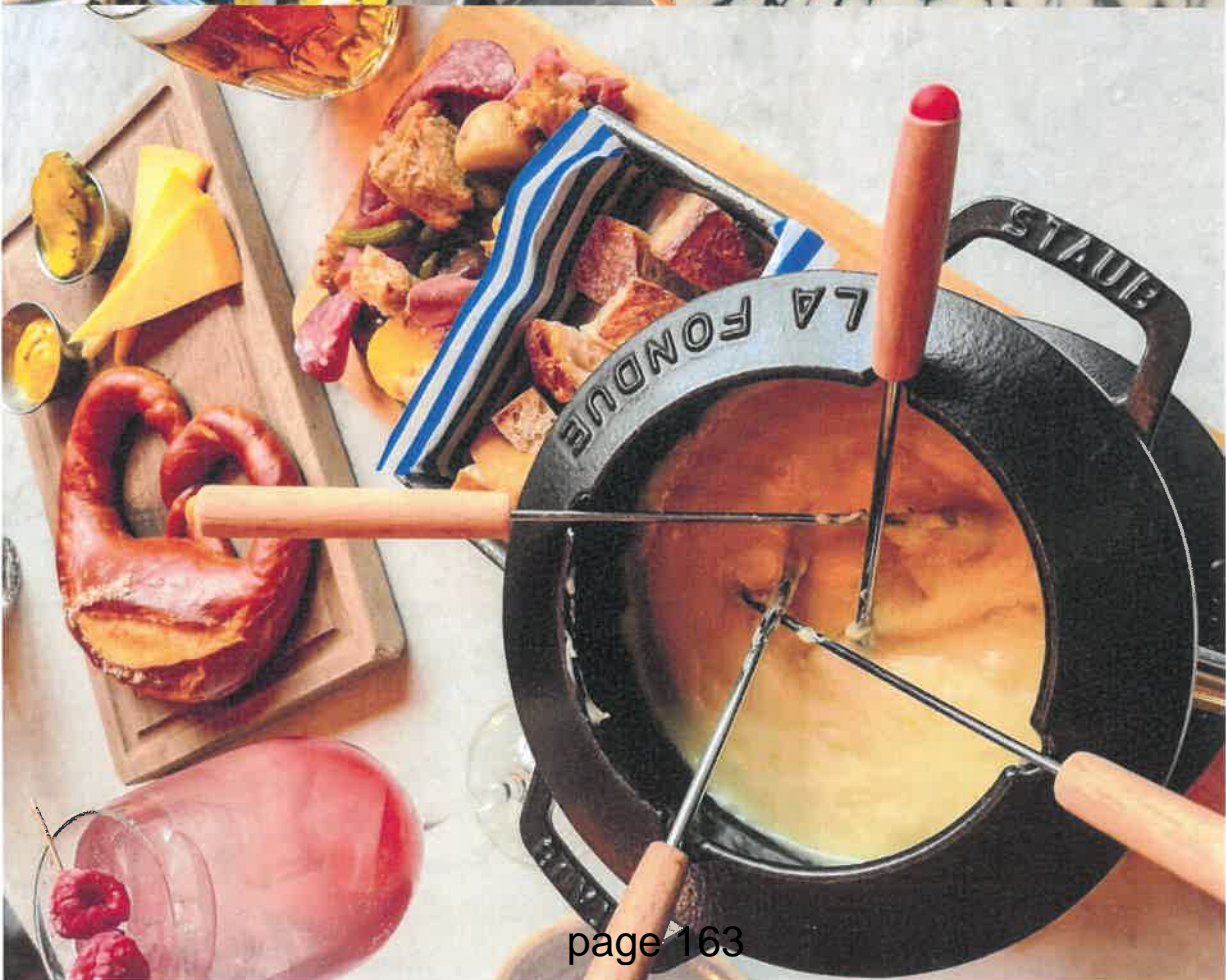








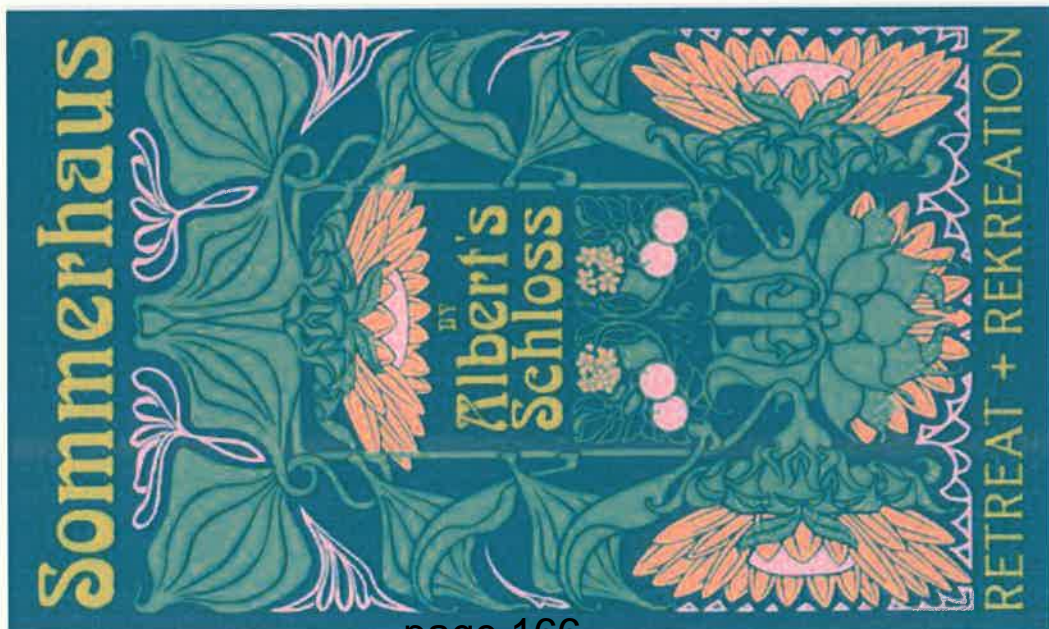




DRINKS

BIER PALACE / ALPINE WINE ARTISAN
COCKTAILS / SCHNAPPS / PUSH FOR
PROSECCO / LOKAL AND BAVARIAN BIERS











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The Guardian

Albert's Schloss, Manchester:

The food could easily have been phoned in at this outrageous German diner... But in fact it's the star of the show



▲ Teutonic plates: the dining room at Albert's Schloss. Photograph: Rebecca Lupton/Observer

Jay Rayner
on
restaurants
Food



GMI



259 332

'At the other end of the hall Sunday Best Jazz hit their mark on stage, the drag queen's parade and the crowd starts dancing on the benches. I really should hate it. I should want to be anywhere but here. But I don't. **Albert's Schloss is a class act.** See you there for the cabaret next Tuesday.'

PEOPLE

At Mission Mars, our mission is to be the greatest company to work for in the world. We are proud to be an equal opportunity workplace and we encourage people from all backgrounds to apply. We believe our people power our performance.



**ON THE SIDE CHARITY EVENT
2019, ALBERT HALL**



**ONSIDE CHARITY EVENT
2022, ALBERT HALL**

BOARD OF DIRECTORS



**MATT
DAVIES**

CHAIRMAN

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CEO OF
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HOME



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CEO OF
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LEISURE



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MACLEOD**

DIRECTOR

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**MICHAEL
WOOLLEY**

**FINANCE
DIRECTOR**

CAREER

CFO
SOLUTIONS
PLC



**NEIL
INSKIP**

BGF

OUR BRANDS



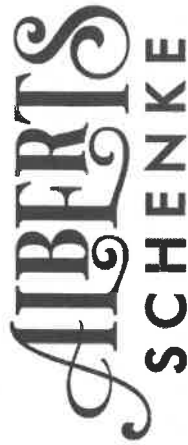
Bavarian Bier
Palace, Bakery
and Cook Haus
with Seven
Days of
Showtime

Currently 3 sites



Authentic
Neapolitan
Pizza

Currently 15 pizzerias



Bavarian
Tavern and
Cook Haus



City of Westminster

Office Name: Ian Watson Designation: Senior Practitioner Environmental Health Date: 22/12/22 Contact number: Email: iwatson@westminster.gov.uk Signed: Ian Watson Uniform Ref Number: 22/09725/PREAPM
--

Trading name of business and Address: Alberts Schloss, 20-24 Shaftesbury Avenue, W1D 7EU Reference Number if Applicable: 22/09725/PREAPM
--

Licence: Yes 22/04957/LIPDPS	Applicant/Solicitor: Lisa Sharky Poppleston Allen	Cumulative Impact Zone: Yes
------------------------------	---	-----------------------------

Proposed Type of Business: Live Entertainment with performance stage and restaurant Proposed Licensed Areas: Ground Floor and Sub-Basement Current Activities: Sale of Alcohol, Late Night Refreshment and Regulated Entertainment. Current Hours: Monday to Saturday 10.00 to 03.00 hours and Sunday 12.00 to 22.30 hours.
--

Pre application advice purpose: To consider various applications to permit a new operation within an existing licensed premises. The current issued licence will be transferred, licensed areas changed and operational conditions updated within the West End Cumulative Impact Zone. Propose conditions with regard to the ancillary nature of the alcohol and advise on technical suitability and policy implications in advance of the appropriate applications.

Issues discussed and actions taken:

Inspection carried out by Ian Watson (Environmental Health – EH) and Alan Lynagh (District Surveyor) to fully assess the existing premises. The findings are detailed below.

District Surveyor Comments

Means of Escape

Ground Floor

The ground floor exit provision is proposed to be a main entrance/exit measuring approximately 2000mm and an alternative exit measuring 900mm. Discounting the largest exit would generally mean the ground floor capacity would be circa 100-110 persons based on the remaining 900mm exit. The floor space calculations for the ground floor equate to approximately 104 persons based on the seating layout. We would recommend the applicant confirms the desired occupancy level at this floor for confirmation. If the client uses a BS9999 approach to the means of escape calculation it is likely the ground floor could accommodate up to 143 persons, which is also likely to be acceptable assuming there would be some standing occupancy at busiest times.

Sub-Basement

The sub-basement appears to have 5 designated exits (this is discounting the accommodation staircases back up to the ground floor). In addition, two of these routes appear to deliver back to the same staircase. All exits appear to be 1200mm wide with one at 1300mm wide. Discounting the largest and assuming a single flow at the staircase for the two storey exits that share a staircase the capacity would be $3 \times 240 = 720$ persons based on exit provision. If the applicant seeks a higher figure then this should be confirmed so that additional advice can be provided.

The current floor layout supports 132 persons on the banquette/bench seating at 0.45m per person and 153 additional loose seats. Utilising a floor space factor of 0.3msq per person within 2m of the bar areas and discounting any seats in these areas, as it is assumed this would be the most dense use this equates to 288 persons in this area. This is 573 people overall. However, this does not then account for general standing in other parts of the sub-basement. It is therefore likely that this would support at least another 100 people so we would recommend that a capacity of circa 650 is acceptable for the sub-basement on floor space. If the applicant confirms the proposed sub-basement capacity they are seeking operationally we can confirm acceptance.

Access for Persons with Reduced Mobility

We would request that a suitable method statement is in place detailing the access/egress arrangements for persons with reduced mobility and that suitable evacuation chairs are in place as well as suitable staff training arrangements.

General

- **Doors** – All doors should be in line with the fire strategy requirements with regard to widths. To clarify the width of a doorway is the clear width measured between the leaves (or, if a single door, the leaf and the frame or doorstop) of the doors when open at right angles to the frame. Door hardware may be ignored if the door opens more than 90 degrees to the frame. Doorways should be not less than 2060mm high except that the height may be reduced to 1960mm in existing buildings. Curtains or drapes should generally not be hung across doors or escape routes within any of the licensable areas as this could impede any evacuation.
- **Double Swing Doors and Doors Across Corridors** - Double swing doors, doors across corridors and doors that may cause an obstruction should be fitted with safety glass vision panels with zones of visibility between 500mm and 1500mm from the floor. Fire resisting safety glass panels should be fitted in fire doors to the same level of fire resistance as the door itself.
- **Thresholds** - No door should open immediately over or onto a step. A single step on the line of a doorway is not acceptable. A landing at least as wide as the door and at least as long as the width of the door plus 400mm, should be provided between the door and the first step of any stair. There should be no upstand or threshold bar across any doorway or escape route, other than a chamfered weather bar or threshold seal for sound insulation protruding a

maximum of 6mm and arranged so as not to cause a trip hazard.

- **Door fastenings** - All exit doors should be free from fastenings when public, entertainers or staff are present or have fastenings that may be readily opened in emergency without using both hands or a key to open the door. Note 1: This does not preclude the use of a key to open the door from the outside. Note 2: Any removable devices, such as locks, bolts, chains or padlocks, used to improve security must be removed before the premises are occupied. A door alarm system is preferable to removable security devices where possible. Where there may be more than 60 people, any fastenings on doors should be panic bolts or panic latches operated by push bars complying with *BS EN 1125*. If a room holds less than 60 people, push pads or lever handles complying with *BS EN 179* are acceptable. The use of latches operated by lever handles should be avoided in public areas. Round knobs should not be used as they could be difficult to operate. Any door furniture should be fitted between 800mm and 1200mm above floor level and should provide visual contrast with the surface of the doors. To avoid confusion push plates should usually be fitted for pushing doors and handles to pull doors.
- **Guarding and Barriers** - Any platforms, temporary or otherwise over 380mm high to which the public have access should be provided with suitable guarding. All staircases should be provided with suitable handrails 800mm above pitch line of stairs.
- **Electrical Installations** - The electrical installation including the lighting installation, both normal and emergency, should comply with British Standard 7671. It should be shown to be safe and adequate before the premises operate under their license. Electrical sockets located in performance areas should be protected by residual current devices (RCDs) of 30 milliamps/30 milliseconds sensitivity complying with BS 4293. Particular reference is drawn to the proposed units where the public interact (viewing boxes etc).
- **Temporary electrical installations** – All temporary electrical wiring and distribution systems for any installations used within the premises for events should comply with the recommendations of BS 7671 or where applicable BS 7909. Where they have not been installed by a competent person, temporary electrical wiring and distribution systems should be inspected and certified by a competent person before they are put to use.
- **Lighting** – The premises should have an adequate supply of both normal and emergency and each system should be sufficient to enable the public, performers and staff to see their way to move around the premises safely and to escape from the premises. Particular attention is drawn to the staircases, other changes of level and key staff locations such as fire alarm panels. Adequate emergency lighting in addition to sufficient normal lighting should be provided so that all parts of the premises including toilets and internal and external exit routes leading to the street are illuminated.
All emergency lighting should comply with BS 5266: Parts, 1, 7 & 8. Both supplies of lighting should be independently capable of providing the recommended minimum illuminance. However, whilst both normal and emergency supplies are functioning properly, either or both supplies may operate at a reduced level so long as the minimum recommended illuminance is

provided. In the event of the failure of either supply the remaining supply should be automatically restored to full illuminance. The lighting and emergency lighting circuits should not normally be switched off by the operation of any RCD. The lighting should be operated by an automatic switching system or remain on when the public are present. Light switches should preferably not be installed in public areas such as the event space but if so installed should be key-operated or otherwise protected from unauthorised operation.

Maintained emergency lighting (that is operating whenever the premises are occupied) should be installed where the normal lighting may be dimmed. Where non-maintained emergency lighting is installed, it should come into operation on the failure of the local normal lighting circuit forming part of the normal lighting. Consideration therefore needs to be given to how the event spaces will be operated in the future and which system will be more appropriate. Lighting fittings should be fixed at least 2100mm above floor level or pitch line of stairs. Suspended fittings, other than small lamp pendants, should be provided with suitable means of suspension independent of the electric cable. Heavy fittings should be rigidly fixed or be provided with two non-combustible independent means of suspension.

- **Exit Signage** – All exit routes should be suitably signed, with particular attention is drawn to the need for signage throughout the licensed areas.

Licensing Policy

The premises currently benefits from a premises licence 22/04957/LIPDPS that permits the supply of alcohol Monday to Saturday 10.00 – 03.00 hours and Sunday 12.00 – 22.30 hours with entertainment to the same terminal hour. The current permitted capacity is 620 persons with a proposal to increase this to a maximum of 700 persons.

The licence is conditioned at 18 (c) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.

The premises are located within the West End Cumulative Impact zone and therefore any changes to the layout or capacity must not impact on the licensing policy or the licensing objectives.

The current policy considerations would be **CIP1, MD1, CD1, PS1, PN1 and CH1.**

Cumulative Impact Policy CIP1 A states,

It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment.

Music and Dance Premises Policy MD1 B states,

B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:

1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1, and/or,
2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.

It is therefore advised that the conditioned style of operation needs to change from being music and

dancing led to entertainment led.

This would then change the policy consideration to policy CCSOS1 Cinemas, Cultural Venues, Live Sporting Premises and Outdoor Spaces.

Policy CCSOS1 states at B

B. Applications inside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
 2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
 3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
 4. The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
 5. The applicant has clearly demonstrated that the sale by retail of alcohol and late-night refreshment will be ancillary to the venue's primary function as a cinema, cultural venue, live sporting premises or outdoor space.
 6. The sale by retail of alcohol and/or late-night refreshment after 11pm is limited to customer, patrons or members of the audience who will or have made use of the primary function of the venue as a cinema, cultural venue or live sporting premises.
 7. The application and operation of the venue meeting the definition for a cinema, cultural venue, live sporting premises or outdoor space as per Clause C2
- The definition of a cultural venue is given at clause C

C2. Cultural Venues

- a. Theatres: for the performance of plays, dramatic or other entertainment performances to an audience.
- b. Performance Venues: for a live performance in front of an audience which may include concert halls, comedy clubs or similar performances venues.
- c. Cultural Uses: for the exhibition of art (e.g. galleries), a museum, or historical building/site that is open for visitors to visit on payment.

Therefore, the style of entertainment of both live music and stage performances should be included in any application pack.

Policy F8 states

F8. The council welcomes the vital contribution that cinemas, cultural venues and live sporting premises make in providing the diverse culture and entertainment that attracts people of all ages into Westminster and maintains its status as a world class city. The council as the Licensing Authority accepts that these types of uses are unlikely to be linked with crime and disorder, and generally have less impact on residents than other licensable activities. The substitution of these types of uses in the West End Cumulative Impact Zone in place of pubs, bars and alcohol-led music and dance venues will likely promote the licensing objectives.

Policy F10 makes it clear that the primary use must be that of a cultural venue and any licensable activities must remain ancillary to such premises.

F10. Applicants will be expected to demonstrate that the primary use of the premises will be as a cinema, cultural venue or live sporting premises as defined within this policy. Alcohol and late-night refreshment must be ancillary to the main use of the venue. This is to ensure that the venue will operate as a cinema, cultural venue or live sporting premises. Conditions may be attached to the premises licence to ensure that alcohol and late-night refreshment remain ancillary to the primary

purpose of the venue. This approach will ensure that the premises use does not change to a venue which is more drink led which is likely to have a detrimental impact on the Licensing Objectives

Policy COMB1 could be explored but the plans would need to show a defined restaurant area alongside the stage area etc...

It is therefore imperative that the proposed conditions strictly define the operation of the premises to ensure that there is no negative impact on the licensing objectives or within the west end cumulative impact zone.

Other policies that would apply are Core Hours Policy HRS1 and the licensing objectives, CD1, PS1, PN1 and CH1.

The provision of the supply of alcohol would not attract policy PB1 provided the supply of alcohol was ancillary to strictly defined entertainment. PB1 only applies if the premises are used exclusively or primarily for the supply of alcohol for consumption on those premises.

Licensing Position

I would advise that the process to obtaining a satisfactory licence is done in stages.

Stage 1. Transfer the existing licence 22/04957/LIPDPS to the new operator.

Stage 2. Landlord to apply for a 'shadow' licence of the transferred licence.

Stage 3. Full variation to change the licensed areas from the sub-basement and basement to ground floor and sub-basement. remove historic conditions including the capacity condition, update the conditions to full model conditions including a personal condition regarding the new operator and an ancillary entertainment condition. Full works conditions including a new capacity works condition with a set maximum capacity of 700 persons.

It may be possible to change the starting hours to 09.00 hours Monday to Sunday but I would advise just aligning the Sunday hour to 10.00 hours with a midnight terminal hour, but this is your call if you believe it would not impact the variation application.

A variation application will be made for the entertainment and areas required, in a premises that was historically alcohol led with music and dancing provided. The operation of the different areas of the premises will need to be considered in relation to the COMB1 policy.

It is advised that the supervision of queuing is considered as well as a phased dispersal of persons from the premises undertaken to minimise any nuisance and such dispersal shall form part of a comprehensive dispersal policy.

A works condition will be required to ensure public safety is not impacted. The additional people arriving and departing will need to be properly managed along with smokers to ensure no additional public nuisance is generated. A comprehensive and robust dispersal policy will need to be drawn up to minimise the impact of people leaving in the early hours.

Conditions

To address the licensing objectives with regard to the Licensing Policy and objectives the following conditions are proposed.

Two conditions are required to be drafted that personalise the licence to operate as Albert Schloss and redefine the operation as entertainment led rather than music and dancing led. The wording will need to be precise and enforceable.

- 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.
- A Challenge 21 or Challenge 25 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport or proof of age card with the PASS Hologram.
- No open containers of drink shall be allowed outside the premises and there shall be no consumption of drink directly outside the premises.
- 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 and will include the external area immediately outside the premises entrance. 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.
- 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.
- 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 regarding crime disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service.
- The premises licence holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day they start their employment.
- From 21.00 hours on Thursday, Friday and Saturday, a minimum of six SIA licensed door supervisors shall be on duty at the entrance of the premises at all times whilst it is open for business, and they must correctly display their SIA licence(s) when on duty so as to be visible. At all other times, the requirement for SIA licensed door supervisors shall be risk-assessed.

- The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day.
- 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.
- Loudspeakers shall not be located in the entrance lobby or outside the premise building.
- 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.
- 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.
- There shall be no sales of alcohol for consumption 'Off' the premises after 23:00 hours each day.
- There shall be no sales of hot food or hot drink for consumption off the premises after 23:00 hours each day.
- 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.
- 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.
- The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
- All windows and external doors shall be kept closed after 23:00 hours each day, except for the immediate access and egress of persons.
- The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
- Notices shall be prominently displayed at all exits requesting patrons to respect the needs of the local residents and businesses and leave the area quietly.

- Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the need of local residents and use the area quietly.
- The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
- 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 and shall be limited to a maximum of 35 persons at any one time.
- 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.
- No collection of waste or recycling materials (including bottle) from the premises shall take place between 23:00 and 07:00 hours on the following day.
- No deliveries to the premises shall take place between 23:00 and 07:00 hours on the following day.
- All waste if to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- 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.
- 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.
- All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
- All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
- The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
- Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
- The premises will implement a comprehensive dispersal policy and all relevant staff will be trained in its implementation. The Policy will be reviewed regularly and whenever the Licensee becomes aware of issues associated with dispersal.
- No licensable activities shall take place 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.

- 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. Such capacity shall not exceed 700 persons (excluding staff).
- Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

Consider

- MC58 No person on behalf of the premises or on behalf of a person carrying or attempting to carry on a licensable activity shall cause, permit, employ or allow, directly or indirectly, whether on payment or otherwise, any person(s) to importune, solicit or tout members of the public on any public highway within the specified area outlined below for the purpose of bringing customers to the premises. The distribution of leaflets or similar promotional material is also prohibited within the specified area.

For the purpose of this condition: 'Directly' means - employ, have control of or instruct.

'Indirectly' means - allowing / permitting the service of or through a third party.

'Specified' Area' means - the area encompassed within (insert name of boundary roads.)

- There shall be a minimum of xxx seats provided within the premises at all times that licensable activity is provided.

I don't know if you would want to add the provision of plays and films onto the licence. This would depend on whether your client utilises these activities at their other premises.

Conclusion

Any application to vary the current licence without changing the conditioned style of operation would be a policy refusal. The variation application will need to change by condition the operation to entertainment led and personalise the operation to Albert Schloss to gain confidence of the licensing authority.

A raft of new model conditions address the licensing objectives to minimise the impact on the surrounding area and the cumulative impact zone in particular. The applicant will need to demonstrate that any application variation will not make the premises drinks led. The entertainment must be the predominant factor people are attending the premises. Additional conditions may need to be considered once any representation has been received.

As part of the application process it is advised that the other responsible authorities will also need to assess the proposals and may wish to make additional comments.

Please note that any advice given will not guarantee that your application will be granted by the Licensing Service and the Environmental Health Consultation Team may still choose to make a representation to the application submitted.

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 22/07/2013

Before :

MR JUSTICE TURNER

Between :

EXTREME OYSTER	<u>1st Claimant</u>
STAR OYSTER LTD	<u>2nd Claimant</u>
- and -	
GUILDFORD BOROUGH COUNCIL	<u>Defendant</u>

James Rankin for the **1st and 2nd Claimants**

James Findlay QC (instructed by **Bridget Peplow of Guildford BC**) for the **Defendant**

Judgment

Mr Justice Turner :

Introduction

1. The second claimant, Star Oyster Ltd (“Star”), is the freehold owner of two nightclub premises in Guildford: the “Casino and Players Lounge” and “Bar Mambo”. Both premises are covered by licences granted in respect of “licensable activities” under the Licensing Act 2003. The tenant of the clubs, and holder of these licences, is Luminar Leisure Limited (“Luminar”). The two club premises, although presently run as distinct undertakings, are housed within the same building.
2. The first claimant, Extreme Oyster Ltd (“Extreme”) is the trading company of Star. Extreme ran Bar Mambo prior to Luminar taking over on 13th May 2012. Extreme continues to be an active trading company employing staff and receiving income from the rental of the premises from Star. It pays all of Star’s running costs and expenses.
3. On 2 May 2012, the claimants applied to the defendant, Guildford Borough Council (“Guildford”) for “shadow” licences in respect of these two premises and areas within them. The term shadow licence is not defined in either statute or regulations but is a convenient shorthand way of describing a licence which has been obtained by one party in respect of premises in relation to which another licence (to which I propose to refer as the “primary licence”) has already been granted to someone else. In short, the claimants wished, for commercial reasons, to have the benefit of licences operating in parallel to those held by Luminar.

4. Guildford refused the claimant's applications on the basis that they had failed to satisfy the terms of Section 16 of the 2003 Act compliance with which is a pre-condition of the consideration of any application for a premises licence. The claimants now seek to challenge the legality of this decision by way of judicial review.

The disputes

5. Guildford accepts that circumstances may arise in which a shadow licence can lawfully be granted but contends that such circumstances do not arise on the facts of this case. Of more generic importance is the question as to just how wide is the category of applicants which the law permits to apply for such a licence. The claimants advocate a broad approach; Guildford a narrow one.
6. Further issues fall to be addressed. The first pertains to the lawfulness of the process by which Guildford purported to reject the application. The decision had been purportedly delegated to Mr Curtis-Botting, the defendant's Licensing Services Manager. The claimants contend that this delegation was unlawful and that any decision should have been taken by the licensing sub-committee. The second issue relates to Guildford's refusal to return to the claimants the fees which they had paid in respect of the failed applications.
7. An unhappy aspect of this case is what could be described, perhaps euphemistically, as a lack of empathy between Mr Michael Harper, the owner of Star, and Mr Curtis-Botting. This case is not, however, about personalities and, although I have read with care the evidence relating to the background history, I must remind myself that there are no express allegations of bias, in the legal sense, against Mr Curtis-Botting and that his decisions must stand or fall on their own merits.

Shadow licences – the legal background

8. Under betting legislation, it was (and still is) only ever permissible for there to be one licence at any one time in respect of any given set of premises. Section 152(1)(b) of the Gambling Act 2005 provides:

“152 (1) A premises licence—

... (b) may not be issued in respect of premises if a premises licence already has effect in relation to the premises...”

9. The position under the Licensing Act 2003 is, however, less strict and allows for the existence of more than one licence in respect of the same premises. Section 2 of the Act provides:

“Authorisation for licensable activities and qualifying club activities

(1) A licensable activity may be carried on—

(a) under and in accordance with a premises licence (see Part 3), or

(b) in circumstances where the activity is a permitted temporary activity by virtue of Part 5.

(2) A qualifying club activity may be carried on under and in accordance with a club premises certificate (see Part 4).

(3) Nothing in this Act prevents two or more authorisations having effect concurrently in respect of the whole or a part of the same premises or in respect of the same person.”

10. The Department of Culture Media and Sport (“DCMS”) is required by section 182 of the 2003 Act to publish guidance indicating how the Act will be administered by the licensing sub-committees of the local authorities who now exercise the relevant jurisdiction over the grant, refusal, variation and review of licences for premises that offer regulated entertainment and licensable activities.

11. Section 4 (3) of the 2003 Act provides:

“4 General duties of licensing authorities Th

(3) In carrying out its licensing functions, a licensing authority must also have regard to

... (b) any guidance issued by the Secretary of State under section 182.”

12. The applicable DCMS guidance provides at paragraph 8.19:

“...There is nothing in the 2003 Act which prevents an application being made for a premises licence at premises where a premises licence is already held”.

13. Nevertheless, an applicant for a licence must qualify under one or more of the gateway criteria imposed by section 16 of the 2003 Act (of which there are ten). Only the first of these is directly material to this application:

“16 Applicant for premises licence

(1) The following persons may apply for a premises licence—

(a) a person who carries on, or proposes to carry on, a business which involves the use of the premises for the licensable activities to which the application relates...”

The explanatory notes refer to this as the “principal category” in this section. However, they provide no further guidance as to its interpretation.

14. Paterson’s Licensing Acts provides the following commentary on section 16 at paragraph 1.321:

“Who may apply?”

Whereas a justices' licence could be granted to any person whom the justices thought fit and proper, under the new legislation section 16 specifies a restricted list of persons who may apply for a premises licence. The most common applicant will be *'a person who carries on, or proposes to carry on, a business which involves the use of the premises for the licensable activities ...'* It is suggested that the use of the term *'involves'* might denote a broad range of businesses including that of a landlord receiving a rent from a premises being used for such a purpose (this interpretation cited and approved by the district judge and subsequently Richards L.J. at para 24 of his judgment in Hall & Woodhouse Ltd v Poole Borough Council) as well as an owner of such a business, a local authority, the holder of a franchise or a tenant..."

And at paragraph 1.3515 footnote 3:

"...Quaere whether e.g. a developer of a site who intends to construct premises to be used for the sale of alcohol would be able to apply. It could be argued the business involvement in the use of the licensed premises is too remote. This could be an issue for developers who have historically put licences in place at an early stage in a project, albeit often only on an outline basis under s 6(5) of the Licensing Act 1964. For those persons the procedure afforded by the Licensing Act 2003 (which also presents difficulties) might be the more appropriate route. For a case which raised similar issues arising under the Gambling Act 2005 see Betting Shop Services Ltd v Southend-on-Sea Borough Council [2007] EWHC 105 (Admin)...In that instance it was held that Guidance published by the Gambling Commission dealing with the point was inconsistent with the true construction of the Act. Where the applicant fulfilled the other statutory criteria, an application for a premises licence might be granted in respect of premises not yet ready for gambling (in that they had not been fully constructed or were to be altered). The claimant had met the relevant statutory criteria for its application and the authority was therefore obliged to consider it."

15. The case of Hall, to which Paterson refers, involved a criminal prosecution under section 136(1)(a) of the 2003 Act. The appellant, Hall & Woodhouse Limited ("Hall"), was the owner of the Stepping Stones public house in Poole. It let the premises to one Cartlidge under a tenancy agreement. He, in turn, employed one Ferguson to be the manager and designated premises supervisor. Hall had obtained the relevant premises licence.
16. In the early months of 2007, it became clear that those responsible for running the Stepping Stones were ignoring the terms of the licence in a number of respects. In particular, they were serving drinks after hours and failing to maintain adequate protection against the risk of fire.

17. Charges were brought against Cartlidge and Ferguson under section 136 (1) of the 2003 Act alleging that they had knowingly allowed a licensable activity to be carried on at the public house otherwise than under and in accordance with an authorisation. They duly pleaded guilty.
18. Hall was also prosecuted on the basis that, in the words of the section, it “had carried on...a licensable activity on...premises otherwise than under and in accordance with an authorisation...”.
19. When the matter came before the District Judge, he applied the following reasoning:

“(1) Section 16 of the Licensing Act specifies a restricted list of persons who may apply for a premises licence. The only basis on which the appellant could apply was as a person who carries on or proposes to carry on a business which involves use of a premises for licensable activities to which the application relates; (2) I am satisfied that use of the term “involves” denotes a broad range of business including that of a landlord receiving rent from premises being used for such purpose as in this case; (3) In making the application for the licence, the appellant must have considered itself to be carrying on a business which involves use of premises for licensable activities; (4) The grant of premises licences and enforcement of any conditions in them are fundamental to the licensing system and enforcement of it. To find otherwise would be to undermine the whole basis of the licensing regime and to negate the effect of the offences in section 136(1) .”
20. There is a due diligence defence under section 139 upon which Hall did not rely. In consequence, the District Judge convicted. Hall appealed to the Divisional Court.
21. The Divisional Court held that section 136 (1)(a) is directed at persons who *as a matter of fact* actually carry on or attempt to carry on a licensable activity on or from premises. Being a licence holder does not make a person automatically liable in respect of licensable activities carried on or from the premises.
22. One of the arguments rejected by the Divisional Court was that the language of section 136 should be equated with that of section 16. The prosecution had contended that a licence holder who applies for a premises licence will only qualify under the relevant part of section 16(1)(a) if he is a person carrying on a licensable activity. From this, it would have followed that passing through this section 16 gateway would automatically mean that the successful applicant was to be taken, for the purposes of section 136, to be carrying on the activity thereafter. Richards L.J. considered this argument to be fundamentally misconceived. He held:

“24 Under section 16(1)(a) an application for a premises licence may be made by “a person who carries on, or proposes to carry on, *a business which involves the use of the premises for the licensable activities* to which the application relates” (emphasis added). Carrying on such a business is self-evidently different from carrying on the licensable activities themselves,

and the fact that a person's actual or proposed business involves the use of the premises for licensable activities does not mean that he necessarily carries on the licensable activities themselves at the premises for which the licence is granted. The commentary on section 16 in *Paterson's Licensing Acts*, 117th ed (2009), para 1.3515 states, at note 3:

“It is suggested that the use of the term ‘involves’ might denote a broad range of businesses including that of a landlord receiving a rent from a premises being used for such a purpose, an owner of such a business, a local authority, the holder of a franchise or a tenant.”

“I agree that the statutory expression is broad enough to cover the case where a freehold owner carries on the business of letting premises to tenants on the basis that the tenant will carry on licensable activities at the premises. But the landlord's business in such a case is, in principle, distinct from the activities carried on by the tenant, and I regard it as a complete fallacy to merge the two elements together and to treat the landlord as automatically carrying on the licensable activities at the premises.

25 I should note that the June 2007 revised guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 states, at para 8.20, that in the case of public houses it would be easier for a tenant to demonstrate that it has carried on a business within section 16(1)(a) than it would be for a pub-owning company that does not itself carry on licensable activities. That may or may not be so. The language used in that paragraph might be thought to support my construction of section 136(1)(a) , but in any event what is said in the guidance does not affect the view I have expressed about the meaning and effect of section 16(1)(a) or the distinction to be drawn between that provision and section 136(1)(a) . I expressly reject Mr Light's submission that the premise of the legislation is that the person granted a premises licence is himself necessarily carrying on such licensable activities as are carried on on or from the premises to which the licence relates.

26 It is, of course, possible for a landlord to carry on a licensable activity at premises notwithstanding that the premises have been let and notwithstanding the existence of the landlord/tenant relationship, but whether he does so or whether, as an alternative possibility, he knowingly allows a licensable activity to be carried on at the premises has to be determined as a question of fact. Nor do I see how the mere inclusion in the tenancy agreement of obligations aimed at ensuring that the premises are managed properly and in compliance with the Act

could *of itself* warrant the finding that licensable activities carried on there are carried on by the landlord.”

The factual background

23. The licence applications to which this claim relates are eight in number. Four were made by Star and four by Extreme. Between them they covered different permutations of the physical extent of the premises to which they were intended to apply. Those numbered 92057 and 105889 were, for reasons which will be examined later in this judgment, to assume particular prominence during the course of oral submissions.
24. Three of the eight applications were listed to be heard by the licensing sub-committee. The first of these hearings was to take place at 2pm on Tuesday 24 July 2012.
25. However, by email sent at about 5pm on Thursday 19 July 2012, one Sophie Butcher, Committee Member for Legal and Democratic Services, wrote to Star’s solicitors to say that the hearings had been “cancelled” on the basis that the applications did not comply with section 16 of the Licensing Act 2003. In addition no further arrangements were to be made to convene hearings in respect of the other outstanding applications. Full and detailed reasoning was promised for the following Monday. During the course of submissions, I elicited from counsel for the defendant that the decision upon which this mail was based had earlier been reached, but not contemporaneously recorded, by Mr Curtis-Botting.
26. This mail prompted a response from Star’s solicitors expressing surprise and dismay at the decision and pointing out that, since the decision had not been taken by the sub committee, there was no statutory right of appeal and thus the only route of legal challenge would be by way of judicial review.
27. On 23 July, the promised letter containing the defendant’s reasons was sent by one Mr Gerrard, Interim Head of Legal and Democratic Services. With respect to the legal position, having set out the terms of section 16(1)(a), it said:

“The Licensing Authority’s view is that none of the above companies now fall within this definition. Luminar Group Limited are carrying on the licensable activities. Whilst the case of [Hall] indicated that a landlord could fall within the definition by virtue of carrying on a business of collecting rent, this only applies if the landlord applies for a licence in respect of the licensable activities carried on by the tenant. In the case of the above applications, they are in respect of a business which would be carried on by the companies themselves and do not relate to Luminar Group Ltd’s licensable activities.”

28. The letter went on to say :

“The Licensing Authority have (sic.) considered whether the above companies can fall within the definition of proposing to carry on a business. On the facts of this case, it is not considered that they can. It will be 5 years before the lease comes to an end. If the 3 year break clause is invoked the

premises will have to be redeveloped, in which case further licence applications would be required in any event. Counsel's view is that any plans that the companies may have to carry out licensable activities in the future are at most a consideration of a proposal and do not fall within section 16(1)(a)."

Terminology

29. The defendant takes issue with the use of the term "shadow" licence and challenges the claimant's assertion that such arrangements are and were commonplace. Ultimately, however, so long as the term shadow licence is treated as being no more than a convenient label, and not one to be accorded any special legal status, then I see no harm in using it. This is particularly so in the light of the fact that the claimants do not contend that every shadow licence application will automatically comply with section 16(1)(a) and the defendants do not contend that every shadow licence will automatically fall foul of it. Each case will fall to be decided on its own facts.

Interpretation of section 16(1)(a)

30. In the Hall case, the court was not dealing with circumstances in which it was proposed that two premises licences would be held by two persons in respect of the same premises. In the instant case, there was disagreement between counsel as to whether or not applications for shadow licences had now become standard practice within the industry. In the event, I do not find that this is an issue which it is necessary to resolve. Orthodoxy is no more proof of legality than novelty is of illegality.
31. Despite the strongly opposed position of the parties on a number of issues, there were, nevertheless, some areas of agreement between the parties. In particular, counsel for the defendant, Mr Findlay Q.C. conceded, importantly, that the defendant could not legitimately have found that Star, as landlord, was precluded by section 16(1)(a) from making an application for, what he described as, a "mirror" licence. Such a licence, he explained, is a licence in identical terms to the primary licence insofar as it relates to the "licensable activities" covered by the latter. His concession was based on the approach of Richards L.J. in Hall.
32. Of the eight applications which are the subject matter of this case, it is applications 92057 and 105889 made by Star (to which I have already made passing reference) which were the most closely equivalent in scope and content to the existing licences held by Luminar. They related to the "Mambo" and "Casino and Players Lounge" premises respectively. Counsel for the defendant conceded that, if the claimants' applications had related to exactly the same activities in scope and form in respect of premises exactly as delineated in the Luminar licences, then the section 16 gateway would have been open to the claimants and Guildford could have had no legitimate basis upon which to refuse to proceed to determine the applications on their substantive merits.
33. However, Mr Findlay went on to assert that the defendant was entitled to reject the applications because of differences between the activities to which the shadow applications related and those covered by the primary licences.

34. When, in response to these submissions, I enquired just what these differences actually were, Mr Findlay was unable to provide me with a full answer. I, therefore, permitted him a short adjournment to find out the answer from Mr Curtis-Botting who was in attendance at the hearing. Copies of the Luminar licences for comparison were not immediately to hand, not having been included in the trial bundle.
35. After the adjournment, Mr Findlay identified the following differences between the terms of the primary licence and the proposed terms of the shadow licences:
- i) Application 92057 provided for the showing of films not suitable for children and for tableside and show dancing. The corresponding Luminar licence did not. Star's application also purported to cover a small and roughly square area which, although falling within the footprint of both premises as a whole, had not been included in the equivalent Luminar licence. In all other particulars the activities were identical as, indeed, were the operating times.
 - ii) Star's application 105889 was different to its Luminar counterpart to the extent that there was no specific provision for door supervisors and there were differences in relation to the permitted scope of lap dancing activities and the provision of CCTV surveillance. Upon enquiry as to the actual nature and extent of the differences relating to lap dancing and CCTV, Mr Findlay was unable to offer further assistance and said that he would be prepared to base his case on this issue with reference to the provision of doormen alone.
36. Of the differences relied upon, it must be said that none of them had ever been referred to in any communication written or oral from the defendant to the claimants. None of them was mentioned in Mr Curtis-Botting's witness statement, a document not otherwise short on detail. Furthermore each and every one of them could have been addressed at the sub-committee hearings which had been listed and the sub-committee would have been able (had it considered it to be necessary for the promotion of the licensing objectives in the light of material representations) to impose conditions which would have removed or mitigated these differences.
37. Mr Findlay assured me that, despite all of the above, Mr Curtis-Botting had, indeed, considered these very factors in reaching his decision. I accepted this assurance.
38. I then enquired of Mr Findlay whether his case was that an application for a shadow licence must fail under section 16(1)(a) unless the licensable activities identified therein were identical in every single respect to those contained in the primary licence. This was the stance which he initially adopted but, thereafter, he conceded that not every difference no matter how small would have this effect and argued that the differences had to be "material". Even accepting that Mr Curtis-Botting had applied his mind to these differences, there was no evidence as to which of them he had considered to be "material" or upon what basis.
39. I was and remain concerned that Mr Curtis-Botting made a mere mental note of these limited discrepancies and, thereafter, peremptorily cancelled (or refused any further consideration of) these applications without ever volunteering which discrepancies he had identified. I am not persuaded by the argument that the nature of the discrepancies was not communicated to the claimants because their challenge by way of judicial review was insufficiently focussed and that this justified Guildford's silence on the

point. It will be recalled that the letter of 23 July 2012, which Guildford had said in the earlier email would contain “full and detailed reasoning”, dealt with the point in the following way:

[The case of Hall] “...only applies if the landlord applies for a licence in respect of the licensable activities carried on by the tenant. In the case of the above applications, they are in respect of a business which would be carried on by the companies themselves and do not relate to Luminar Group Ltd’s licensable activities.”

40. A reasonable interpretation of this passage would, in my view, have been that Guildford’s objection was not that there was a material difference between the licensable activities referred to in the claimant’s applications and those contained in the primary licence but that the shadow licence applications related to free standing activities which were within the claimants’ contemplation to carry out themselves and not through mere involvement in a business carried out by Luminar. In other words, the objectionable factor was that, in order to comply with section 16(1)(a), the claimants’ applications should have been entirely parasitic upon the activities of Luminar and should not have reflected any future contemplated activities of the claimants themselves. However, this objection, if valid, would have applied equally to an application drafted in terms identical to those of the primary licence and thus is inconsistent with the concession made by Mr Findlay in his submissions. Nevertheless, despite any perceived contrast between the wording of the letter and the submissions now relied upon by Guildford, I approach the determination of the issue *de bene esse* as if the letter articulated unambiguously the same analysis as that upon which it now relies.
41. Ultimately, the resolution of this issue depends upon the interpretation of the words “the licensable activities to which the application relates” in section 16(1)(a) of the Act. The narrow interpretation favoured by Guildford is that such licensable activities should be materially identical in content to the primary licence with specific reference to the scope of the plan and operating schedule which must accompany the shadow application.
42. Guildford advances three specific policy bases in support of its approach. It contends:
 - (a) Section 16 does not provide for a free for all. In restricting the pool of possible applicants Parliament clearly considered there was benefit in so doing.
 - (b) Numerous licences make enforcement more difficult. Clarity of responsibility is important as noted by the current Guidance at paragraph 8.17.
 - (c) Unrestricted applications place an undue burden on licensing authorities.
43. Contention (a) does not, in my view, advance Guildford’s case. No one suggests that section 16 provides a “free for all”. It is self-evident that Parliament would not have imposed the section 16 gateways unless it considered that some benefit would thereby be achieved. This, however, begs the question as to where the line is to be drawn. The existence of the line cannot, of itself, determine its position.

44. Contentions (b) and (c), on the other hand, relating to difficulties in enforcing multiple licences and the burden of dealing with them, are not without some weight. Nevertheless, this weight is not sufficient, in my view, to preclude a broad interpretation of section 16(1). The potential deleterious consequences must be balanced against the following factors:
- i) The holder of a premises licence is under duties imposed by section 57 of the Licensing Act 2003 (breach of any one of which is an offence) in respect of keeping, displaying and producing such a licence. These obligations apply equally to holders of a shadow licence. There is, therefore, a level of well defined statutory control over the risk of confusion arising over the existence and parameters of any given licence. I accept that this does not remove all risk that, in any given case, the position may be less clear than if only one licence holder were permitted but the position is, at least, mitigated by the formalities of section 57 and, if the risk of confusion were to be prioritised as a factor in the threshold test, Parliament could have made express provision for this in the wording of the statute. It did not.
 - ii) The broader interpretation of section 16(1) continues to preserve the important control measure that any given applicant must demonstrate a sufficient nexus between its business and the relevant licensable activities. Accordingly, those operating businesses with a more tenuous link, such as developers, may well be excluded from using this gateway. Borderline cases will have to be decided on their own facts.
 - iii) A further disincentive to the making of multiple applications is that a fee is payable in respect of each of them. In this case the level of fee was £625 per application.
 - iv) Situations may arise, in any event, in which one set of premises is covered by a number of licences. Even on a narrow approach, a multiplicity of licences is not precluded in respect of any given premises. Simply by limiting applications in relation to existing businesses where the licensable activities are virtually identical to those already carried on will not obviously achieve a substantial reduction in the number of multiple applications made.
45. On the other hand, there are a number of factors which provide support for a broader interpretative approach.
46. Firstly, the Licensing Act 2003 was not intended to support a regime based on a narrow and restrictive approach to licensing. As Black J. observed in R (Daniel Thwaites plc) v Wirral Borough Magistrates' Court and Others [2008] EWHC 838 (Admin) at para. 13:

“The Licensing Act 2003 was intended to provide a ‘more efficient’ ‘more responsive’ and ‘flexible’ system of licensing which did not interfere unnecessarily. It aimed to give business greater freedom and flexibility to meet the expectations of customers and to provide greater choice for consumers whilst protecting local residents from disturbance and anti-social behaviour.”

And at para. 42:

“... the Act anticipates that a ‘light touch bureaucracy’ (a phrase used in para 5.99 of the Guidance) will be applied to the grant and variation of premises licences.”

A wider approach to the interpretation of section 16(1)(a) facilitates these policy aims. The narrow one advocated by the defendant does not.

47. Secondly, the applicant for a shadow licence may have very good and perfectly legitimate business, or other, reasons to include some details of the relevant licensable activity not included in the original primary licence. The automatic exclusion of such applications from further consideration under section 16(1)(a) would celebrate the triumph of bureaucracy over common sense.
48. Thirdly, if, in any given case, there were sound policy reasons for taking issue with any differences between the terms of the shadow application and those contained in the primary application, then these could be considered at the hearing and dealt with on their merits based upon an assessment of what would be necessary for the promotion of the licensing objectives in the light of representations made. It is far better that the proper control mechanism for such applications should involve the considered application of policy rather than the operation of a mechanistically applied threshold condition. Any frivolous, vexatious or repetitious applications could always be dealt with by way of delegation to a single officer and, in obvious cases, be disposed of in a proportionately summary fashion.
49. Fourthly, if Parliament had wished to preclude the making of second or subsequent licence applications on anything but identical or near identical bases to those contained in first licences, then this could have been made clear in the Guidance. It was not.
50. Fifthly, section 17 of the 2003 Act treats the “relevant licensable activities” as enjoying a separate conceptual existence from, for example, “the times during which it is proposed that the relevant licensable activities are to take place”. It follows that “a business which involves the use of the premises for the licensable activities to which the application relates” does not cease to be such a business merely because the application relates, for example, to operating hours which are different from those covered by the primary licence. The licensable activities remain the same even when the times over which they are permitted do not.
51. There are provisions in the 2003 Act upon which Guildford rely which allow an owner to apply for the transfer of the original licence back from the tenant in the event of insolvency or surrender or because the tenant had given up occupation but these are circumscribed by time restraints and depend in part upon the cooperation of the tenant which may not always be forthcoming.
52. Having concluded that a narrow test is not appropriate, it is necessary to consider the parameters of a broader interpretation. In my view, the answer lies in the legislation itself. Section 1(1) of the 2003 Act categorises licensable activities thus:

“Licensable activities and qualifying club activities

1. For the purposes of this Act the following are licensable activities—

- (a) the sale by retail of alcohol,
- (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,
- (c) the provision of regulated entertainment, and
- (d) the provision of late night refreshment.

This categorisation provides a logical and straightforward basis upon which to apply section 16(1)(a).

53. Where the shadow application is limited to actual (as opposed to proposed) use, a sequential analysis would involve the following steps:
- i) Is the applicant a person who carries on a business? If not, he does not satisfy 16(1)(a) and the application must fail. If he does, then go to (ii).
 - ii) Does that business involve the use of the premises to which the application relates for licensed activities? If not, it does not satisfy 16(1)(a) and the application must fail. If it does, then go to (iii)
 - iii) Identify the categories of licensable activities as listed under section 1 of the 2003 Act for which the premises are used. Go on to (iv).
 - iv) Does the application relate to any category or categories of licensable activity not identified under (iii) above? If so, the applicant does not satisfy 16(1)(a) and the application must fail in so far as it purports to apply to those activities. If not, 16(1)(a) is satisfied.
54. It would follow that the landlord of a public house (the tenant of which held the primary licence to sell alcohol) would not be precluded from applying for a shadow licence also for the retail sale of alcohol even if, for example, the standard days and timings in the shadow application differed from those permitted under the primary licence. The category of licensable activity would remain the same. By way of contrary example, the shadow application could not, however, satisfy the requirements of sub-section 16(1)(a) if it were made in respect of regulated entertainment where the primary licence did not include provision for regulated entertainment. In such a case the applicant, in order to bring itself within the subsection, would have to demonstrate that it actually proposed to carry on a business at the premises which involved regulated entertainment.
55. Applying this approach to the circumstances of this case, it follows that the defendant was wrong to decide that section 16(1)(a) applied so as to exclude Application 105889 from further consideration. The differences relied upon did not relate to the categories of licensable activity but merely to details such as the provision of doormen and the like.

56. Application 92057 is different to the extent that the area covered in the shadow application is not co-terminous with that to which the primary licence relates. However, the discrepant area still falls within premises used by Star as landlord but is merely covered by a different primary licence held by Luminar.
57. In my view, it matters not for the purposes of the application of section 16(1)(a) whether the shadow licence application covers an area entirely co-incident with any given primary licence. So long as the extent of the shadow licence application does not stray beyond the parameters of the premises used by the applicant as a business and that the matching categories of licensable activities are carried out under the primary licences relating thereto then the threshold of section 16(1)(a) is surmounted.
58. Again, in the event that there were any legitimate policy concern over the proposed physical area of the premises covered by the shadow application, this could be addressed at the substantive hearing.
59. It therefore follows that the defendant was wrong to conclude that section 16(1)(a) precluded application 92057 from further consideration.
60. I would therefore order Guildford to proceed with these two applications on the basis that they pass through the section 16(1)(a) gateway.
61. With respect to the remaining Star applications, I quash Guildford's decisions and require it to approach the issue as to whether they qualify under section 16 afresh applying the law as I have ruled it to be.

Proposed carrying on of business

62. In case I am wrong about my interpretation of section 16 in so far as it relates to existing (rather than proposed) use, it is necessary to consider whether, even if Star could not bring itself into the category of carrying on a business within the scope of section 16(1)(a) it could still rely upon the assertion that it *proposed to carry on* a business which involved the use of the premises for the licensable activities to which the application related (to which, for ease of reference, I will refer as "the alternative limb").
63. Star contends that its intentions in respect of the future of its business at the premises were sufficient to comply with the alternative limb. These intentions were:
 - i) To protect Star in the event that its tenants went into liquidation or surrendered its licence, or was the subject of review proceedings.
 - ii) To protect Star in the event that its tenants failed to pay/were late paying their rent.
 - iii) In the event that Star gave its tenants notice to quit and retake possession pending redevelopment of the premises, to enable it to run the premises in the meantime.
 - iv) To enable Star to market the premises or parts of the premises should the tenants stay in possession for the full term.

64. Guildford rejects this approach and submits that “proposes” is a normal English word which should be given its normal meaning, subject to any special meaning that may be attributable to its particular statutory context.
65. Guildford contends that the approach of the Court of Appeal in Mainwaring v Trustees of Henry Smith’s Charity [1998] QB 1 at 18E, a case determined under the Landlord and Tenant Act 1987, is equally applicable to the Licensing Act 2003. Sir Thomas Bingham MR held:
- “It is in our view clear that the expression "proposes" describes a state of mind somewhere between mere consideration of a possible course of action at one extreme and a fixed and irrevocable determination to pursue that course of action at the other. As Lord Denning MR observed in Trustees of the Magdalen and Lasher Charity, Hastings and Others v Shelover (1968) 19 P & CR 389 at 392, contrasting different expressions to be found in the Landlord and Tenant Act 1954, "The word "proposes" is different from the word "intends". A man may propose to do a thing without having formed a fixed and settled intention to do it. "A "proposal" under the Act means that a project must have moved out of "the zone of contemplation ... into the valley of decision": Cunliffe v Goodman [1950] 2KB 237 at 254 per Asquith LJ.”
66. Star cautions against the suggestion that the interpretation of “proposes” in the policy context of the provisions of the Landlord and Tenant Act 1987 should be translated directly into the context of the Licensing Act 2003.
67. For my own part, I do not consider that there is anything in the quoted passage from Sir Thomas Bingham’s judgment in Mainwaring which could, in any event, be interpreted as giving the word “proposes” anything other than its ordinary English meaning. He certainly did not consider that it was necessary to give the word any purposive (let alone strained) interpretation to achieve a just determination of the cause before him. On the contrary, he concluded that, in the circumstances of that case, “it is impossible to feel any doubt”. He acknowledged, however, that “Cases could well arise in which it might be very doubtful whether a landlord's plans had hardened sufficiently to be regarded as a proposal...”
68. I resist the temptation to provide any further judicial gloss on the proper interpretation of the word “proposes”.
69. In this case, however, regardless of the proper interpretation of the word “proposes”, Mr Curtis-Botting made a mistake. When deciding whether Star was able to bring itself within the alternative limb he was under the mistaken impression that the lease contained a three year break clause when, in fact, it was a one year break clause. This, in my view, amounted to a material misdirection.
70. On this basis, I would have quashed his decision on the alternative limb in any event. I do not, however, find that a decision adverse to the claimants on this issue, had it been based on accurate primary facts, would automatically have been Wednesbury unreasonable. This is a court of review and not of appeal.

Extreme Oyster

71. The role of Extreme is referred to in paragraph 2 of this judgment. In summary, it receives income from the rental of the premises from Star. It pays all of Star's running costs and expenses.
72. Extreme is not, however, the landlord of the premises or any part of them and arguably operates at a further stage removed from the business which actually uses the premises for the licensable activities to which the application relates. This does not mean that Extreme's applications must automatically be excluded from consideration by the operation of section 16(1)(a) of the 2003 Act but it does mean that this is an issue upon which the decision maker and not the court should be the final arbiter (acting, of course, within the constraints of public law).
73. The reasons given in the decision letter for finding that Extreme did not satisfy the threshold criteria of section 16(1)(a) are flawed. The decision with respect to whether Extreme was carrying on a business which involved the use of the premises for the licensable activities to which the application relates (as articulated in Guildford's submissions to me) was wrongly based on the assumption that there had to be virtual equivalence between the scope of the activities actually carried out and those in respect of which the application was made. The decision on the alternative limb was also flawed by Mr Curtis-Botting's error relating to the timing of the break clause. The decisions relating to the Extreme applications are, therefore, quashed and must be considered afresh applying the law as I have held it to be.

Delegation

74. The decision to rule against all of the Claimants' applications was taken by Mr Curtis-Botting alone and not by the sub-committee. The powers of sub-delegation under the 2003 Act are contained within section 10 which provides:

"10 Sub-delegation of functions by licensing committee etc.

(1)A licensing committee may arrange for the discharge of any functions exercisable by it—

(a)by a sub-committee established by it, or

(b)subject to subsection (4), by an officer of the licensing authority.

(2)Where arrangements are made under subsection (1)(a), then, subject to subsections (4) and (5), the sub-committee may in turn arrange for the discharge of the function concerned by an officer of the licensing authority.

(3)Arrangements under subsection (1) or (2) may provide for more than one sub-committee or officer to discharge the same function concurrently.

(4)Arrangements may not be made under subsection (1) or (2) for the discharge by an officer of—

(a) any function under—

(i) section 18(3) (determination of application for premises licence where representations have been made),

(ii) section 31(3) (determination of application for provisional statement where representations have been made),

(iii) section 35(3) (determination of application for variation of premises licence where representations have been made),

(iv) section 39(3) (determination of application to vary designated premises supervisor following police objection),

(v) section 44(5) (determination of application for transfer of premises licence following police objection),

(vi) section 48(3) (consideration of police objection made to interim authority notice),

(via) section 53A(2)(a) or 53B (determination of interim steps pending summary review),

(vii) section 72(3) (determination of application for club premises certificate where representations have been made),

(viii) section 85(3) (determination of application to vary club premises certificate where representations have been made),

(ix) section 105(2) (decision to give counter notice following police objection to temporary event notice),

(x) section 120(7) (determination of application for grant of personal licence following police objection),

(xi) section 121(6) (determination of application for renewal of personal licence following police objection), or

(xii) section 124(4) (revocation of licence where convictions come to light after grant etc.),

(b)any function under section 52(2) or (3) (determination of application for review of premises licence) in a case where relevant representations (within the meaning of section 52(7)) have been made,

(ba) any function under section 53C (review following review notice), in a case where relevant representations (within the meaning of section 53C(7)) have been made,

(c)any function under section 88(2) or (3) (determination of application for review of club premises certificate) in a case where relevant representations (within the meaning of section 88(7)) have been made, or

(d)any function under section 167(5) (review following closure order), in a case where relevant representations (within the meaning of section 167(9)) have been made.

(5)The power exercisable under subsection (2) by a sub-committee established by a licensing committee is also subject to any direction given by that committee to the sub-committee

75. The Amended Guidance contains a table of “Recommended Delegation of Functions” but this takes the issue no further to the extent that it does not state whether or not it is generally appropriate for a decision under section 16 to be delegated to an officer.
76. I am satisfied that Guildford would not have acted in breach of the provisions of section 10 if it had actually authorised the Licensing Committee to arrange for the relevant function (i.e. to determine whether or not a prospective applicant falls within the scope of section 16) to be delegated to an officer of the licensing authority such as Mr Curtis-Botting. However, to examine whether such delegation actually took place or was compliant with Guildford’s policy on the matter, it is necessary to have regard to Guildford’s “Delegation to Officers” document which is accessible on its website.
77. This document, rather than listing, as does the Act, those decisions which are *not* to be delegated to officers, lists those decisions which *are* to be so delegated. Guildford relies upon category 8 in the list in the Delegation document which, it contends, empowered Mt Curtis-Botting to make the decision. It provides that such a delegation is permitted:
- “To determine all applications for a premises licence...where no representations have been made.”
78. During submissions, I was first informed on behalf of Guildford that in respect of some of the eight relevant applications no representations had been made but in respect of others representations had been made. Further enquiry revealed, however,

that this was wrong and that representations had, in fact, been made in respect of all eight applications.

79. When pressed on this issue, Guildford's argument was to the effect that I should treat the case as if no representations had been made (even though they had) on the basis that the issue under section 16 was to be looked at sequentially before the determination of an application because, if the proposed applicant fell outside the terms of section 16, then the issue of whether or not representations had been made would fall out of the equation.
80. I disagree with this analysis. Section 10 of the 2003 Act prohibits the delegation of any function under...section 18(3) (determination of application for premises licence where representations have been made). Thus the Committee was entitled to permit a determination under section 18(3) where no representations had been made. However, it simply did not go on, as it could have done, to authorise the single officer to determine issues arising under section 16(1).
81. There was no justification for Guildford to act in breach of its Delegation Policy. The public and the claimants had a legitimate expectation that this Policy would be followed. I am, therefore, satisfied that the decision on section 16 is one that ought not to have been determined by Mr Curtis-Botting alone and would quash his decisions on this basis also. I would add that the answer to the question whether, in any given case, there is a sufficient nexus between an existing business and the licensable activities to which an application is made may not always be straightforward and that it would not be generically inappropriate for policies to provide for licensing sub-committees to make the relevant determination rather than to delegate it to an individual officer.

Fees

82. A subsidiary issue arose relating to the fees paid by the claimants in respect of their applications. In summary they contended that it was unlawful for Guildford to retain fees paid in respect of applications which had been rejected without any substantive consideration of the merits. In the light of my findings with respect to the status of Guildford decisions relating to such fees I find it unnecessary to adjudicate on this issue.

Consequences

83. In summary, therefore, this court makes a declaration that Star's applications 92057 and 105889 are compliant with section 16(1)(a) and must be allowed to proceed to substantive determination and that Guildford's decisions on the remaining applications from Star and Extreme are quashed and are to be re-visited on the legal basis I have ruled upon.



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

Schedule 12
Part A

WARD: St James's
UPRN: 100023472818

Premises licence

Regulation 33, 34

Premises licence number:

23/00402/LIPT

Original Reference:

05/02759/LIPCV

Part 1 – Premises details

Postal address of premises:

Alberts Schloss
20-24 Shaftesbury Avenue
London
W1D 7EU

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

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

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

Performance of Dance

Monday to Sunday: 09:00 to 03:00

Performance of Live Music

Monday to Sunday: 09:00 to 03:00

Playing of Recorded Music

Unrestricted

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

Monday to Sunday: 09:00 to 03:00

Late Night Refreshment

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

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

Sale by Retail of Alcohol

Monday to Saturday: 10:00 to 03:00
Sunday: 12:00 to 22:30

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

The opening hours of the premises:

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

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

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

Part 2

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

Zecol Thomas Limited
8 Hewitt Street
Manchester
M15 4GB

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

05916811

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

Name: Makrand Gandhale

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

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

Licence Number: H04927

Licensing Authority: London Borough of Hounslow

Date: 08 February 2023

This licence has been authorised by Ms Roxsana Haq on behalf of the Director - Public Protection and Licensing.

Annex 1 – Mandatory conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

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

Where -

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions reproducing the effect of conditions subject to which the existing licences have effect:

Conditions related to Regulated Entertainment:

9. 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.
10. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).
11. Notwithstanding the provisions of Rule of Management No. 6 the premises may remain open for the purposes of this licence from 23:00 on each of the days Sunday to Saturday to 03:00 on the day following.
12. An attendant shall be stationed in the shop the whole time that the premises are open to the public.
13. The number of persons accommodated at any one time (excluding staff) shall not exceed: Basement - 470; Sub-Basement - 150.

Conditions Relating to the Sale of Alcohol

14. 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.
15. No gaming otherwise than by machines authorised under part III, Gaming Act, 1968.
16. No striptease, no nudity and all persons on the premises to be decently attired.
17. There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.

Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified attachments

Monday to Saturday

18. (a) Subject to the following paragraphs, the permitted hours on weekdays shall commence at 10:00 (12.00 on Christmas Day and Good Friday) and extend until 03:00 on the morning following, except that -
 - (i) the permitted hours shall end at 00:00 midnight on any day on which music and dancing is not provided after midnight; and
 - (ii) on any day that music and dancing end between 00:00 midnight and 03:00, the permitted hours shall end when the music and dancing end;
- (b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect with the substitution of references to 04:00 for references to 03:00.
- (c) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.
- (d) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00.00 on New Year's Eve.

NOTE - The above restrictions do not prohibit:

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

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

Sunday

19. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) On Sundays, other than Christmas Day or New Year's Eve, 12.00 noon to 22.30.
- (b) On Christmas Day, 12.00 to 15.00 and 19.00 to 22.30.
- (c) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00.00 midnight on 31st December).

NOTE - The above restrictions do not prohibit:

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

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

20. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:
- (a) He is the child of the holder of the premises licence.
 - (b) He resides in the premises, but is not employed there.
 - (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

- (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

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

21. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):
- (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
 - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
 - (c) to take all other reasonable precautions for the safety of children.
22. The terminal hour for late night refreshment on New Year's Eve is extended to 05.00 on New Year's Day.

Annex 2 – Conditions consistent with the operating Schedule

None

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

23. When a customer chooses to pay by credit card, he/she will be presented with an itemised bill upon final payment, showing details of all drinks and food purchased.



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

Schedule 12
Part B

WARD: St James's
UPRN: 100023472818

Premises licence
summary

Regulation 33, 34

Premises licence
number:

23/00402/LIPT

Part 1 – Premises details

Postal address of premises:

Alberts Schloss
20-24 Shaftesbury Avenue
London
W1D 7EU

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

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

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

Performance of Dance

Monday to Sunday: 09:00 to 03:00

Performance of Live Music

Monday to Sunday: 09:00 to 03:00

Playing of Recorded Music

Unrestricted

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

Monday to Sunday: 09:00 to 03:00

Late Night Refreshment

Monday to Saturday: 23:00 to 03:30

Sunday: 23:00 to 03:00

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

Sale by Retail of Alcohol

Monday to Saturday: 10:00 to 03:00

Sunday: 12:00 to 22:30

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

The opening hours of the premises:

Monday to Saturday: 09:00 to 03:30

Sunday: 09:00 to 03:00

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

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

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

Zecol Thomas Limited
8 Hewitt Street
Manchester
M15 4GB

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

05916811

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

Name: Makrand Gandhale

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

Restricted

Date: 08 February 2023

This licence has been authorised by Ms Roxsana Haq on behalf of the Director - Public Protection and Licensing.

Premises history**Appendix 4**

Application	Details of Application	Date Determined	Decision
05/02759/LIPCV	Application for new premises licence	01.06.2005	Granted by Licensing Sub-Committee
06/04127/WCCMAP	Master Licence	01.06.2005	Granted by Licensing Sub-Committee
09/07148/LIPCH	Application to vary the licence holders registered address	22.11.2009	Granted under Delegated Authority
17/04908/LIPT	Application to transfer the licence from The Original Rainforest Cafe Limited to RFC 20 UK Limited	18.04.2013	Granted under Delegated Authority
17/09581/LIPDPS	Application to vary DPS	19.9.2017	Granted under Delegated Authority
17/10791/LIPDPS	Application to vary DPS	12.10.2017	Granted under Delegated Authority
18/06367/LIPT	Application to transfer the licence from RFC 20 UK Limited to Net Communications Limited	28.11.2018	Granted under Delegated Authority
18/07020/LIPDPS	Application to vary DPS	28.11.2018	Granted under Delegated Authority
18/13324/LIPDPS	Application to vary DPS	28.11.2018	Granted under Delegated Authority
19/15473/LIPDPS	Application to vary DPS	11.12.2019	Granted under Delegated Authority
20/03215/LIPT	Application to transfer the licence from Net Communications Limited to Trocadero (London) Hotel Limited	15.04.2020	Granted under Delegated Authority
20/03425/LIPDPS	Application to vary DPS	07.05.2020	Granted under Delegated Authority
22/04586/LIPCHT	Application to change the trading name from Rainforest Café to Jungle Cafe	28.04.2022	Granted under Delegated Authority
22/04957/LIPDPS	Application to vary DPS	25.05.2022	Granted under Delegated Authority
23/00402/LIPT	Application to transfer the licence from Trocadero (London) Hotel Limited to Zecol Thomas Limited	08.02.2023	Granted under Delegated Authority

Rainforest Café

Application	Details of Application	Date Determined	Decision
22/02797/LIPN	New premises licence Performance of Dance Monday to Sunday: 10:00 to 00:00 Performance of Live Music Monday to Sunday: 10:00 to 00:00 Playing of Recorded Music Monday to Sunday: 10:00 to 00:00 Late Night Refreshment Monday to Sunday: 23:00 to 00:00 Sale by Retail of Alcohol Monday to Sunday: 10:00 to 00:00	06.06.2022	Granted under Delegated Authority

There is no appeal history

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

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

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

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

Conditions: On Current Licence -

Mandatory:

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

or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

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

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

premises in a capacity that which enables him to prevent the supply of alcohol.

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

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

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

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

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

Where -

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Conditions reproducing the effect of conditions subject to which the existing licences have effect:

Conditions related to Regulated Entertainment:

- *9. 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.
- *10. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).
- *11. Notwithstanding the provisions of Rule of Management No. 6 the premises may remain open for the purposes of this licence from 23:00 on each of the days Sunday to Saturday to 03:00 on the day following.
- *12. An attendant shall be stationed in the shop the whole time that the premises are open to the public.
- *13. The number of persons accommodated at any one time (excluding staff) shall not exceed: Basement - 470; Sub-Basement - 150.

Conditions Relating to the Sale of Alcohol

- *14. 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.
- *15. No gaming otherwise than by machines authorised under part III, Gaming Act, 1968.
- *16. No striptease, no nudity and all persons on the premises to be decently attired.
- *17. There shall be no payment made by or on behalf of the licensees to any person for bringing customers to the premises.

Conditions which reproduce the effect of any restriction imposed on the use of the premises by specified attachments

Monday to Saturday

- *18. (a) Subject to the following paragraphs, the permitted hours on weekdays shall commence at 10:00 (12.00 on Christmas Day and Good Friday) and extend until 03:00 on the morning following, except that -
 - (i) the permitted hours shall end at 00:00 midnight on any day on which music and dancing is not provided after midnight; and
 - (ii) on any day that music and dancing end between 00:00 midnight and 03:00, the permitted hours shall end when the music and dancing end;
- (b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect with the substitution of references to 04:00 for references to 03:00.
- (c) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.

- (d) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00.00 on New Year's Eve.

NOTE - The above restrictions do not prohibit:

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

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

Sunday

- *19. Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours.

In this condition, permitted hours means:

- (a) On Sundays, other than Christmas Day or New Year's Eve, 12.00 noon to 22.30.
- (b) On Christmas Day, 12.00 to 15.00 and 19.00 to 22.30.
- (c) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00.00 midnight on 31st December).

NOTE - The above restrictions do not prohibit:

- (k) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- (l) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (m) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (n) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;

- (o) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (p) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (q) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (r) the taking of alcohol from the premises by a person residing there;
- (s) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- (t) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

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

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

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

- *21. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):
- (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
 - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
 - (c) to take all other reasonable precautions for the safety of children.

- *22. The terminal hour for late night refreshment on New Year's Eve is extended to 05.00 on New Year's Day.

*** Condition 9-22 are proposed to be removed by the applicant. ***

Annex 2 – Conditions consistent with the operating Schedule

None

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

23. When a customer chooses to pay by credit card, he/she will be presented with an itemised bill upon final payment, showing details of all drinks and food purchased.

Conditions proposed to be added by the applicant

24. The licensable activities authorised and provided at the premises shall be ancillary to the main function of the premises operating as an Albert's Schloss themed entertainment led venue operated by Zecol Thomas Limited.
25. 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.
26. A Challenge 21 scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport or proof of age card with the PASS Hologram.
27. No open containers of drink shall be allowed outside the premises and there shall be no consumption of drink directly outside the premises.
28. 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 and will include the external area immediately outside the premises entrance. 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.
29. 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.
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 regarding crime disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol
 - (g) any visit by a relevant authority or emergency service.
31. The premises licence holder shall ensure that the management team register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package or can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from the day they start their employment.

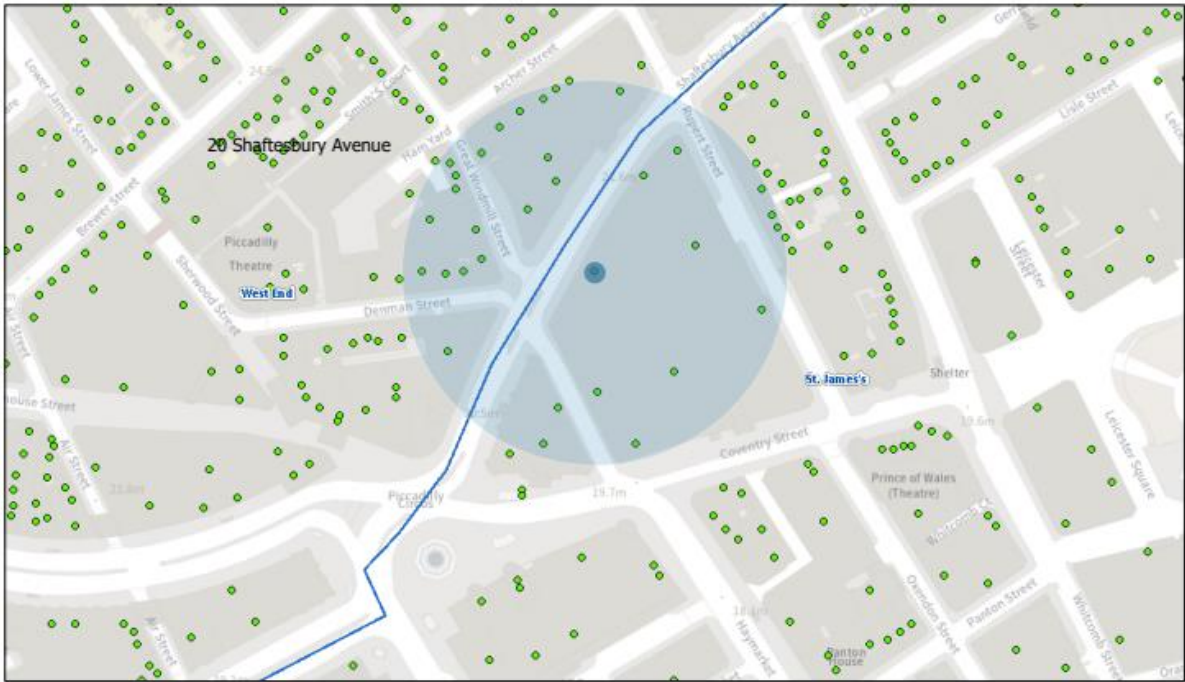
32. From 21.00 hours on Thursday, Friday and Saturday, a minimum of six SIA licensed door supervisors shall be on duty at the entrance of the premises at all times whilst it is open for business, and they must correctly display their SIA licence(s) when on duty so as to be visible. At all other times, the requirement for SIA licensed door supervisors shall be risk- assessed.
33. The premises may remain open for licensable activities from the end of permitted hours on New Year's Eve to the start of permitted activities on New Year's Day.
34. In relation to the morning on which British Summertime begins the terminal hour for licensable activities and opening will be extended by 1 hour.
35. 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.
36. Loudspeakers shall not be located in the entrance lobby or outside the premise building.
37. 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.
38. 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.
39. There shall be no sales of alcohol for consumption 'Off' the premises after 23:00 hours each day.
40. There shall be no sales of hot food or hot drink for consumption off the premises after 23:00 hours each day.
41. 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.
42. 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 and shall be limited to a maximum of 35 persons at any one time.
43. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
44. All windows and external doors shall be kept closed after 23:00 hours each day, except for the immediate access and egress of persons.

45. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
46. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of the local residents and businesses and leave the area quietly.
47. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the need of local residents and use the area quietly.
48. 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.
49. No collection of waste or recycling materials (including bottle) from the premises shall take place between 23:00 and 07:00 hours on the following day.
50. No deliveries to the premises shall take place between 23:00 and 07:00 hours on the following day.
51. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
52. 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.
53. 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.
54. All emergency exit doors shall be available at all material times without the use of a key, code, card, or similar means.
55. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
56. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
57. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
58. The premises will implement a comprehensive dispersal policy and all relevant staff will be trained in its implementation. The Policy will be reviewed regularly and whenever the Licensee becomes aware of issues associated with dispersal.

59. No person on behalf of the premises or on behalf of a person carrying or attempting to carry on a licensable activity shall cause, permit, employ or allow, directly or indirectly, whether on payment or otherwise, any person(s) to importune, solicit or tout members of the public on any public highway within the specified area outlined below for the purpose of bringing customers to the premises. The distribution of leaflets or similar promotional material is also prohibited within the specified area.
- [For the purpose of this condition: 'Directly' means - employ, have control of or instruct. 'Indirectly' means - allowing / permitting the service of or through a third party. 'Specified' Area' means - the area encompassed within (insert name of boundary roads)].
60. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale.
61. As soon as possible, and in any event within 1 month from the grant of this licence, the premises shall join the local Pubwatch or other local crime reduction scheme approved by the police, and local radio scheme, if available.
62. There shall be no admittance or re-admittance to the premises one hour before the terminal hour for licensable activities, except for patrons permitted to temporarily leave the premises (e.g., to smoke, make a phone call).
63. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity. Door staff and Body worn video will be in use.
64. (a) An attendant shall be on duty in the male and female toilets areas (within the licensed area) from 21:00 hours daily until the premises are closed to the public.
(b) Attendants shall be equipped with a means of alerting security without delay, e.g, radio, BWV, or personal alarm which shall be kept on their person.
65. Searching of customers shall be based on risk assessment by designated security. Such searching to be supplemented using two functional metal detecting wands and to be covered by premises CCTV.
66. In the event that an assault involving an injury of a sexual nature is committed on the premises (or appears to have been committed), the management will immediately ensure that:
- (a) the Police (and, where appropriate, the London Ambulance Service) are called without delay;
(b) all measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the Police;
(c) the crime scene is preserved so as to ensure a full forensic investigation to be carried out by the Police; such other measures are taken (as appropriate) to fully protect the safety of all persons on the premises.
67. Where the premises are open for the sale of alcohol for consumption on the premises then from 22:00 hours a personal licence holder shall be on duty.

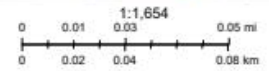
68. After 22:00, all security engaged outside the entrance to the premises, or supervising or controlling queues outside the premises, shall wear high visibility arm bands and shall display their SIA a licence at all times went on duty. At the commencement of duty, all security personnel must have their names and licence number logged with date and time. Names must be legible and appropriate for a legal document. The log shall be made available for inspection of the Responsible Authorities upon request and be retained for a minimum of 31 days.
69. SIA door staff shall from midnight until close, monitor Shaftesbury Avenue to encourage the quiet dispersal of customers.
70. Customer facing front of house staff shall receive at least basic training in Conflict Management provided by a qualified source. Training records for such staff shall be kept on the premises and provided to the Responsible Authorities for viewing upon request.
71. No licensable activities shall take place 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.
72. 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. Such capacity shall not exceed 620 persons (excluding staff).
73. Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.

20-24 Shaftesbury Avenue, London, W1D 7EU



04/04/2023, 14:45:21

- Property Mailing List
- Borough Boundary - Mask
- Ward Boundaries
- Ward Labels
- Borough Boundary - Detailed



Resident Count: 24

Licensed premises with 75 metres of 20-24 Shaftesbury Avenue, London, W1D 7EU				
Licence Number	Trading Name	Address	Premises Type	Time Period
19/16538/LIPDPS	Crystal Maze	20-24 Shaftesbury Avenue London W1D 7EU	Miscellaneous	Monday to Sunday; 09:00 - 04:00
20/09511/LIPDPS	Crystal Maze	20-24 Shaftesbury Avenue London W1D 7EU	Miscellaneous	Monday to Sunday; 09:00 - 04:00
22/02797/LIPN	Rainforest Cafe	20-24 Shaftesbury Avenue London W1D 7EU	Restaurant	Monday; 10:00 - 00:30 Tuesday; 10:00 - 00:30 Wednesday; 10:00 - 00:30 Thursday; 10:00 - 00:30 Friday; 10:00 - 00:30 Saturday; 10:00 - 00:30 Sunday; 10:00 - 00:30
23/00402/LIPT	Alberts Schloss	20-24 Shaftesbury Avenue London W1D 7EU	Restaurant	Sunday; 09:00 - 03:00 Monday to Saturday; 09:00 - 03:30
18/16199/LIPVM	Shaftesbury Food And Wine	Ground Floor Unit 2 Avenue House 25 - 27 Shaftesbury Avenue London W1D 7EQ	Shop	Monday; 00:00 - 00:00 Tuesday; 00:00 - 00:00 Wednesday; 00:00 - 00:00 Thursday; 00:00 - 00:00 Friday; 00:00 - 00:00 Saturday; 00:00 - 00:00 Sunday; 00:00 - 00:00
16/06157/LIPT	McDonald's	Ground Floor Right And Basement Avenue House 25 - 27 Shaftesbury Avenue London W1D	Restaurant	Sunday; 05:00 - 23:00 Monday to Thursday; 05:00 - 00:00 Friday to Saturday; 05:00 - 01:00

		7EQ		
23/00478/LIPDPS	Lyric Theatre	Avenue House 25-27 Shaftesbury Avenue London W1D 7EG	Theatre	Monday to Sunday; 09:00 - 00:00
22/05496/LIPN	Coyote Ugly - (30 Shaftesbury Avenue)	Unit 30 Basement Part And Ground Floor Trocadero 13 Coventry Street London W1D 7AB	Leisure (other)	Monday to Sunday; 08:00 - 03:00
22/04961/LIPDPS	Shrimp And Grill	Basement To First Floor Unit 75 Trocadero 13 Coventry Street London W1D 7AB	Restaurant	Monday; 09:00 - 23:30 Tuesday; 09:00 - 23:30 Wednesday; 09:00 - 23:30 Thursday; 09:00 - 23:30 Friday; 09:00 - 00:00 Saturday; 09:00 - 00:00 Sunday; 09:00 - 23:00 Sundays before Bank Holidays; 09:00 - 00:00
21/06593/LIPDPS	Platinum Lace Gentlemans Club	Unit 33 Trocadero 13 Coventry Street London W1D 7AB	Night clubs and discos	Sunday; 15:00 - 03:30 Monday to Saturday; 15:00 - 06:30
20/00949/LIPDPS	Not Recorded	Unit 29 Trocadero 13 Coventry Street London W1D 7AB	Shop	Monday to Sunday; 00:00 - 00:00
19/00522/LIPDPS	Not Recorded	Unit 34B Trocadero 19 Rupert Street London W1D 7PN	Restaurant	Sunday; 10:00 - 00:00 Monday to Saturday; 10:00 - 00:30
19/07844/LIPN	United Chip, Unit 34a, The Trocodero	19A Rupert Street London W1D 6DF	Restaurant	Sunday; 12:00 - 22:30 Monday to Thursday; 11:00 - 23:30 Friday to Saturday;

				11:00 - 00:00
18/16233/LIPN	Not Recorded	Unit 34B Trocadero 19 Rupert Street London W1D 7PN	Restaurant	Sunday; 10:00 - 00:00 Monday to Saturday; 10:00 - 01:30
20/01462/LIPDPS	HaiDiLao	Units 4 And 5 Trocadero 13 Coventry Street London W1D 7AB	Restaurant	Sunday; 08:00 - 23:00 Tuesday to Thursday; 08:00 - 00:00 Friday to Saturday; 08:00 - 00:30 Sundays before Bank Holidays; 08:00 - 00:30
20/11037/LIPCH	St James Tavern Public House	45 Great Windmill Street London	Public house or pub restaurant	Sunday; 07:00 - 22:30 Monday to Thursday; 07:00 - 23:30 Friday to Saturday; 07:00 - 00:00 Sundays before Bank Holidays; 07:00 - 00:00
17/15045/LIPDPS	Sophies	42 - 44 Great Windmill Street London W1D 7ND	Restaurant	Sunday; 09:00 - 23:00 Monday to Saturday; 09:00 - 01:30
20/07563/LIPDPS	Five Guys	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Sunday; 10:00 - 22:30 Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00
22/00403/LIPDPS	Picturehouse Central	Trocadero 13 Coventry Street London W1D 7DH	Cinema	Monday to Sunday; 00:00 - 23:59
17/08106/LIPN	Unit 4 - Happy Bar And Grill	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Sunday; 08:00 - 22:30 Monday to Thursday; 08:00 - 23:30 Friday to Saturday; 08:00 - 00:00

21/06624/LIPN	Sky Bar Lounge	Trocadero 13 Coventry Street London W1D 7DH	Restaurant	Monday to Sunday; 00:00 - 00:00
18/00656/LIPN	Trocadero Hotel/Sky Bar & Restaurant	Trocadero 13 Coventry Street London W1D 7DH	Hotel, 3 star or under	Monday to Sunday; 00:00 - 00:00
21/11207/LIPDPS	Shoryu Soho	2-3 Denman Street London W1D 7HA	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
16/02850/LIPDPS	Bar Rumba	Ground Floor Unit 17d Trocadero 13 Coventry Street London W1D 7ER	Restaurant	Sunday; 09:00 - 03:30 Monday to Saturday; 09:00 - 06:00
21/14602/LIPDPS	Fratelli La Bufala	Vernon House 40 Shaftesbury Avenue London W1D 7ER	Restaurant	Monday to Sunday; 09:00 - 01:00
20/03711/LIPV	Olives N' Mezze Mediterranean Kitchen	Basement And Ground Floor 40 Great Windmill Street London W1D 7LY	Restaurant	Sunday; 09:00 - 02:00 Monday to Saturday; 08:00 - 02:00
22/07837/LIPV	The Windmill	17 - 19 Great Windmill Street London W1D 7JZ	Theatre	Monday; 09:00 - 05:30 Tuesday; 09:00 - 05:30 Wednesday; 09:00 - 05:30 Thursday; 09:00 - 05:30 Friday; 09:00 - 05:30 Saturday; 09:00 - 05:30 Sunday; 09:00 - 03:00
21/14637/LIPV	Not Recorded	17 - 19 Great Windmill Street London W1D 7JZ	Sexual Entertainment Venue	Monday; 09:00 - 05:30 Tuesday; 09:00 - 05:30 Wednesday; 09:00 - 05:30 Thursday; 09:00 - 05:30 Friday; 09:00 - 05:30 Saturday; 09:00 - 05:30

				Sunday; 09:00 - 03:00
14/07220/LIPN	(Restaurant)	Basement And Ground Floor 39 Great Windmill Street London W1D 7LX	Restaurant	Sunday; 11:00 - 00:00 Monday to Saturday; 11:00 - 01:00
22/05797/LIPT	Chilli Shaker Indian Cuisine	4 Denman Street London W1D 7HD	Restaurant	Sunday; 12:00 - 00:00 Monday to Saturday; 10:00 - 00:30
22/09173/LIPDPS	Archer Street	3 - 4 Archer Street London W1D 7AP	Night clubs and discos	Sunday; 09:00 - 23:00 Monday to Saturday; 09:00 - 01:30 Sundays before Bank Holidays; 09:00 - 00:00
23/01031/LIPVM	Piccadilly Institute	First Floor To Fifth Floor 1 Piccadilly Circus London W1J 0TR	Night clubs and discos	Sunday; 07:00 - 01:00 Monday to Friday; 07:00 - 03:30 Sundays before Bank Holidays; 07:00 - 01:30
23/01033/LIPVM	Shadow Licence	1 Piccadilly Circus London W1J 0TR	Premises Licence - Shadow Licence	Sunday; 07:00 - 01:00 Monday to Friday; 07:00 - 03:30 Sundays before Bank Holidays; 07:00 - 01:30
21/14329/LIPDPS	Not Recorded	Ground Floor Unit G2 The London Pavillion 1 Piccadilly London W1J 0DA	Not Recorded	Monday to Sunday; 00:00 - 00:00
21/04777/LIPDPS	West End Metro	Ground Floor 38 Great Windmill Street London W1D 7LU	Shop	Sunday; 07:00 - 02:00 Monday to Saturday; 07:00 - 02:00
22/05329/LIPDPS	Apollo Theatre	Apollo Theatre 31 - 33 Shaftesbury Avenue	Theatre	Monday to Sunday; 09:00 - 00:00

		London W1D 7EZ		
18/04102/LIPDPS	Blue Posts Public House	28 Rupert Street London W1D 6DJ	Restaurant	Sunday; 12:00 - 23:00 Monday to Thursday; 10:00 - 23:30 Thursday to Friday; 10:00 - 00:00
21/07738/LIPDPS	Blue Posts Public House	28 Rupert Street London W1D 6DJ	Public house or pub restaurant	Sunday; 12:00 - 23:00 Monday to Thursday; 10:00 - 23:30 Friday to Saturday; 10:00 - 00:00



City of Westminster

Licensing Sub-Committee

Meeting:	<i>Licensing Sub-Committee</i>
Date:	<i>20 April 2023</i>
Classification:	<i>General Release</i>
Premises:	<i>Soho Original Adult Store, 12 Brewer Street, London W1F 0SF</i> <i>23/00824/LISEXV</i>
Wards Affected:	<i>West End, Core CAZ North</i>
Financial Summary:	<i>None</i>
Report of:	<i>Director - Public Protection and Licensing</i>

1. Executive Summary

- 1.1 The Council has received an application for the variation of the Sex Establishment Licence (Sex Shop) under the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009) for Soho Original Adult Store, 12 Brewer Street, London, W1F 0SF. The report sets out the application details, objections, policy and legal context along with other considerations that the Licensing Sub-Committee requires to determine this application.

2. Powers of the Licensing Sub-Committee

- 2.1 That following consideration of the application and evidence given orally at the hearing and in writing by the applicant and objectors the Licensing Sub-Committee's powers are to:
- 2.1.1 Grant the application in full
 - 2.1.2 Grant the application subject to the standard conditions and/or any modifications to any part of the application and imposition of any additional conditions proposed by a party to the hearing, or
 - 2.1.3 Refuse the application

3. Relevant History

- 3.1 The Premises has operated as a sex shop since 1993. The premises was originally licensed as 'The Soho Original Bookshop,' with the licence held by Mr James Alan Poulton. Following the grant of the sex establishment licence for The Soho Original Bookshop in 1993, annual renewal applications on behalf of Mr James Alan Poulton have been submitted and granted under delegated authority up until 2017.
- 3.2 In 2017, a new application was submitted for the sex shop licence from Alan Poulton Ltd. This was due to the previous applicant passing away and the family taking over, this was granted under delegated authority and renewals continued until a transfer was submitted in 2019.
- 3.3 On the 26 July 2019, the Licensing Service received an application to transfer the sex shop licence from Alan Poulton Ltd to HOS Holdings which was granted under delegated authority and renewals continued until the licence expired in 2021.
- 3.4 On the 6th January 2022, the Licensing Service received a new application for a sex shop licence from Mr Timothy Hemming. This was granted at Licensing Sub-Committee on the 3rd February 2022.
- 3.5 The last renewal application was submitted on 24th January 2023 and was granted under delegated authority. This licence (reference 23/00409/LISEXR) expires on 2nd February 2024. A copy of licence 23/00409/LISEXR is attached as **Appendix A**.
- 3.6 A copy of the full sex establishment licence history for this premises since 1999 is attached as **Appendix B**. The system doesn't hold information from before 1999.

4. Application being considered

- 4.1 On 6th February 2023 Mr Timothy Hemming submitted an application to vary the sex shop licence.
- 4.2 The application is to vary the opening hours from 10:00 to 00:00 Monday to Saturday to 10:00 to 01:00 Monday to Saturday. No changes to the Sunday hours have been proposed. A copy of the application form is attached as **Appendix C**.
- 4.3 As a valid application has been received prior to the expiry of the sex shop licence, the licence is deemed to continue until it is determined by the Council.
- 4.4 No submissions have been received by the applicant at the time of publication.

5. Objections

- 5.1 There has been an objection from Westminster's City Inspectors as a statutory authority set out at **Appendix E1**.
- 5.2 The application has received 4 objections from interested parties, set out at **Appendix E2**.

6. Premises in the Vicinity

- 6.1 The premises is situated on the corner of Brewer Street and Walkers Court. Brewer Street is in the heart of the West End with both pedestrian and vehicular access. Walkers Court is a pedestrianised street that runs between Peter Street in the north and the junction of east Brewer Street and Rupert Street in the Soho district.
- 6.2 Walker's Court dates from the early 1700s and from the late 1950s the street became associated with the Soho's sex trade. Walker's Court is crossed at first floor level by a bridge with leaded bay windows. After the extensive renovations this bridge is still in place and a second glass bridge is at Peter Street end of Walker's Court. In 2015 there was a redevelopment of the immediate area to include a new theatre, retail and nightclub premises.
- 6.3 Walker's Court is a narrow alley way which has two Sexual Entertainment Venues plus two sex shops which have neon illuminations.
- 6.4 There are 2 faith groups located within a 300 metre radius from this premises. The nearest place of religious worship is The City Gates Church, Soho (Ichthus). This church is located within 100 metres of the premises.
- 6.5 There is 1 school within 300 metres of the premises from this premises. The Soho Parish CE Primary School is the nearest school to the premises. This school is located within 100 metres from the premises.
- 6.6 There are 7 licensed sex shops premises within a 300 metre radius of these premises (**see Appendix F**).

7. Policy Considerations

- 7.1 On 15 June 1999 the Planning and Transportation Committee decided that, for the purposes of licensing sex establishments under the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, one of the relevant locations should be Soho and that the appropriate maximum number of sex establishments within that locality should be 18.
- 7.2 Within the Soho locality, as defined, there are currently 10 licensed sex establishments all of which are sex shops. These are:

Licence Holder	Premises Name	Address
Heart of Soho Ltd	Prowler Soho	5-7 Brewer Street
Mr Timothy Hemming	Simply Pleasure.com	31 Brewer Street
Peter James Cooke	Regulation	13A Bateman Street
Harmony Limited	Harmony	99a Charing Cross Road
Harmony Limited	Harmony	109 Oxford Street
Simply Pleasure	Prowler Red	50 Old Compton Street
Nigel Moon	British Sex Shop	8 Green's Court
Unique Mood Limited	Adult World	5 Walkers Court

David Edwards	Clone Zone	35 Old Compton Street
Mr Timothy Hemming	The Soho Original Bookshop	12 Brewer Street

7.3 It should be noted that the Council's policy for maximum number of sex establishment premises in a locality may be exceeded at the discretion of Committee Members. However, the grant of the renewal application will not add to this number.

7.4 The Council's policy states that there should be a general policy presumption against permitting further sex-related activities in the following circumstances irrespective of locality:

- (a) adjacent to, or in the vicinity of schools
- (b) adjacent to, or in the vicinity of places of worship
- (c) adjacent to, or in the vicinity of community facilities or public buildings

8. Legal Implications

8.1 The Licensing Sub-Committee may determine to:

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

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

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

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

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

- 8.5 If the Committee determine to grant the Sex Establishment licence, the licence will be subject to the Standard Conditions for Sex Establishment licences, unless the Committee determines that certain Standard Conditions should be expressly excluded or otherwise varied pursuant to Para 13(4) to Schedule 3.
- 8.6 Should the Committee determine to refuse the application for the new sex establishment licence under Paragraph 12(3)(a) or (b) Schedule 3, the applicant may appeal to The Magistrates' Court within 21 days beginning with the date on which the applicant is notified of the refusal of his application under Paragraph 27(1) to Schedule 3.
- 8.7 Should the Committee determine to refuse the application for a grant or the renewal of a licence under either Paragraph 12(3)(c) or (d) of Schedule 3, shall not have a the right to appeal under Paragraph 27 (3) of Schedule 3.

9. Human Rights and Equality Issues

- 9.1 In making a decision consideration will need to be given to the applicant's rights under the European Convention on Human Rights. The right to peaceful enjoyment of possessions (Article 1 of the First Protocol) and freedom of expression (Article 10) may be relevant.
- 9.2 The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to-
- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.
- 9.3 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 9.4 An Equalities Impact Assessment has been conducted and the Council believes that the granting of this application for the sexual entertainment venue licence renewal for Sunset Strip will not have an adverse impact or unlawfully discriminates against any protected characteristics.

Appendices

- A - Copy of existing sex establishment licence
- B - Sex establishment licence history 23/00409/LISEXR
- C - Application form
- D – Applicant Submissions
- E - Objections
- F – Map of locality

If you have any queries about this Report or wish to inspect any of the background papers please contact: Karyn Abbott on 020 7641 6500 or at kabbott@westminster.gov.uk

BACKGROUND PAPERS

Local Government (Miscellaneous Provisions) Act 1982
Policing and Crime Act 2009
15 June 1999 Sex Shop Policy

1



City of Westminster

WARD : West End
UPRN: 100023470193

SEX ESTABLISHMENT LICENCE

The CITY OF WESTMINSTER under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Greater London Council (General Powers) Act 1986

hereby licences MR TIMOTHY HEMMING

to use the premises Soho Original Adult Store
12 Brewer Street
London
W1F 0SF

as a Sex Shop establishment.

This licence is in force up to 02 February 2024

and is granted subject to the Standard Conditions of the Council annexed hereto, to the following additional special conditions (if any) :

1. 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.
2. The premises shall not, for any purpose of the licence, be opened before 09:00 hours and shall not be kept open beyond 00:00 hours.
3. (a) The licensee shall take all reasonable precautions for the safety of the public and employees and except with the consent of the Council, shall retain control over all portions of the premises.

(b) No poster, advertisement, photograph, sketch, synopsis or programme shall be displayed by or on behalf of the licensee at the licensed premises or at any other public place except in accordance with the Town and Country Planning (Control of Advertisements) Regulations 1992 or any Order amending or replacing the same.

(c) The premises may not be used under the terms of the licence unless and until any necessary permission and/or consents have been obtained pursuant to the Town and Country Planning Act 1990, the London Building Acts 1930-1939 and the Building Act 1984 or any legislation amending or replacing the same.
4. (a) The licensee or some responsible person over 18 years of age nominated by him in writing for the purpose shall be in charge of, and upon, the licensed premises during the whole time that they are open to the public. Such written nomination shall be continuously available for inspection by a police officer or an officer authorised in writing by the Council.

(b) The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge should be conversant with these conditions, a copy of which should be held on the premises.

(c) A notice showing the name of the person in charge of the premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be easily seen by customers.

(d) All members of staff shall be easily identifiable as such. If required by the Council in writing the licensee shall ensure that during the hours the premises are open for business every employee or person (apart from, where employed, hostesses or other companions) working in the licensed premises wears a badge of a type approved by the Council indicating his name and that he is an employee or person working in the premises.

5. The licensee shall maintain good order on the premises and in particular shall ensure that none of the following shall take place:

(a) Unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971;

(b) Indecent behaviour, including sexual intercourse;

(c) The offer of any sexual or other indecent service for reward;

(d) Acts of violence against person or property and/or the attempt or threat of such acts.

(e) The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.

(f) The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises, immediately outside the premises or in the vicinity of the premises, nor allow the premises to be used by prostitutes.

Note: Soliciting includes the distribution of leaflets unless authorised by a consent under section 4 of the London Local Authorities Act 1994

(g) No person under the age of 18 shall be admitted to any part of the premises which is used as a sex establishment or be employed in the business of the sex establishment.

(h) No poster, photograph, sketch, painting or any form of advertisement or display shall be displayed by or on behalf of the licensee on, outside or within the premises in a position where it is visible to the public if the Council regards it as unsuitable for exhibition to the public. If the licensee is notified in writing that the Council objects under this rule to a poster, photograph, sketch, painting, advertisement or display such poster, photograph, sketch, painting, advertisement or display shall be removed or completely obscured from sight.


6. (a) The entrances to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers-by.

(b) Windows and openings to the premises other than entrances shall either be obscured or with the consent of the Council shall have suspended behind them, in a position and at an altitude approved by the Council, opaque screens or blinds of a type and size approved by the Council.

7. No change of use of any portion of the premises from that approved by the Council shall be made until all necessary consents have been obtained from the Council. For the avoidance of doubt this includes a change from one class of sex establishment (e.g., a sex shop) to a different class of sex establishment (e.g., a sex encounter establishment).
8. No alterations (including temporary alterations) shall be made to the premises, without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works. Where works necessitate the premises being closed for a period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the Council of the satisfactory completion of the work.

Standard Conditions relating specifically to sex shops:

9. All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show to persons who are inside the sex shop the respective prices being charged.
10. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the sex establishment.
11. No film or video shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council, and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

DATE: 11 APRIL 2023	SIGNED:  pp Director – Public Protection and Licensing
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CITY OF WESTMINSTER, Licensing Service, 15th Floor, 64 Victoria Street, London, SW1E 6QP
Telephone : 020 7641 6500

Sex Establishment Licence History**Appendix B**

<u>Application reference</u>	<u>Details of application</u>	<u>Date of determination</u>	<u>Decision</u>
Prior to 1999 the Licensing Service's system does not hold this information.			
99/00650/LISEXR	Application to renew the Sex Establishment Licence	01.02.1999	Granted under Delegated Authority
00/00687/LISEXR	Application to renew the Sex Establishment Licence	05.04.2000	Granted under Delegated Authority
01/00509/LISEXR	Application to renew the Sex Establishment Licence	18.12.2001	Granted under Delegated Authority
02/00650/LISEXR	Application to renew the Sex Establishment Licence	15.05.2002	Granted under Delegated Authority
03/00755/LISEXR	Application to renew the Sex Establishment Licence	10.10.2003	Granted under Delegated Authority
03/04015/LISEXV	Application to vary the Sex Establishment Licence.	24.02.2005	Granted under Delegated Authority
04/00763/LISEXR	Application to renew the Sex Establishment Licence	11.06.2004	Granted under Delegated Authority
05/00739/LISEXR	Application to renew the Sex Establishment Licence	24.02.2005	Granted under Delegated Authority
06/01041/LISEXR	Application to renew the Sex Establishment Licence	01.06.2006	Granted under Delegated Authority
07/01219/LISEXR	Application to renew the Sex Establishment Licence	07.08.2007	Granted under Delegated Authority
08/00918/LISEXR	Application to renew the Sex Establishment Licence	09.04.2008	Granted under Delegated Authority
09/00794/LISEXR	Application to renew the Sex Establishment Licence	23.04.2009	Granted under Delegated Authority
10/00743/LISEXR	Application to renew the Sex Establishment Licence	09.04.2010	Granted under Delegated Authority
11/00987/LISEXR	Application to renew the Sex Establishment Licence	18.05.2011	Granted under Delegated Authority

12/00631/LISEXR	Application to renew the Sex Establishment Licence	21.06.2012	Granted under Delegated Authority
13/00905/LISEXR	Application to renew the Sex Establishment Licence	09.01.2014	Granted under Delegated Authority
14/00963/LISEXR	Application to renew the Sex Establishment Licence	11.06.2014	Granted under Delegated Authority
15/01013/LISEXR	Application to renew the Sex Establishment Licence	05.10.2015	Granted under Delegated Authority
16/01277/LISEXR	Application to renew the Sex Establishment Licence	22.03.2016	Granted under Delegated Authority

New Application

17/01254/LISEXN	Application for a new Sex Establishment Licence	21.06.2017	Granted under Delegated Authority
19/01440/LISEXR	Application to renew the Sex Establishment Licence	17.06.2019	Granted under Delegated Authority
19/09366/LISEXT	Application to transfer the Licence Holder from Alan Poulton Ltd to HOS Holdings	30.08.2019	Granted under Delegated Authority
20/01833/LISEXR	Application to renew the Sex Establishment Licence	27.04.2020	Granted under Delegated Authority

New Application

22/00106/LISEXN	Application for a new Sex Establishment Licence	07.02.2022	Granted by Licensing Sub-Committee
23/00409/LISEXR	Application to renew the Sex Establishment Licence	23.03.2023	Granted under Delegated Authority



City of Westminster

For help contact
licensing@westminster.gov.uk
 Telephone: 020 7641 6500

APPLICATION TO VARY A SEX ESTABLISHMENT LICENCE

I/We apply to vary the licence for the premises in item 3.

1.	(a) Full name and address of applicant(s). (Use separate sheet if applicable)	Name:- Timothy Hemming Address:- ABS Holdings. Spring Lane Forest Gate Ringwood BH24 3FH
	(b) Tel No: (during normal office hours)	01202 868252
2.	If the applicant is an individual the following information is to be supplied:-	
	(a) Date of Birth	[REDACTED]
	(b) Place of Birth	[REDACTED]
3.	(a) Name and address of premises.	Name:- Soho Original Adult store. 12 Brewer Street London W1F 0SF.
	(b) Tel No:	020 7494 1615
4.	Give details of the proposed variation to the licence. (Use separate sheet if applicable)	Opening hours to increase to 1am Mon- Sat.

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IMPORTANT NOTE: THIS APPLICATION IS OPEN TO INSPECTION BY THE PUBLIC

5.	Address to which licence and correspondence should be sent.	scampey@absholdings.com Sophie Campey ABS Holdings Spring Lane Forest Gate Ringwood BH24 3FH
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WARNING

ANY PERSON WHO, IN CONNECTION WITH THIS APPLICATION, MAKES A FALSE STATEMENT WHICH THEY KNOW TO BE FALSE IN ANY MATERIAL RESPECT, OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS, GUILTY OF AN OFFENCE AND LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING £20,000.

I (please print full name) declare that the information given above is true and complete in every respect.

Signature Timothy Hemming

Date 30/01/2023

GDPR and Data Protection Act 1998: This information will only be used for the purposes stated above. Please address any data protection enquiries to the Data Protection Officer, Bi-Borough Legal Services, The Town Hall, Hornton Street, W8 7NX. Email dpo@westminster.gov.uk



Applicant Submissions

Appendix D

None

"In relation to the extension of hours there is an increased presence of people in the area, especially customers etc of the various late night premises that are in the immediate vicinity. I can see no real benefit as to why they want to extend the hours to 1am. There is a lot of ASB in the area with drunk persons and others loitering in the area. This may increase the chance of the premises being targeted by shoplifters etc. Hence if permitted I would suggest the use of SIA store security from 21:00hrs onwards.

Kind Regards

Tony Miah

City Inspector – City Management

Public Protection and Licensing

Westminster City Council

City Hall, 15th Floor

64 Victoria Street

London SW1E 6QP

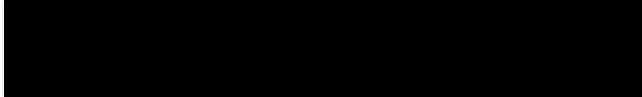
Tele: 07971092783

tmiah1@westminster.gov.uk

www.westminster.gov.uk

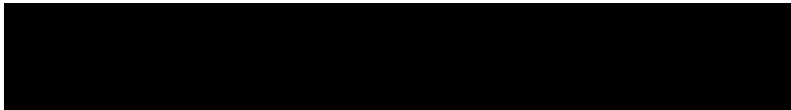
Details of public representations relating to 23/00824/LISEXV

Comments received electronically via PublicAccess:



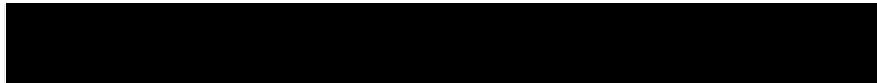
05/03/2023 9:30 AM I am objecting to this application for the extension of hours.

My objection is based on the high number of late licences in the area, which is causing numerous issues both for residents and visitors to Soho, specifically the area around Walker's Court. As a resident we get woken up at all hours thanks to the screaming and shouting drunk revellers who come to Soho and act extremely badly. The visitors to Soho are also affected by late night licences like this application is for; the types of criminals that hang around Walker's Court, Brewer Street and Peter Street, targeting those coming out of venues, like The Box and who are drunk/on drugs in the early hours. Later licences like this application is for will lead to more people on the street late at night and increase even higher levels of crime, disorder and noise.



05/03/2023 11:52 AM I am objecting to this application for the extension of hours. My objection is based on the high number of late licences in the area which is causing numerous issues both for residents and visitors to Soho including in the area around Walker's Court. As long term residents, my partner and I get woken up at all hours thanks to the screaming and shouting drunk revellers who come to Soho and are anti social. The visitors to Soho are also affected by late night licences like this application is for; the types of criminals that hang around Walker's Court, Brewer Street and Peter Street, targeting those coming out of venues like The Box and who are drunk/on drugs in the early hours. Later licences like this application will very likely lead to more people on the street late at night and increase even higher levels of crime, disorder and noise which we don't want.

Comments received via other means:



*The Application Variation of hours, sex shop licence. Monday to Saturday: 1am Representation
The [redacted] objects to the extension of hours until 1am Monday to Saturday on the following grounds.*

Extension of Hours

The current closing time of 12am already falls outside the Sex Shop Standard Conditions document 1999, Part II, General Rules Relating to the Management, Conduct etc, which states;

Hours of Opening and Closing. 4. 'The premises shall not, for any purpose of the licence, be opened before 0900 and shall not be kept opened beyond 2300hrs.'

We find no justification to extend the hours to 1am as this would result in an additional 2 hours beyond the standard condition. Any increase in hours into the night will have a negative impact creating more noise nuisance for residents and an increase in crime and disorder.

Location

This shop is situated on the junction of Walker's Court and Brewer Street and is in an area with a large number of sex related premises and late night alcohol licences as highlighted below.

Brewer Street : section from Wardour Street to Lexington Street

Sexual Entertainment Venue: Sophisticates: 3am, capacity 100.

Sex Shops: Soho Original Adult Store, Prowler, Simply Pleasure. Registered Charity Number: 1146589 Company Number: 07899282

Massage Parlours:

2 x Thai Massage Parlours

Alcohol Licensed Premises: The Residence: 3am, capacity 388. Madame JoJos: 3am, capacity 300. El Camion: 3am, capacity 144.

Walkers Court

Sexual Entertainment Venue: The Box: 4am, 288 capacity. Boulevard: 1am, licensed as a theatre/sexual entertainment venue / bar / restaurant, 486 capacity.

Sex Shop: MOOD (Adult World)

Adult Shop: 18+

Greens Court

Sex Shop : British Sex Shop

2 x Brothels

Peter Street : 1x Massage Parlour. 1x Brothel

Rupert Street : 2 x Massage Parlours. 24 hour sweet/tobacco shop

Tisbury Court: 2 x Massage Parlours

Wardour Street corner with Brewer Street

Alcohol Licensed Premises : Freedom Bar: 3am, capacity 275. Village: 3am, capacity 400.

Adult Gaming Centre: Las Vegas

Of the 6 licensed sexual entertainment venues in Soho 3 are situated in this area and in close proximity to each other and 5 of the 6 licensed sex shops, with the inclusion of the unlicensed premises it provides clear evidence of a cluster of sex related premises. In our view the area has the character of a red light district where cumulative impact can apply. Cumulative impact is raised in the Sexual Entertainment Venues Statement of Licensing Policy 2011 (2.4.22) where it highlights the concentration of sex establishment premises can have a cumulative impact, we say this applies in this case.

The concentration and cumulative impact of sex related and alcohol licensed premises already creates an environment at night which is very unpleasant, intimidating and an area which feels very unsafe, its practically a no go area where touts, robbers, drug dealers and pedicab riders loiter on the junction of Walker's Court with Brewer Street, alongside others on the corner of Brewer Street with Rupert Street, and Tisbury Court with Rupert Street where they wait to approach people as they leave premises or pass by.

Crime and Disorder

The Cumulative Impact Assessment 2020 presents overwhelming evidence of the year on year increase in cumulative impact in the West End Zone 1, it highlights the rate of crime as 10 - 13 times higher between 6pm - 6am compared to the borough average. The level of crime, disorder and anti social behaviour is a huge concern in Soho, the crime figures are high and rising. The recent police crime report for December 2022 highlights Soho as having the highest number of robberies, overall knife crime and violence against the person compared to the other areas within the Cumulative Impact Zone.

In Soho the majority of robberies take place at night where gangs target people as they leave premises, we are aware of this happening in Walker's Court. Alongside the robberies and as_saults there's drug dealing, dealers congregate on the streets approaching people as they walk by. There are more dealers in the area at night than during the day, this is directly linked to the large number of late night premises and people out on the streets which creates the drugs market. Pickpockets also operate in the area, some being part of a well organised criminal group who arrive in a van at night and disperse into Soho before returning to be driven away.

Residents

This sex shop is situated in an area with a large number of residential properties. We know residents living on Brewer Street are disturbed by the late night activity as people walk by either shouting, screaming or arguing, noise from pedicabs, car doors slamming, horns honking, drug dealers in cars playing thumping bass music from sound systems. Residents are also subjected to anti-social behaviour with people vomiting and urinating in the street. We are concerned with a later closing hour people will be attracted to this shop with its bright lights and add to the existing noise nuisance in the street. With all of the above it is unsurprising residents experience sleep disturbance, a recent survey conducted by the [REDACTED] confirms that residents are disturbed by noise at night and this is having a negative impact on their lives. 87 people responded of which 78 are Soho residents with ages spread fairly evenly from 22 to 80, 59% having lived in Soho for more than 10 years.

When asked about disturbed sleep; 24% of respondents have their sleep disturbed 7 nights a week, 16% 5 or 6 nights a week and 19% 3 or 4 nights a week.

Furthermore, 64% of respondents agreed that noise nuisance from increased commercial activity at night is the most serious problem impacting Soho residents quality of life.

62% of respondents agreed that the council should not grant any extensions of hours for premises in Soho.

60% of respondents agreed that noise nuisance and sleep deprivation is adversely impacting my health and the health of the people they live with.

46% of respondents agreed that noise nuisance is so bad that they have considered moving away from Soho.

The full survey can be found in Appendix 1.

Summary

We object to this application to extend the hours to 1am, it is contrary to the Sex Shop Standard Conditions of 11pm, the premises is situated in a small area which has the highest concentration of sex related premises in Soho and it attracts people people with criminal intent. Residents who live along Brewer Street already suffer from noise disturbance at night, in our view the later opening hours will cause further disturbance and increase crime and disorder. For all the above reasons we respectfully ask the Licensing Sub Committee to refuse this application.

Appendix 1: Sleep Survey Results

Appendix 1 : Sleep Survey Results

Sleep Survey Results - 31 October 2022

A recent survey conducted by the confirms that residents are disturbed by noise at night and this is having a negative impact on their lives.

87 people have responded of which 78 are Soho residents with ages spread fairly evenly from 22 to 80.

59% have lived in Soho more than 10 years
26% between 3 and 10 years
6% between 1 and 3 years and 9% have lived here less than a year
42% own their homes
20% are Soho Housing Association and the rest tenants with other landlords
10 respondents have children living at home with them
58% have double glazing
37% single glazing
5% have triple glazing

24% of respondents have their sleep disturbed 7 nights a week
16% of respondents have their sleep disturbed 5 or 6 nights a week
19% of respondents have their sleep disturbed 3 or 4 nights a week
19% of respondents have their sleep disturbed once or twice a week
20% do not have a problem with environmental noise pollution

Topping the list in September was people drinking in the street with 54 mentions, then pedicabs with 51, waste collections at 48, construction noise 36 and car horns 33 and deliveries at 25. Other noise sources identified were air conditioning, motorbikes revving, building alarms and music from licensed venues. The most common identified problem at 42% of respondents was people drinking and shouting in the street.

64% of respondents agreed that noise nuisance from increased commercial activity at night is the most serious problem impacting Soho residents quality of life

46% of respondents agreed that noise nuisance is so bad that they have considered moving away from Soho

60% of respondents agreed that noise nuisance and sleep deprivation is adversely impacting my health and the health of the people they live with.

67% of respondents agreed that the council should base its noise policy on the World Health Organisation guidelines

64% of respondents agreed that our ward councillors should make this their priority during the next four years 69% of respondents agreed that during the time I have lived in Soho noise pollution has got significantly worse

73% of respondents agreed that if noise limits are being exceeded the council should consider reviewing existing alcohol licences

72% of respondents agreed that the council should install electronic noise monitoring in Soho

56% of respondents agreed that the council should not grant additional premises licence for the sale of alcohol in Soho.

62% of respondents agreed that the council should not grant any extensions of hours for premises in Soho 68% of respondents agreed that the council should renew its noise strategy as a matter of urgency

Many respondents made additional comments:-

I left Soho 4 years ago. After 20 years, the noise & air pollution finally broke me. Like the frog in the pan of water with the heat gradually turned up, it took me a while to realise that it wasn't me going soft, it was the significant degradation of the environment around me. Since I moved out of my flat, several other tenants have moved in & swiftly out again citing sleep disruption & excessive night noise as their reason for leaving. The flat is now used as an office rather than as residential.

I am disappointed that another restaurant unit is going to be let on Hopkins Street by Shaftesbury when the residents already have an enormous amount of noise from the existing restaurants. No doubt they will also want an alcohol license, which will increase the noise and disturb residents even more.

As a disabled person working from home, I find it extremely exhausting not able to have rest at night, screams and noise of drunk people every night, The Landlord WCC does not want to change the windows to a double glazing nor allow tenants to pay privately for windows to be upgraded. Noise at home, lack of sleep, and concentration in the day time. I have a hand held noise monitor, I recorded noise levels of 97db outside the pub at the corner of Broadwick and Berwick Streets.

More consideration needs to be given to residents from councillors, people visiting the area and local businesses in particular those who serve alcohol and have late night licences. Decisions such as granting planning and licence applications should not be made by people who do not live in the area and are therefore not impacted by the decision making.

Very difficult to get the local authority to understand and take complaints seriously. Officers often helpful but then the case goes to committee and they always seem to rule in favour of the commercial premises rather than residents. There is supposed to be a presumption to refuse new licences but in practice the council still lets new things through until after Midnight, which is far too late and has made a nonsense of the policy.

There should be a quiet window of 11pm to 8am every day. 7am deliveries are far too early for a lot of people if they are noisy or use cages or refrigeration. Regularly now (most nights) there are traffic jams in the street at 3am in the morning with cars picking up people leaving clubs. The cars frequently are using their horns. Last night they had their door open with music blaring. we have 2 motorbike stands close together. 1 in Broadwick St and 1 in Marshall St. There is always at least one bike revving up at either 3am or really early like 530am This noise has changed and increased over the past 3-4 years. I am woken up most nights at about 3am. And i have double glazing and am on [a high] floor.

Businesses take no responsibility for their customers drinking/eating and mainly shouting out side, including when they are queuing, and particularly when they are leaving. Post al fresco, there is a new attitude that anything goes on the streets and that includes contempt for the community who live here. The Council need to rethink this and put some major resource into enforcement.

I've lived in Soho for 60 years... Born and bred.. It's never been this noisy!

Early hours waste collections (including bottle smashing) also includes the food & beverage

businesses putting their waste in the street and bottle bins at anti-social hours ahead of collection times. Our local restaurants are not supposed to put bottles out between the hours of 23:00 and 07:00 but they frequently do. Frequently delivery trucks, some with noisy refrigeration units are also delivering early hours.

Also deliveries & pedicabs. Unfortunately my lack of sleep due to noise has caused serious health issues and I now cannot work and suffer anxiety and depression. I'm woken up on average 5 times per night and have considered suicide. Why I'm being denied sleep between the hours of 11pm and 7am astonishes me. The freeholders Shaftesbury Carnaby show a total disrespect to the effects that noise has on the residents of Soho

Received: 6 Mar 2023 by

Re: the above application, as a [REDACTED] resident, I wish to object to this extension of hours in the strongest possible terms. The cumulative effect of more and more and later opening hours of various licensed premises, has made life for local people ever more unpleasant. I have lived in Soho since 1986 and am well used to the way of life around here. However, I have never experienced such disruption to my sleep. Here in [REDACTED] well into the small hours and sometimes even later, we have to deal with amongst other things:

Noise:

Car horn honking competitions

Throaty motorbikes revving up their engines deliberately causing them to repeatedly backfire. This sounds like gunshot

Likewise with 'supercars'

Pedicabs that hang around playing loud music

Drunks arguing

Women screaming

Skunk dealers parked up waiting to catch people coming out of various establishments. They play loud, bassy music that penetrates the very fabric of the building in which I live.

Kids on clattering skateboards

Interestingly, I am seldom woken by sirens though.

Slamming car doors

Antisocial behaviour includes:

Graffiti

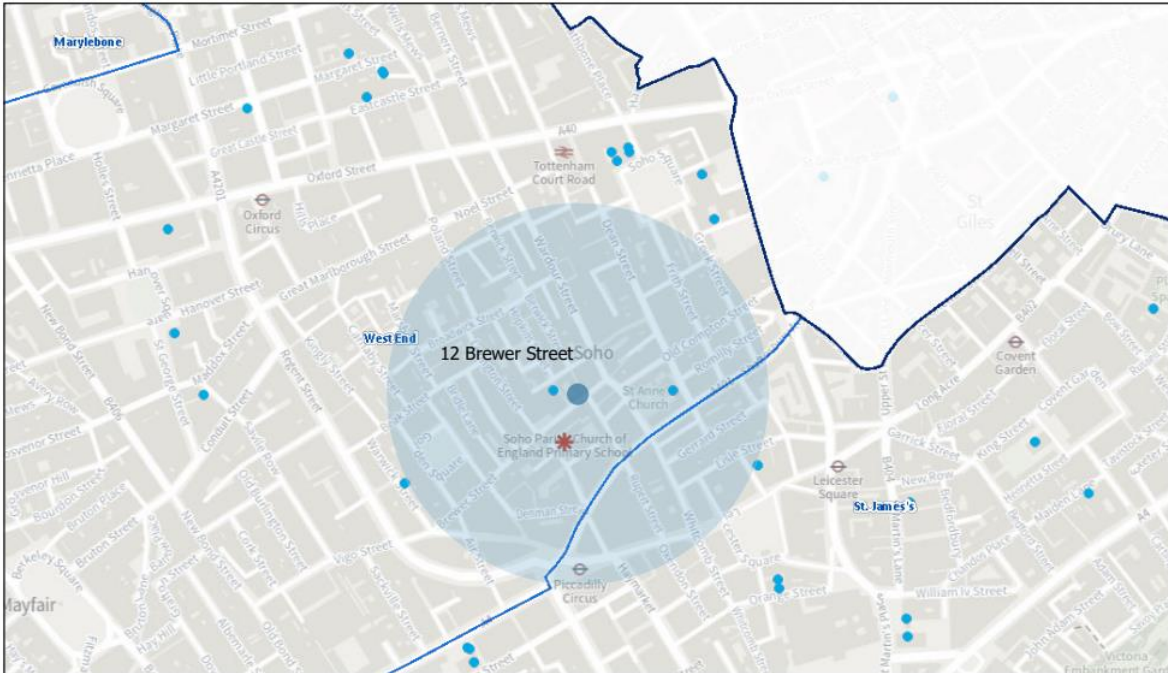
Urination

Vomiting

Sometimes, various individuals manage to gain access to our courtyard, and residents have been presented with littering and even defecation on their doorsteps.

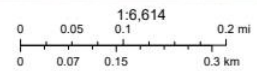
All of the above produces a cumulative effect. The West End is in serious danger of becoming a lawless Wild West.

12 Brewer Street, London



06/04/2023, 12:33:51

- Borough Boundary - Mask
- Ward Boundaries
- Ward Labels
- Borough Boundary - Detailed
- Faith Groups
- Schools
- Others
- Academy
- Primary
- Free School
- Special
- Independent
- Nursery
- Secondary



Faith Groups: 2

Schools: 1

Sexual Entertainment Venues: 2

Sex Establishment: 7



Licensing Sub-Committee Report

Item No:	
Date:	20 April 2023
Licensing Ref No:	23/00796/LIPN - New Premises Licence
Title of Report:	Basement And Ground Floor 10 Golden Square London W1F 9JA
Report of:	Director of Public Protection and Licensing
Wards involved:	West End
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Emanuela Meloyan Licensing Officer
Contact details	Telephone: 0207 641 6500 Email: emeloyan@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	6 February 2023		
Applicant:	Golden Square Mart Ltd		
Premises address:	Basement And Ground Floor 10 Golden Square London W1F 9JA	Ward:	West End
		Cumulative Impact Area:	West End
		Special Consideration Zone:	None
Premises description:	<p>According to the application form the premises intends to trade in the basement and part of the ground floor as an Asian restaurant which is licensed for the sale of alcohol on the premises from 09:00 to 23:00 Monday to Sunday.</p> <p>The remainder of the ground floor is intended to trade as an Asian supermarket which is licensed for the sale of alcohol for consumption off the premises from 09:00 to 21:00 Monday to Sunday.</p>		
Premises licence history:	<p>The premises already hold a premises licence (licence number 22/04691/LIPV) The applicant has proposed to surrender the existing premises licence should this application be granted.</p> <p>A full Licence History for 22/04691/LIPV appears at Appendix 3.</p>		
Applicant submissions:	<p>The applicant has provided the following submissions:</p> <ul style="list-style-type: none"> • Mediation letters sent to the interested parties. <p>A copy of the documents can be found at Appendix 2.</p>		
Applicant amendments:	<p>Following consultation, the applicant has reduced the terminal hour for the sale of alcohol on a Sunday to 22:30.</p> <p>The hours now being applied for are set out below at section 1-B</p>		

1-B Proposed licensable activities and hours							
Late Night Refreshment:				Indoors, outdoors or both			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	Not applicable - Late night refreshment is only applied for as a seasonal variation as shown below.						
End:							
Seasonal variations/ Non-standard timings:	From 23:00 hours on New Year's Eve to 01:00 hours on New Year's Day. From 23:00 hours on Chinese New Year to 01:00 hours the following day.						

Sale by retail of alcohol				On or off sales or both:			Both
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	10:00
End:	23:00	23:00	23:00	23:00	23:00	23:00	22:30
Seasonal variations/ Non-standard timings:			From 23:00 hours on New Year's Eve to 01:00 hours on New Year's Day. From 23:00 hours on Chinese New Year to 01:00 hours the following day.				

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	10:00	10:00	10:00	10:00	10:00	10:00	10:00
End:	23:30	23:30	23:30	23:30	23:30	23:30	23:30
Seasonal variations/ Non-standard timings:			From 1000 hours on New Year's Eve until 0130 hours on New Year's Day. From 1000 hours on Chinese New Year until 0130 hours the following day.				
Adult Entertainment:			None				

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health
Representative:	Sally Fabbricatore
Received:	2 nd March 2023
	<p>I refer to the application for a new Premises Licence for the above premises. The premises does benefit from the following premises licence 22/04691/LIPV.</p> <p>The premises is situated in the West End Cumulative Impact Zone.</p> <p>This representation is based on the Operating Schedule and the submitted plans for the basement and ground floor, there is no reference number or date.</p> <p>The applicant is seeking the following on the ground floor and basement:</p> <ol style="list-style-type: none"> To allow the Supply of Alcohol 'on' and 'off' the premises Monday to Sunday 10:00-23:00 hours. To allow the seasonal variation from the 23:00 hours on New Year's Eve to 01:00 hours on New Year's Day, and the same hours on Chinese New Year to the following day for both Late Night Refreshment and the Supply of Alcohol. <p>I wish to make the following representation in relation to the above</p>

	<p>application:</p> <ol style="list-style-type: none"> 1. The provision of the Supply of Alcohol may cause an increase in Public Nuisance in the Cumulative Impact Zone and may impact on Public Safety. 2. The seasonal variations may cause an increase in Public Nuisance in the Cumulative Impact Zone and may impact on Public Safety. <p>Further information and proposed conditions have been provided, which are being considered, but further conditions may be proposed by Environmental Health in order to protect the Licensing Objectives.</p> <p>The granting of the Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the cumulative impact zone and may impact on Public Safety.</p> <p>Should you wish to discuss the matter further please do not hesitate to contact me.</p>
Responsible Authority:	Licensing Authority
Representative:	Jessica Donovan
Received:	06 March 2023

I write in relation to the application submitted for a new premises licence for Basement And Ground Floor, 10 Golden Square, London, W1F 9JA.

As a responsible authority under section 13 (4) of the Licensing Act 2003 as amended under the Police and Social Responsibility Act 2011, the Licensing Authority have considered your application in full. The Licensing Authority has concerns in relation to this application and how the premises would promote the four Licensing Objectives:

- Public Nuisance
- Prevention of Crime & Disorder
- Public Safety
- Protection of children from harm

The application seeks the following:

Retail sale of Alcohol (On and Off sales)

Monday to Sunday 10:00 to 23:00

From 2300 hours on New Year's Eve to 0100 hours on New Year's Day.

From 2300 hours on Chinese New Year to 0100 hours the following day.

Late Night Refreshment:

From 2300 hours on New Year's Eve to 0100 hours on New Year's Day.

From 2300 hours on Chinese New Year to 0100 hours the following day.

Hours premises are open to the public

Monday to Sunday 10:00 to 23:30

From 1000 hours on New Year's Eve until 0130 hours on New Year's Day.

From 1000 hours on Chinese New Year until 0130 hours the following day.

The premises are located within the West End Cumulative Impact Zone it is intended that the premises will trade as a restaurant and shop and as such various policy points must be considered, namely CIP1, HRS1, RNT1 and SHP1.

Policy RNT1 (B) states

B. Applications inside the West End Cumulative Impact Zone will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
5. The application and operation of the venue meeting the definition of a restaurant as per Clause C.

C. For the purposes of this policy a restaurant is defined as:

1. A premises in which customers are shown to their table or the customer will select a table themselves to which food is either served to them or they have collected themselves.
2. Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at a table.
3. Which do not provide any takeaway service of food and/or drink for immediate consumption, except if provided via an ancillary delivery service to customers at their residential or workplace address.
4. Where alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
5. The sale and consumption of alcohol prior to such meals may be in a bar area but must also be ancillary to the taking of such meal.

Shops Policy SHP1(B and C) states;

B. Applications for a shop inside the West End Cumulative Impact Zone will be considered on their own merits and subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol meeting the council's Ancillary Alcohol and/or Late night Refreshment Delivery Service Policy DEL1.
4. The applicant having demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.
5. The application and operation of the venue meeting the definition of a shop in Clause C.

C. For the purposes of this policy:

1. A shop is defined as a stall, vehicle, vessel, temporary structure, building or part of a stall, vehicle, vessel, temporary structure or building where the primary activity is the sale of goods or services to customers upon payment.
2. The licensable activities for the sale of alcohol for consumption on the premises, regulated entertainment and/or late night refreshment must be ancillary to the primary use of the premises as a shop.
3. The licensable activity of the sale of alcohol for consumption off the premises must be an ancillary function to the primary use of the premises unless that primary use is to sell alcohol for consumption off the premises, e.g. a traditional off licence.

The Licensing Authority note that the application falls outside of Westminster's core hours on

Sundays for Restaurants and Shops.

The Core hours for restaurants are:

Monday to Thursday: 9am to 11.30pm.

Friday and Saturday: 9am to Midnight.

Sunday: 9am to 10.30pm.

Sundays immediately prior to a bank holiday: 9am to Midnight.

The core hours for a Shop (off-sales of alcohol where it forms either the ancillary or primary use of the premises) are:

Monday to Saturday: 8am to 11pm.

Sunday: 9am to 10.30pm.

Please could the applicant confirm if they are willing to reduce the terminal hour for the retail sale of alcohol on Sundays to 22:30 to allow the application to fall within Westminster core hours for Restaurants and shops.

The Licensing Authority note that the applicant has proposed an amended version of Westminster's model condition 66 in their operating schedule:

'The basement and part of the ground floor (as shown on the plan) shall operate as a restaurant,

- a. in which customers are shown to their table or the customer will select a table themselves;*
- b. where the supply of alcohol is by waiter or waitress service only;*
- c. which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table;*
- d. 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.*

For the purpose of this condition 'Substantial Table Meal' means - a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

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

Would the applicant be willing to consider amending the ground floor plans to include hatching over the area intended for restaurant use and amend the above condition as follows to ensure that the intended area is clear:

'The basement and the area hatched black as shown on the ground floor plan shall operate as a restaurant,

- a. in which customers are shown to their table or the customer will select a table themselves;*
- b. where the supply of alcohol is by waiter or waitress service only;*
- c. which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table;*
- d. 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.*

For the purpose of this condition 'Substantial Table Meal' means - a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

The Licensing Authority note that the premises has the benefit of a premises licence 22/04691/LIPV. It is noted that this application seeks longer hours for the retail sale of alcohol for consumption off the premises. The Licensing Authority require the applicant to provide submissions as to how the extension of hours will not add to cumulative impact in the West End Cumulative impact Zone.

The Licensing Authority also encourages the applicant to consider MC61 which states:

*No licensable activities shall take place at the premises until premises licence **22/04691/LIPV** (or such other number subsequently issued for the premises) has been surrendered and is incapable of resurrection.*

The Licensing Authority require the applicant to provide submissions as to how the operation of the premises will not add to cumulative impact in the West End cumulative impact zone, in accordance with policy CIP1.

The Licensing Authority looks forward to receiving further submissions from the applicant in due course.

Please accept this as a formal representation.

2-B Other Persons	
Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Received:	17 February 2023
<p>I am a resident [REDACTED] For the past 2 years, I have had to regularly call the Westminster Council with noise complaints. Noise officers have regularly given them orders to rectify the situation but they ignore the orders. You can check your records as to the amount of complaints that have been made against this property. I had to place a call to the Westminster noise team again yesterday and the officer was reading all the complaints and was astounded. They do not seem to care about the neighbouring residents. My neighbours have also complained about the noise from this business.</p> <p>Therefore if they are given permission for a drinks licence they will flaunt those rules and the noise will be intensified.</p> <p>Please do not grant this licence as the noise pollution increase and would be unbearable. On past experience of this business they have proven to be untrustworthy and should not be granted the licence.</p>	

Name:	[REDACTED]
Address and/or Residents Association:	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Received:	28 February 2023
<p>To who it may concern,</p> <p>I live in [REDACTED] and we have been trying to get the 10 golden square to rectify the problem of the odors that invades or flats from the extractor fans that blow out a awful stink. We have been in contact with Westminster team about this problem now since before lock down and recorded the problem with them and have had home visits etc to smell the problem. maybe this problem can be a condition of the new lic. they are applying for that the smell coming out of the extractor fans is fixed / stopped either a new high tech extractors with charcoal filters to stop the smell or maybe a chimney that takes the smell up to above the roof top of thier building and blows it out so everyone living opposite on bridle lane can open there windows and not have the smell / order invading out flats.</p> <p>Thank you for your time and if you need any more information feel free to contact me</p>	

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy CIP1 applies	<p>Cumulative Impact Policy CIP1</p> <p>A. It is the Licensing Authority’s policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment, other than applications to:</p> <ol style="list-style-type: none"> 1. Vary the hours within Core Hours under Policy HRS1, and/or 2. Vary the licence to reduce the overall capacity of the premises. <p>C. Applications for other premises types within the West End Cumulative Impact Zones will be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.</p> <p>D. For the purposes of this policy the premises types referred to in Clause A are defined within the relevant premises use policies within this statement.</p>
Policy HRS1 applies	<p>Core Hours Policy HRS1</p> <p>A. Applications within the core hours set out below in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:</p> <ol style="list-style-type: none"> 1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm. 2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation. 3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed. 4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises. 5. The proposed hours when any music, including incidental music, will be played. 6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises. 7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity. 8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.

	<p>9. The capacity of the premises.</p> <p>10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.</p> <p>11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.</p> <p>12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.</p> <p>13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.</p> <p>14. 14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications.</p>
<p>Policy COMBI applies</p>	<p>Combined use premises Policy or Spaces Policy COMB1</p> <p>A. Applications outside the West End Cumulative Impact Zone for premises that propose to operate as a 'combined use premises' will be considered on their merits and subject to:</p> <ol style="list-style-type: none"> 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The hours for licensable activities for the relevant use being within the council's Core Hours Policy HRS1. 3. The applicant has taken account of the Special Consideration Zone policy SCZ1 if the premises are located within a designated zone. <p>B. Applications inside the West End Cumulative Impact Zones for premises that propose to operate as a 'combined use premises' will be considered on their merits and subject to:</p> <ol style="list-style-type: none"> 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1. 2. The hours for licensable activities for the relevant premises use being within the council's Core Hours Policy HRS1. 3. The applicant demonstrating that they will not add to cumulative impact within the Cumulative Impact Zone. <p>C. When considering what weight is to be given to the relevant uses and policies the Licensing Authority will take into account:</p> <ol style="list-style-type: none"> 1. Whether it will undermine the licensing objectives.

	<ol style="list-style-type: none"> 2. The current and proposed use of the premises. 3. When those uses will take place. 4. What the primary use of the premises is or the uses that will take place in different parts of that premises. 5. Whether there would normally be a presumption to refuse an application for that use if it was operating as that premises type and not a combined use premises. 6. Whether the hours sought for the all or parts of the premises are within or outside the Core Hours. <p>D. The Licensing Authority will take into account, when considering the application, the relevant considerations from each of the appropriate premises uses policies within this statement</p> <p>E. For the purpose of this policy a Combined Use Premises means premises which require a premises licence and where there is more than one premises use, and where the uses are not dependent on/ or part of the other uses i.e. are not ancillary to the other uses.</p>
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4. Equality Implications

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

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

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

5. Appendices

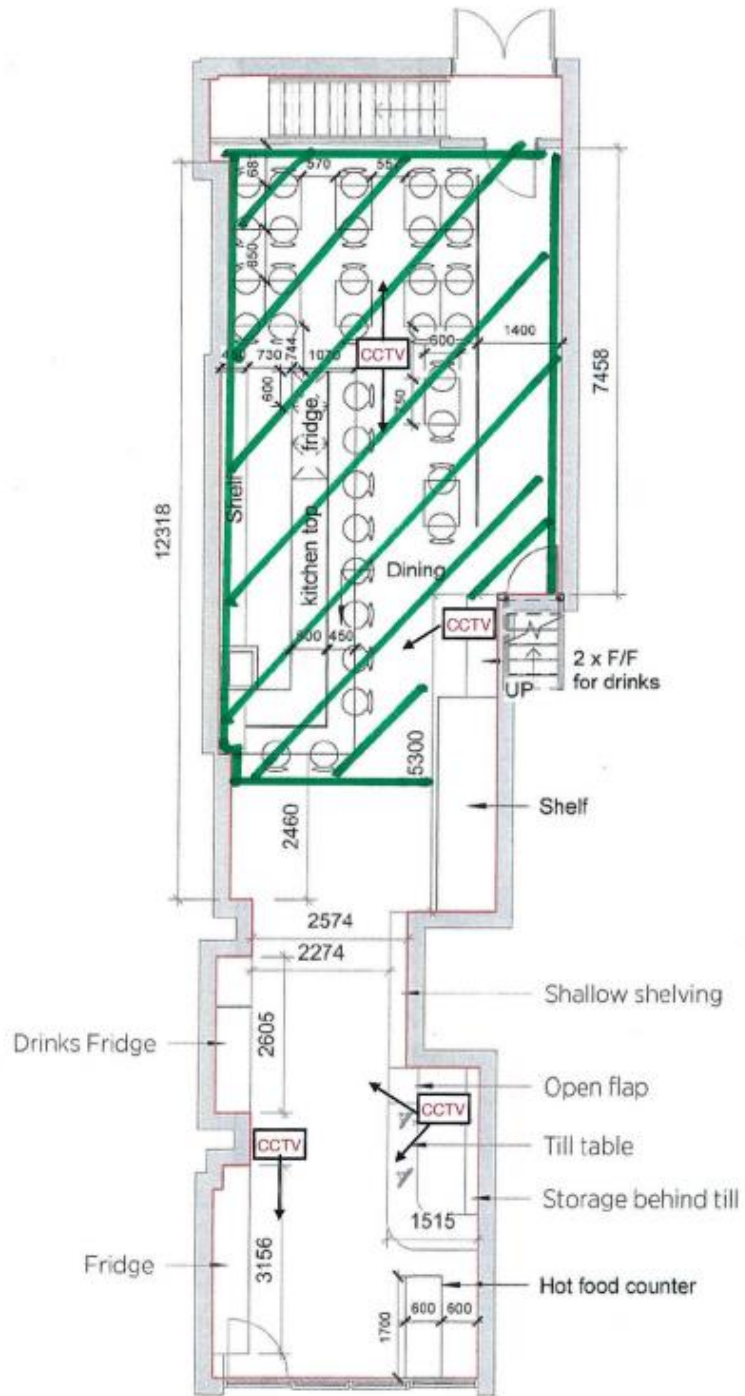
Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises Licence 22/04691/LIPV
Appendix 4	Premises history
Appendix 5	Proposed conditions
Appendix 6	Residential map and list of premises in the vicinity

Report author:	Emanuela Meloyan Licensing Officer
Contact:	Telephone: 0207 641 6500 Email: emeloyan@westminster.gov.uk

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

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

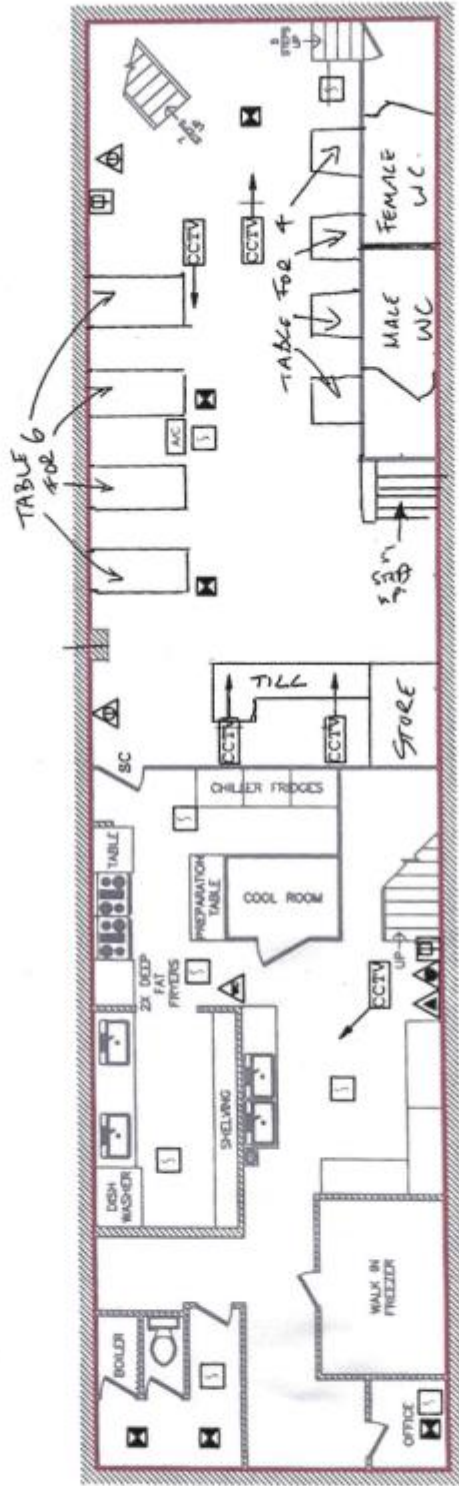
1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	October 2021
3	Amended Guidance issued under section 182 of the Licensing Act 2003	December 2022
4	Environmental Health	02 March 2023
5	Licensing Authority	06 March 2023
6	Interested Party Representation (1)	17 February 2023
7	Interested Party Representation (2)	28 February 2023



Ground Floor

SCALE 1:100 @ A3

DETAIL 2: LOWER GROUND FLOOR PLAN
SCALE: 1:100 @ A3



Golden Square Mart Limited

Application for Premises Licence

Background

The applicant, Golden Square Mart Limited, by their director Mr Phil Day has properly operated an Asian supermarket at 10 Golden Square since a premises licence was issued on 25 May 2021, as varied by a licence issued 13 July 2022, which was to include a restaurant food offering for dine in and takeaway (in accordance with conditions imposed on the licence) as the main offering, with the sale of alcohol ancillary.

CIP1 (The West End Cumulative Zone)

Our client has carefully considered CIP1 in respect of this application and the two previous applications (2021 and 2022) and confirms that the hours sought under the current application have been amended in respect of Sundays to reflect the Council's core hours policy (HRS1), save for seasonal variations which we address in relation to the Environmental Health representation below. The applicant believes that this new licence and revised business model won't have a detrimental affect on the CIP1 for the following reasons:

1. They are focusing more on the food offering, with the sale of alcohol either for consumption on the premises (with food only, as per conditions in the application) or off the premises in sealed containers only;
2. The hours fall within policy HRS1 on core hours (with the exception of seasonal variations – see below);
3. Paragraph D9 of CIP1 says the following "*The Licensing Authority's view is that cumulative impact in the West End Cumulative Impact Zone arises mainly from the numbers of pubs and bars, music and dance premises and fast food premises. The Licensing Authority wishes to encourage the provision of a range of cultural entertainment premises, where this is suitable and to reduce the extent of dominance of pubs, bars, night clubs and fast food premises within the West End Cumulative Impact Zone.*" Golden Square Mart is not a pub or bar, nor offers music or dance and, whilst it will offer food takeaway and delivery, it is not intended to be a fast food establishment.

4. CIP1 has a presumption that applications for pubs and bars, music and dance venues and fast food premises would be refused. As we have noted, the applicant premises is none of these establishments.
5. The premises is not and won't be a vertical drinking establishment .
6. The applicant suggests an additional condition which reads "The premises licence will only remain valid so long as the main function of the premises is as a restaurant and shop (with retail of alcohol ancillary) to further demonstrate the intention of the business. It's understood that if the business model changed that the premises licence would no longer be valid.

Generally

The conditions in the application are all taken from the existing licence (as varied by consultation in 2022) therefore already comply with Westminster's various policies relating to restaurants and shops and generally.

We also refer to an email to the authority dated 9 March 2023 and timed at 12:04 from Nicola Jordan which confirms the applicant's agreement to the suggested conditions from Jessica Donovan.

Environmental Health Representations

Turning to the representations of Sally Fabricatore, we would add that the amendment to the core hours would hopefully alleviate any concern under your representation point 1. In relation to your representation point 2, the applicant understands that the seasonal variations may give rise to public nuisance but there will be signage on the premises at all times reminding customers to respect the needs of local residents and leave the area quietly (condition 28). The seasonal variations are for both the sale of alcohol and late night refreshment (which isn't necessary in normal hours of course), so there won't be a situation where customers are purely using the seasonal variations to consume alcohol, as condition 18 in the application restricts the sale of alcohol only to persons consuming food. In addition, alcohol cannot be sold from the shop premises to members of the public after 2300 hours each day (condition 17 of the application) therefore preventing anyone purchasing alcohol from the shop during the seasonal variations post 2300 hours, thereby limiting the potential for public nuisance.

We hope this is of assistance but please feel free to contact us if there's any to discuss.

Mediation letters

Letter to Objector 1



Cardiff:
Two Central Square
Cardiff
CF10 1FS
DX: 33000 Cardiff 1

hughjames.com
info@hughjames.com
f: 029 2038 8222

Licensing Authority
Westminster City Council
15th Floor City Hall
64 Victoria Street
London
By email only to emeloyan@westminster.gov.uk

Your ref:
Our ref: NJO.NJO/GOL238.2
Please ask for: Nicola Jordan
Date: 14 March 2023
Direct Line: 02922 675922
Email: nicola.jordan@hughjames.com

Dear Madam

**Golden Square Mart Limited
Representation to Licence Application
23/00796/LIPN – Golden Square Mart, 10 Golden Square, London**

Thank you for your recent email attaching a copy of the representation made by [REDACTED]

In summary, we note that the representation is concerned about noise emanating from the premises and is concerned that the noise will be 'intensified' if the application is granted. We have responded to the points raised in [REDACTED] representation and should be grateful if these could be forwarded to her for her consideration.

Previous Noise Complaints

We note that your representation refers to repeated complaints that you have made to Westminster City Council ("the Council"). The business at Golden Square Mart has not received notice of any such complaints from the Council (save for the one noted below) or directly from any nearby residents.

The only noise complaint received by the business was in June 2021. This did not pertain to customers, but to noise arising from a faulty compressor on a fridge, which made a loud humming sound. This could not be immediately rectified but the applicant did all within their power to mitigate the noise by emptying the fridge at night to allow the unit to be turned off before a replacement unit could be purchased, which resolved the complaint.

For the avoidance of doubt, this premises (at 10 Golden Square) has received no other notification of any formal noise complaints and has never received any complaints as to noise of customers. If they had done so, they reassure you that they would seek to address any issues, as they have done so in the past.

Nature of the Business

Though the application is for a new premises licence, please be advised that the premises does already hold a licence for the sale of alcohol (for both on and off the premises). The nature of this application is so that the premises can extend their current street food and

ancillary drinks offering, which currently operates successfully from their basement. At present, the ground floor is an Asian supermarket.

The application is, essentially, to reduce the supermarket area so the basement food offering can be provided on the ground floor also. The nature of the business is primarily Asian street food and the service of alcohol is ancillary to that. Alcohol will only be served with substantial meals and this is a condition on the licence.

It is not intended that the premises should operate as a bar, and diners cannot order just alcohol.

Further, staff are trained in the Challenge 25 scheme and CCTV is operative throughout the premises. The intended licensable hours of the premises are Monday to Saturday from 1000hrs to 2300hrs and Sunday from 1000hrs to 2230hrs (this is a slight reduction from 2300hrs on Sunday). The hours sought fall within Westminster's CIP1 policy on core hours, which can be obtained from the Council if you require it.

The venue is not intended to be a venue that routinely operates late hours. There is also a condition that signage must be displayed at the premises reminding patrons to leave quietly and be mindful of nearby residents.

In addition, our client has offered a further condition which says the premises licence will only remain valid so long as the main function of the premises is that of a restaurant and shop. This will prevent the applicant or a future owner from changing the business model under the current licence into a drinking establishment, for example.

We note that your representation refers to complaints having also been raised by other nearby residents. Again, we reiterate that no complaints relating to *this premises* have been formally communicated by the Council to the premises and no complaints from neighbouring residents have been received by the premises directly. The premises has had a licence for the sale of alcohol since 25 May 2021 (off sales of alcohol) and has been trading successfully since that time. The licence was varied on 13 July 2022 to include on sales of alcohol for the restaurant. The applicant has sought to promptly rectify any reasonable complaints relating to the licensing objectives or queries made and has a proven record of engaging with nearby residents and the surrounding community. The applicant has continually observed all of the conditions on their licence, by which they are bound, and has worked with the relevant authorities to ensure that the business enhances the local community and is not detrimental to it.

We would be grateful if you would consider the above. We hope that we have demonstrated that the approval of this application for an already licensed premises, will not impact on the residential area of Golden Square. We ask that you reconsider your position and withdraw your representation. Should you wish to discuss this further, please do not hesitate to contact us.

You are welcome to check any of the detail of the existing licence, the application or our client's amendments to the current application with the Licensing Authority.

We look forward to hearing from you.

Yours faithfully



Hugh James



Cardiff:
Two Central Square
Cardiff
CF10 1FS
DX: 33000 Cardiff 1

hughjames.com
info@hughjames.com
f: 029 2038 8222

Licensing Authority
Westminster City Council
15th Floor City Hall
64 Victoria Street
London
By email only to emeloyan@westminster.gov.uk

Your ref:
Our ref: NJO.NJO/GOL238.2
Please ask for: Nicola Jordan
Date: 14 March 2023
Direct Line: 02922 675922
Email: nicola.jordan@hughjames.com

Dear Madam

**Golden Square Mart Limited
Representation to Licence Application
23/00796/LIPN**

In summary, we note that the representation is concerned with smell emanating from the premises. We have responded to the points raised in [REDACTED] representation and should be grateful if these could be forwarded to him for his consideration.

The Director of the applicant premises was first alerted by Westminster City Council to a smell complaint in October 2022. On 19 November 2022, the premises had the extraction system cleaned down and checked for faults. The applicant had sought to respond to the concern in a more timely manner than this, but unfortunately the delay was caused by the cleaning company.

On 19 December 2022, an inspector from the Council attended the premises as there had been a smell complaint and met with the applicant to assess the degree of the odour but agreed that it was minor and allowed the applicant the opportunity to find a solution.

Please do be assured that the applicant is working towards rectifying the issue. They have accepted a quotation for a system to be installed to eradicate the smells. A copy of the system details is enclosed with this letter for your information and reassurance. The system is scheduled to be installed in early April 2023.

As you will be aware, the premises is currently licensed. The nature of the application is to extend the current basement offering of street food and ancillary alcohol onto the ground floor.

We would be grateful if you would consider the above. We hope that we have demonstrated that the approval of this application will not impact on the residential area of Golden Square. We ask that you reconsider your position and withdraw your representation. Should you wish to discuss this further, please do not hesitate to contact us.

We look forward to hearing from you.

Yours faithfully

Hugh James

Hugh James Solicitors
Encl.



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

Schedule 12
Part A

WARD: West End
UPRN: 010033570697

Premises licence

Regulation 33, 34

Premises licence number:	22/04691/LIPV
Original Reference:	21/01870/LIPN

Part 1 – Premises details

Postal address of premises:
Basement And Ground Floor
10 Golden Square
London
W1F 9JA

Telephone Number: Not supplied

Where the licence is time limited, the dates:
Not applicable

Licensable activities authorised by the licence:
Sale by Retail of Alcohol

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

Sale by Retail of Alcohol
Monday to Sunday: 09:00 to 23:00 (On Sales)
Monday to Sunday: 09:00 to 21:00 (Off sales)

The opening hours of the premises:
Monday to Sunday: 09:00 to 23:30

Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:
Alcohol is supplied for consumption both on and off the Premises.

Part 2

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

Golden Square Mart Limited
Sovereign House,
Graham Road,
Harrow,
HA3 5RF

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

12774925

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

Name: Mr Zoothang Eau

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

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

Licence Number: 17221
Licensing Authority: London Borough Of Tower Hamlets

Date: 13 July 2022

This licence has been authorised by Miss Jessica Donovan on behalf of the Director - Public Protection and Licensing.

Annex 1 – Mandatory conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

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

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

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

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

Where -

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

- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating Schedule

9. 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.
10. 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.
11. All sales of alcohol for consumption 'Off' the premises shall be in sealed containers only and shall not be consumed on the premises.
12. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
13. 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.
14. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
15. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles or cans.
16. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
17. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
18. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
19. 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.
20. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 hours and 08.00 hours on the following day.
21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

22. No deliveries of alcohol to the premises shall take place between 23.00 hours and 08.00 hours on the following day.
23. 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.
24. 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.
25. 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.
26. The number of persons permitted in the basement of the premises at any one time (excluding staff) shall not exceed 60 persons.
27. All staff authorised to sell alcohol will be trained in the Challenge 25 scheme and this training will be documented to include the date the training was given, the name of the person who gave the training, the person who received the training and signatures by both trainer and trainee
28. Staff involved in the sale and supply of alcohol shall receive training in relation to licensing legislation and age challenging. Refresher training shall be conducted annually. All staff involved in the sale and supply of alcohol shall be fully conversant with the conditions contained in the Premises Licence. No member of staff will be permitted to sell alcohol until such time as they have completed the training. Records of such training shall be kept by the DPS for a minimum of 12 months and made available to the police or other responsible representative on request.
29. We will use a refusals book when the need to refuse any sale of alcohol arises whether in the shop premises or in the restaurant and in that refusals book we will note the date and time of refusal, the product attempted to be purchased, a description of the customer and whether ID was requested/suitable if it was produced, the reason for the refusal and the name and signature of the member of staff making the refusal. The DPS shall retain the refusals book for a minimum of 12 months. The incident book will be made available to the police on request. Each reported incident will be dated and signed by the person making the report and that person's name will be clearly legible alongside the signature.
30. Alcohol will only be sold in the restaurant to customers taking a table meal for consumption with that meal in the restaurant and alcohol will not sold from the restaurant for consumption off the premises. The only permitted off sales will be from the shop premises.
31. Alcohol purchased in the restaurant will be provided from the shop premises. This will be ordered via an app or with a member of waiting staff in the restaurant and brought to the consumer by a member of staff for consumption with their table meal. The consumer will not be able to purchase alcohol from the shop premises directly for consumption in the restaurant.
32. The sale by retail of alcohol for consumption off premises from the shop premises (off licence) to members of the public will cease at 2100 hours.
33. The alcohol will be kept in units in the supermarket with opaque, lockable shutters. The shutters will be closed, and locked, at 2100 hours when the off licence sales end.
34. Signage will be displayed on the locked unit advising that the off licence sales cease at 2100 hours.

35. There will be appropriate fire-fighting equipment throughout the premises.
36. The emergency exits will be marked.
37. Clear, legible signs will be prominently displayed where they can easily be seen and read by customers stating that a Challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage will be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
38. The basement shall only operate as a restaurant,
 - (i) in which customers are shown to their table or the customer will select a table themselves,
 - (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,
 - (iv) which do not provide any takeaway service of food or drink for immediate consumption off the premises,
 - (v) 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.

For the purpose of this condition 'Substantial Table Meal' means - a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
39. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
40. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
41. There shall be no consumption of alcohol on the ground floor at any time.

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

None



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

Schedule 12
Part B

WARD: West End
UPRN: 010033570697

Premises licence
summary

Regulation 33, 34

Premises licence number:

22/04691/LIPV

Part 1 – Premises details

Postal address of premises:

Basement And Ground Floor
10 Golden Square
London
W1F 9JA

Telephone Number: Not supplied

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

Sale by Retail of Alcohol

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

Sale by Retail of Alcohol

Monday to Sunday: 09:00 to 23:00 (On Sales)

Monday to Sunday: 09:00 to 21:00 (Off sales)

The opening hours of the premises:

Monday to Sunday: 09:00 to 23:30

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

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

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

Golden Square Mart Limited
Sovereign House,
Graham Road,
Harrow,
HA3 5RF

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

12774925

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

Name: Mr Zoothang Eau

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

Restricted

Date: 13 July 2022

This licence has been authorised by Miss Jessica Donovan on behalf of the Director - Public Protection and Licensing.

Application	Details of Application	Date Determined	Decision
21/01870/LIPN	New premises licence permitting the sale of alcohol from 09:00 to 21:00 Monday to Sunday.	24.05.2021	Granted Under Delegated Authority
22/04691/LIPV	Variation to extend the hours for the sale of alcohol to 23:00 and the opening hours to 23:30	12.07.2022	Granted Under Delegated Authority

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

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

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

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

Mandatory Conditions

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

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

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

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

- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$
 Where -
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions consistent with the operating schedule

9. 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.

10. 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.
11. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
12. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles or cans.
13. No more than 15% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
14. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
15. 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.
16. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 hours and 08.00 hours on the following day.
17. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
18. No deliveries of alcohol to the premises shall take place between 23.00 hours and 08.00 hours on the following day.
19. The number of persons permitted in the basement of the premises at any one time (excluding staff) shall not exceed 60 persons.
20. The number of persons permitted to be seated on the ground floor restaurant at any one time (excluding staff) shall not exceed 40 persons.
21. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
22. 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.
23. Staff involved in the sale and supply of alcohol shall receive training in relation to licensing legislation and age challenging. Refresher training shall be conducted annually. All staff involved in the sale and supply of alcohol shall be fully conversant with the conditions contained in this Premises Licence. No member of staff will be permitted to sell alcohol until such time as they have completed the training. Records of such training shall be kept by the DPS for a minimum of 12 months and made available to the police or other responsible representative on request.
24. We will use a refusals book when the need to refuse any sale of alcohol arises whether in the shop premises or in the restaurant and in that refusals book we will note the date and

time of refusal, the product attempted to be purchased, a description of the customer and whether ID was requested/suitable if it was produced, the reason for the refusal and the name and signature of the member of staff making the refusal. The DPS shall retain the refusals book for a minimum of 12 months. The incident book will be made available to the police on request. Each reported incident will be dated and signed by the person making the report and that person's name will be clearly legible alongside the signature.

25. The sale by retail of alcohol for consumption off the premises from the shop premises to members of the public will cease at 2300 hours each day.
26. Alcohol purchased for consumption in the restaurant will be ordered via an app or with a member of waiting staff in the restaurant and brought to the consumer by a member of staff for consumption with their table meal. The consumer will not be able to purchase alcohol from the shop premises directly for consumption in the restaurant.
27. Any alcohol displayed for sale in the shop concession will be kept in units with opaque lockable shutters. The shutters will be closed, and locked when the premises closes.
28. There will be appropriate fire-fighting equipment throughout the premises.
29. The emergency exits will be marked.
30. Clear, legible signs will be prominently displayed where they can easily be seen and read by customers stating that a Challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage will be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
31. The basement and part of the ground floor (as shown on the plan) shall operate as a restaurant,
 - a. in which customers are shown to their table or the customer will select a table themselves;
 - b. where the supply of alcohol is by waiter or waitress service only;
 - c. which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table;
 - d. 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.

For the purpose of this condition 'Substantial Table Meal' means - a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

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

The Licensing Authority have proposed an alternative wording to condition 31 which has been agreed by the applicant so as to form part of the operating schedule.

31. The basement and the area hatched green as shown on the ground floor plan shall

operate as a restaurant,

- a. in which customers are shown to their table or the customer will select a table themselves;
- b. where the supply of alcohol is by waiter or waitress service only;
- c. which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table;
- d. 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.

For the purpose of this condition 'Substantial Table Meal' means - a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

32. The delivery of alcohol to customers to their residential address or workplace will be ancillary to the main premises use as a restaurant and shop.
33. Alcohol cannot be purchased for delivery without the purchase of food.
34. Delivery of alcohol will only be made via a third party and delivery drivers will not be engaged directly by the applicant. The applicant will ensure that any third party to which they have contracted the delivery of food and alcohol has sufficient age verification procedures in place for the sale of alcohol and has regular training for its delivery personnel on their age verification procedures.
35. The applicant will ensure that any third party to which they have contracted their delivery service have sufficient procedures and mitigation to ensure that their delivery personnel do not create public nuisance either at the premises where the delivery originates and/or at the delivery destination.
36. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
37. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
38. The premises licence will only remain valid so long as the main function of the premises is a restaurant and shop (with retail of alcohol ancillary)

Conditions proposed by the Licensing Authority and agreed by the applicant so as to form part of the operating schedule

39. No licensable activities shall take place at the premises until premises licence 22/04691/LIPV (or such other number subsequently issued for the premises) has been surrendered and is incapable of resurrection

Conditions proposed by the Environmental Health

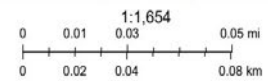
None

10 Golden Square, London, W1



12/04/2023, 13:57:47

- Property Mailing List
- Ward Labels
- Borough Boundary - Mask
- Borough Boundary - Detailed
- Ward Boundaries



Resident Count:50

Licensed premises within 75m of Basement and Ground Floor, 10 Golden Square, London, W1F 9JA				
Licence Number	Trading Name	Address	Premises Type	Time Period
20/03783/LIPCH	Arang Restaurant	Basement And Ground Floor 9 Golden Square London W1F 9HZ	Restaurant	Monday to Saturday – 10:00 – 01:30; Sunday – 12:00 – 00:00
08/09866/LIPV	Urban Golf	33-34 Great Pulteney Street London W1F 9NT	Office	Monday to Saturday – 10:00 – 23:30; Sunday – 12:00 – 23:00
19/03264/LIPDPS	Nordic Bakery	14A Golden Square London W1F 9JG	Cafe	Monday to Friday – 10:00 – 20:00; Saturday – 10:00 – 19:00; Sunday – 12:00 – 19:00

20/04992/LIPDPS	Hachi	Ground Floor 56 Brewer Street London W1F 9TJ	Restaurant	Monday to Saturday – 10:00 – 00:30; Sunday – 12:00 – 00:00
16/14006/LIPRW	Kiln	58 Brewer Street London W1F 9TL	Restaurant	Monday to Friday – 10:00 – 23:30; Saturday – 10:00 – 00:00; Sunday – 12:00 – 22:30
22/06926/LIPDPS	Simmons Piccadilly Circus	Ground Floor 4 Golden Square London W1F 9HT	Public House	Monday to Saturday – 10:00 – 00:30; Sunday – 12:00 – 00:00
19/16029/LIPCHT	Bancone	8-10 Lower James Street London W1F 9EL	Restaurant	Monday to Friday – 08:00 – 23:30; Saturday – 08:00 – 00:30; Sunday – 10:00 – 22:30
16/13460/LIPVM	Mele E Pere	46 Brewer Street London W1F 9TF	Restaurant	Monday to Saturday – 08:00 – 00:00; Sunday – 08:00 – 22:30
22/05811/LIPDPS	The Crown	The Crown 64 Brewer Street London W1F 9TP	Public House	Monday to Thursday – 07:00 – 23:30; Friday to Saturday – 07:00 – 00:00; Sunday – 07:00 – 00:00
21/01359/LIPV	El Pastor	66-68 Brewer Street London W1F 9TP	Restaurant	Monday to Sunday – 07:00 – 01:00
06/05475/WCCMAP	Taro Kaz Restaurant	61 Brewer Street London W1F 0RH	Restaurant	Monday to Saturday – 09:00 – 01:00; Sunday – 09:00 – 00:00
21/07470/LIPDPS	Park Row	77 Brewer Street London W1F 9ZN	Restaurant	Monday to Sunday – 11:30 – 01:30

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